

# Protecting community lands and resources

Evidence from Liberia



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County officials witnessing a MOU attesting to a community's harmonized boundaries.

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## **Protecting community lands and resources:**

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By Rachael Knight, Silas Kpanan'AYoung Siakor, Ali Kaba

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**cover image:** Community member signing MOU attesting to the harmonized boundaries of his community's land. © Ali Kaba.

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## Partnerships

**International Development Law Organization (IDLO)** ([www.idlo.int](http://www.idlo.int)) IDLO is an intergovernmental organization that promotes legal, regulatory, and institutional reform to advance economic and social development in transitional and developing countries. Among its activities, IDLO conducts timely, focused, and comprehensive research in areas related to sustainable development in the legal, regulatory, and justice sectors. Through such research, IDLO seeks to contribute to existing practice and scholarship on priority legal issues and to serve as a conduit for the global exchange of ideas, best practices, and lessons learned. IDLO produces a variety of professional legal tools covering interdisciplinary thematic and regional issues; these include book series, country studies, research reports, policy papers, training handbooks, glossaries, and bench books. Research for these publications is conducted independently with the support of its country offices and in cooperation with international and national partner organizations.

**The Sustainable Development Institute (SDI)** ([www.sdiliberia.org](http://www.sdiliberia.org)) The Sustainable Development Institute works to transform decision-making processes in relation to natural resources and to promote equity in the sharing of benefits derived from natural resource management in Liberia. The organization's vision is a Liberia in which natural resource management is guided by the principles of sustainability and good governance, and benefits all Liberians. Its activities cover a range of crosscutting issues including governance and management, environment, state and corporate social responsibility, economic and social justice for rural populations, and the democratic participation of ordinary people in government management of natural resources. The organization received the Goldman Environmental Prize (the world's largest prize honoring grassroots environmentalists for outstanding environmental achievements) in 2006.

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## From the Directors

Liberia stands at a crossroads. Following decades of weakening land tenure security for rural communities, the country has launched a land reform program. Some emphasize that a new policy should focus on poor land owners. Others argue that the policy should prioritize economic growth above all else.

We believe that Liberia does not have to choose between protecting the rights of rural Liberians and putting the economic development of the country first. We should aim instead for a policy that advances both those goals. Moreover, the *process* by which we reach that policy should make ample space for the perspectives of rural communities themselves.

This report presents the findings of two years of investigation on how best to secure community land rights. The Sustainable Development Institute (SDI), with support from international partners, worked with twenty communities in Rivercess County, southeastern Liberia to research how to support communities to document and protect their customary land claims. The findings in this report provide lessons that can inform and shape the policy-making process.

The report describes a potential solution to the problem of land tenure insecurity for rural people not only in Liberia, but also throughout the world. Most efforts to strengthen land rights to date involve the titling of individual, household plots; we chose instead to focus on community land claims. By starting with the outer boundary of the community, we have shown that it is possible to protect more land faster, and at a lower cost per hectare. In addition, community land claims include common resources like forests and water bodies, which are particularly vulnerable to appropriation, and yet are left out if one pays exclusive attention to individual holdings.

This research suggests that effective community land documentation should combine three processes: the *technical* task of mapping and titling community lands, the *peace-building* task of land conflict resolution, and the *political* task of strengthening local systems for land governance.

Liberia's land reform is not happening in a vacuum. There is already significant pressure caused by large-scale land grants to foreign companies for logging, mining, and palm oil production. With increasing frequency, unscrupulous elites and corporations seek to appropriate community land for private gain. By continuing to allocate land concessions while failing to take concrete steps to protect community land claims, the government is increasing the level of tenure insecurity in rural areas throughout Liberia, and potentially sowing

seeds of land conflict in the future. To reverse this trend, Liberia's new land policy should support the efficient and equitable documentation of communities' customary land claims.

As stakeholders and Liberian policymakers debate the new land policy, they should anticipate an immediate and high demand for community land documentation. To meet that demand, the government will need to establish streamlined systems for effective and efficient implementation.

If Liberia's policymakers and stakeholders ensure that the new policy takes the findings and recommendations of this research into account, they will set Liberia's land relations on a path that guarantees equitable, sustainable development underpinned by secure land rights for rural communities.

This report is therefore a necessary read for all those involved in the land policy discussions in Liberia, and those interested in land tenure in Liberia and the continent.



Vivek Maru  
CEO Namati



Jonathan W. Yiah  
Director, Sustainable Development Institute

## Executive summary

In recent years, governments across Africa, Asia and Latin America have been granting vast land concessions to foreign investors for agro-industrial enterprises and resource extraction. Often, governments make concessions with a view to furthering development and strengthening the national economy. Yet in many cases, these land concessions dispossess rural communities and deprive them of access to natural resources vital to their livelihoods and economic survival. Even when communities welcome private investment, projects are often undertaken in ways that lead to environmental degradation, human rights violations, loss of access to livelihoods, and inequity.

Liberia currently has one of the highest land concession rates in Africa<sup>1</sup> Between 2004 and 2009, the Liberian government either granted or re-negotiated land and forestry concessions totaling 1.6 million hectares – over 7% of the total national land area.<sup>2</sup> Today, even with a moratorium on public land sale in place, private investors continue to seek and acquire land concessions throughout the country: in 2010 alone, more than 661,000 hectares were granted to two foreign corporations for palm oil production.<sup>3</sup> A recent 2012 report finds that currently, “Land allocated to rubber, oil palm and forestry concessions covers approximately 2,546,406 hectares, or approximately 25% of the country.”<sup>4</sup>

In the coming years, if concession grants are not carefully controlled, the amount of land still held and managed by rural Liberians will significantly decrease. This will have adverse impacts on already impoverished rural communities. In Liberia, strong legal protections for community lands and natural resources and a clear, simple, and easy-to-follow legal process for the documentation of customary community land rights are urgently necessary.

Community land titling processes, which document the perimeter of the community according to customary boundaries, are a low-cost, efficient, and equitable way of protecting communities’ customary land claims. Such efforts protect large numbers of families’ lands at once, as well as the common lands and forests that are often the first to be allocated to investors, claimed by elites,

<sup>1</sup> World Bank Group, *Rising Global Interest in Farmland: Can it Yield Sustainable and Equitable Benefits?*, (2010) XIV, <[http://siteresources.worldbank.org/INTARD/Resources/ESW\\_Sept7\\_final\\_final.pdf](http://siteresources.worldbank.org/INTARD/Resources/ESW_Sept7_final_final.pdf)> August 2011 at 62..

<sup>2</sup> Id. The report notes that of this land, only 7% went to domestic investors, while 93% went to foreign investment.

<sup>3</sup> These concessions were granted to the Malaysian palm oil company Sime Darby in 2009 (311,187 ha) and to the palm oil company Golden Veroleum (350,000 ha).

<sup>4</sup> Silas Kpanan/Ayoung Siakor, *Uncertain Futures: The Impacts of Sime Darby on Communities in Liberia* (August 2012) at 17.

and appropriated for state development projects. Importantly, formal recognition of their customary land claims gives communities critical leverage in negotiations with potential investors.

To support the Liberian Land Commission's efforts to strengthen the tenure security of customary land rights, the Sustainable Development Institute (SDI) and the International Development Law Organization (IDLO) undertook a two-year study entitled the "Community Land Titling Initiative" in Rivercess County, Liberia.<sup>5</sup> The first study of its kind worldwide, the intervention's goal was to better understand both the type and level of support that communities require to successfully complete community land documentation processes, as well as how to best facilitate intra-community protections for the land rights of vulnerable groups.

The intervention's primary objectives were to:

- Facilitate the documentation and protection of customarily held community lands through formal community land documentation processes;
- Understand how to best and most efficiently support communities to protect their lands through legally established land titling processes;
- Devise and pilot strategies to guard against intra-community injustice and discrimination during community land titling processes and protect the land interests of vulnerable groups;
- Craft country-specific recommendations for the improvement of community land documentation laws and policies in order to improve fairness and make titling procedures easier for both communities and land administrators to follow.

To fulfill these objectives, SDI randomly selected 20 communities in Rivercess County and then randomly assigned these communities to one of four groups, each of which received a different level of legal services support. The various levels of support provided were:

- Monthly legal education;
- Monthly legal education and paralegal support;
- Direct assistance of lawyers and technical professionals; and
- A control group that received only manuals and copies of relevant legislation.

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5 The project was also undertaken in Uganda and Mozambique.



Due to the President's moratorium on public land sale and the suspension of all public land sale processes (as set out in the Public Lands Act 1972-1973), the 20 study communities followed a skeletal documentation process set out in a Memorandum of Understanding (MOU) signed between IDLO, SDI and the Land Commission of Liberia.<sup>6</sup> These steps included:

1. Establishing Interim Coordinating Committees responsible for leading their communities through the land documentation process;
2. Harmonizing community boundaries and documenting all agreed boundaries;
3. Drafting and adopting community by-laws to govern intra-community land and natural resource administration;
4. Drafting and adopting community land and natural resource management plans; and
5. Electing a governing council.

SDI's field team observed and recorded the communities' progress through the requisite steps, noting: all obstacles confronted and their resolutions; all intra- and inter-community land conflicts and their resolutions; and all internal community debates and discussions. A pre- and post-service survey of over 700 individuals and more than 100 structured focus group discussions supplemented the field team's observations.

Unfortunately, due to the length of time it takes to facilitate community land documentation processes as well as various political obstacles, none of the study communities has yet received a deed for their customary lands. Phase II of the Initiative, to be carried out jointly by SDI and Namati as part of Namati's Community Land Protection Program, will continue to support all 20 study communities until they have successfully attained documentation for their customary lands.

This report details the communities' experiences undertaking the land documentation activities and summarizes the initial impacts of these efforts under the following subject headings: **conflict resolution and prevention** (encompassing boundary harmonization and demarcation); **intra-community**

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<sup>6</sup> The original design of the Community Land Titling Initiative was to support communities through Liberia's Public Land Act 1972-1973. The aim was that, by following a legal process, the project could identify procedural obstacles to fast, inexpensive, and streamlined community land titling and craft country-specific recommendations for the improvement of community titling laws and regulations. However, due to the President's moratorium on public land sale (defined within the Public Land Act 1972-1973) the project could not proceed as initially planned. As such, it was not possible to assess or evaluate Liberia's existing legal and administrative procedures through which communities may seek documentation of their land claims. Rather, the procedures set out in SDI's MOU with the Land Commission and followed by the Liberian communities were purely local; they did not necessitate filling out forms or pursuing specific administrative or legal processes.

**governance** (encompassing by-laws/constitution drafting); and **conservation and sustainable natural resource management** (encompassing land and natural resource management plan drafting). It briefly reviews the **obstacles and hurdles confronted** during the community land documentation the process, and then describes conclusions relative to the **optimal level of legal intervention necessary** to support communities' successful completion of community land documentation efforts. The report also details findings concerning how **best to facilitate intra-community protections for the rights of women and other vulnerable groups** during the land documentation process.

The report concludes by setting forth **findings and recommendations intended to inform policy dialogue** and to provide useful information for the Land Commission, the government of Liberia, and all interested stakeholders seeking to develop laws and policies for community land documentation.

The report's nine main findings are briefly outlined below, followed by recommendations for policy and practice.

It is important to note that additional investigation is necessary to determine the long-term social and economic impacts of community land rights documentation. Moreover, it will be critical to provide on-going support and monitoring to understand how to best support community efforts to implement their newly adopted by-laws and land and natural resource management plans. Research can also help to discern what additional assistance is necessary to ensure that even documented community lands claims are protected over the long-term.

## Main findings

### 1. Community land protection efforts are not merely documentation exercises.

Community land documentation activities should combine the *technical* task of mapping and titling community lands with the *peace-building* work of land conflict resolution and the *governance* work of strengthening land and natural resource management. When these efforts are joined, the findings indicate that community land documentation processes have the potential to:

- Resolve long-standing land disputes;
- Improve governance and establish mechanisms to hold local leaders downwardly accountable;
- Encourage transparency and equality in rule enforcement;

- Stimulate communities to conserve and sustainably manage their natural resources;
- Align community norms and practices with national law; and
- Strengthen the rights of women, strangers and other vulnerable groups.

To achieve and sustain such impacts, the process must be outlined in a clear land policy and legal framework and supported by implementation efforts backed by strong political will and the allocation of sufficient resources.

## **2. New land laws and policies designed to protect communities' land and natural resources claims are urgently necessary.**

In the current context of Liberia's issuance of large-scale land concessions for palm oil, logging, and mining investments, existing community land claims must be actively protected. By continuing to allocate land concessions while failing to take concrete steps to protect community land claims, the government is increasing the level of land tenure insecurity in rural areas throughout Liberia.

Liberia's new land policy should support the efficient, just, and equitable documentation of communities' customary land claims. Liberian policymakers should anticipate an immediate high demand for community land documentation, and establish proper protocols and systems to ensure that the government can review and process all applications at an appropriate pace.

## **3. Community land documentation should be prioritized over individual and family titling in the short term.**

In the context of the continued granting of large-scale land concessions throughout Liberia, community land documentation should be a priority. A focus on documenting family and individual lands will be expensive, time-consuming, and leave rural communities vulnerable as a group. Furthermore, family and individual land titling efforts fail to protect the common and reserve areas upon which communities depend for their livelihood and survival. In contrast, community land documentation has the potential to safeguard an entire community's land at once.

Registering community land as the "meta-unit" may be the least costly — and most scale-able — means of protecting rural households' land claims. The research found that even when providing full legal support, community land documentation efforts cost only a few thousand dollars per community. In

Liberia, a rough estimate of the costs (not including GPS) came out to \$7,700 USD per community. Considering the number of families living in each study community (anywhere from 100 to 1000 families), community land documentation is an economical way to protect large numbers of families' land claims.<sup>7</sup> For a hypothetical community of 500 families and large common areas, registering the tenorial shell would cost less than half of efforts to register individual or family lands.

#### **4. Boundary harmonization and demarcation are peace-building and conflict-resolution exercises and should be conducted accordingly.**

The boundary harmonization process comprised the following activities: community mapping; boundary negotiation and conflict resolution with neighbors; and boundary demarcation (tree planting, GPS mapping, and MOU-signing ceremonies). Taken together, the communities' boundary harmonization experiences yield three important lessons:

- While the potential for conflict was significant, communities' desire to obtain documentation for their lands created a strong impetus to peacefully resolve long-running boundary disputes. Compelled by the goal of documenting their land claims, many of the study communities worked to negotiate compromises and resolve land disputes that had endured for years.
- Positively, the resolution of long-standing land conflicts both within and between communities appeared to have an overall constructive impact on land tenure security and intra-community conflicts.
- Facilitating agencies should proactively prepare for land conflict resolution to be a central component of the documentation process and as such should craft curricula and trainings designed to support open, non-violent communication during boundary negotiation, a range of creative compromise strategies, and mediation/dispute resolution tactics. Facilitating agencies should also stand ready to support resolution of particularly intractable land conflicts.

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<sup>7</sup> While cost estimations for individual titling vary widely according to national legal framework and economic context, one global analysis found first-time household land registration costs to occasionally exceed US\$100 per parcel, with average costs between US\$20 and US\$60 per parcel. Tony Burns, Land Administration Reform: Indicators of Success and Future Challenges, Agriculture and Rural Development Discussion Paper 37 The International Bank for Reconstruction and Development/The World Bank. 2007.

## 5. Improved local land governance should be a central objective of community land documentation processes.

The aim of a community land documentation process should not only be to obtain formal recognition of community land claims, but also to stimulate important intra-community changes in local land and natural resource governance. To this end, legislators and policy makers should structure community land documentation procedures to include community-wide, democratic, and fully participatory discussions concerning how to best manage community lands and natural resources.

Such processes are critical: while documentation of community land rights provides protection against land usurpation by outsiders, it alone can do little to either protect against intra-community threats to common lands or to ensure that communities protect, conserve, and steward their land and natural resources for community development. To permit a community to apply for land documentation without creating and implementing systems for transparent, just and equitable administration of that land is an invitation for mismanagement, corruption, and local elite capture.

Members of all study communities reported that the land documentation process provided the opportunity to publicly discuss and evaluate community rules and norms for the first time in living memory. Throughout the exercise, community members argued against rules they felt to be arbitrary and discriminatory, and advocated for the inclusion of rules that would protect their interests. As a result, the process appears to have made four significant shifts in various facets of local governance. The findings indicate that the process:

- Enabled community members to directly participate in governance decisions previously taken solely by customary and state authorities;
- Created the opportunity for community members to institute new mechanisms to hold local leaders downwardly accountable;
- Allowed communities to establish consistent norms and institute clear, publicly known penalties for infractions.
- Helped to align local custom and practice with national law; after learning about national laws relevant to community land and natural resource administration, community members took steps to change local rules so that they no longer contravened national law.



## **6. Community land documentation efforts have the potential to foster sustainable natural resource management and conservation.**

The process of discussing and amending their rules for land and natural resource management fostered two main shifts in community members' ideas about natural resource management. First, communities' rules reflect a clear — and renewed — concern with conservation and the sustainable use of natural resources. During the by-laws drafting process, communities both crafted new rules to conserve their resources as well as “remembered” and reinforced old rules that promote sustainable natural resource use.

Second, communities created rules that more closely control and monitor non-residents' use of community lands and natural resources. These rules generally do not fully impede “outsiders” use of community natural resources, but rather allow the community to control, monitor and tax these activities for profit and development. The land and natural resource management plans indicate that communities are not adverse to outside investment so long as:

- The community itself is involved in discussing and negotiating all aspects of the investment project, and has authentically given its full free, prior informed consent;
- Restrictions are put into place to protect the environment as well as community members' health, livelihoods and culture;
- Benefits/fair compensation accrue to the community; and
- A signed contract ensures that all community benefits are paid and promised benefits delivered.

## **7. If well-facilitated, community land documentation processes strengthen the land rights of women and other vulnerable groups, and support communities to establish mechanisms for rights enforcement.**

The process of drafting community by-laws can create a space for women to question practices that disadvantage them and to advocate for rules that protect their interests and strengthen their land tenure security. Women's active involvement in the by-laws drafting debates appears to have strengthened women's procedural and substantive rights within their communities. Procedurally, the process appears to have shifted community members' perceptions that land is “men's business.” As a result, women's opinions were taken seriously during discussions and many communities' by-laws include provisions that the elected land governing bodies must include elected women and youth representatives.

Substantively, the process provided an opportunity for women and other vulnerable groups to ensure the inclusion of stronger protections for their land and inheritance rights. These efforts resulted in:

- The strengthening and/or actualization of existing women's rights;
- The maintenance of women's rights that might have been lost in the transition from oral to written rules (as a result of women's advocacy efforts, community rules explicitly protect women's daily natural resource use);
- The rejuvenation of customary norms that had existed in the past to protect women's land claims but had recently eroded or been abused;
- The alignment of local rules with national laws that protect women's land rights; and
- A re-conceptualization of "strangers" and corresponding shifts in the rights of strangers who have made their home in a community for many years.

Such efforts to create intra-community mechanisms to protect and enforce women's and other vulnerable groups' land claims will become increasingly necessary as land grows in value and becomes more scarce, and as intra-community competition for land exacerbates discrimination and disenfranchisement of vulnerable groups.

## **8. Paralegal support proved to be the optimal level of assistance necessary for successful completion of community land documentation processes.**

Cross-national statistical analysis of the treatment groups' progress found that the level of service had a statistically significant impact on the stage communities attained in the land documentation process. In this analysis, the full-service treatment group communities performed more poorly than both the education-only and paralegal treatment group communities across a range of indicators. Cross-nationally:

- The control group completed an average of 19% of the process. (In Liberia: 45.2%)
- The education-only treatment group completed an average of 50% of the process. (In Liberia: 70%)
- The paralegal treatment group completed an average of 58% of the process. (In Liberia: 85.2%)
- The full legal service treatment group completed an average of 34% of the process. (In Liberia: 57.6%)

These relatively surprising outcomes lead to various conclusions. First, this finding indicates that leaving communities with the responsibility of completing most project activities on their own motivated them to take the work more seriously, integrate and internalize the legal education more thoroughly, address intra-community obstacles more proactively, and claim greater “ownership” over the land documentation process than when a legal and technical team completed this work on the community’s behalf.

Second, the strength of paralegals may be related to their ability to help communities navigate through intra-community tensions or obstacles that a full-services team of outside professionals may either inadequately address, fail to perceive, or accidentally exacerbate. In fact, the statistical analyses indicate that when a community faces one or more intra-community obstacles (elite interference, weak community cohesion, intra-community land conflicts, etc.), offering full legal services makes no statistical difference to that community’s ability to successfully complete the documentation process than offering no services at all.

Third, the relative success of certain education-only and control group communities neighboring the paralegal group communities — as well as the evidence that these education-only and control group communities actively sought out advice from neighboring paralegals — indicates that well-trained and rigorously supervised paralegals may not only help their own communities, but may also have spillover impacts throughout the region in which they are based.

Furthermore, a paralegal-driven process may also be less costly and more scale-able than the full-service approach, as the model allows a few professionals to supervise multiple community-based paralegals. Once the land documentation has been issued, the community may benefit from having two trained paralegals in their community who may support resolution of intra-community land conflicts and strengthen community members’ capacity in any forthcoming consultations with investors.

However, SDI observed that while motivated communities can perform many steps of the community land documentation process on their own, communities need targeted legal and technical assistance to successfully complete community land documentation efforts. SDI’s experiences indicate that legal and technical professionals must actively provide the following support:

- Introduce the land documentation process and provide periodic legal education and capacity-building concerning the community’s legal rights to their land, the process to formally document these rights, and how to successfully complete the necessary procedures;

- Provide mediation and conflict-resolution support during any particularly contentious land conflicts or boundary disputes that communities are unable to resolve on their own;
- Provide legal support and technical assistance during the completion of the community's second and third drafts of their by-laws/constitutions;
- Implement a women's empowerment/participation strategy and work to ensure women's full involvement in all community land documentation activities; and
- Provide assistance to communities during all administrative components of the land documentation process.

Furthermore, SDI's experiences indicate that a legal and technical team must closely supervise community paralegals' efforts, not only to ensure that their work product is of high quality, but also to step in when necessary to demonstrate to stakeholders that a community's efforts are supported by a team of lawyers who have the capacity to take legal action.

## **9. Community land documentation may not be appropriate for all communities without pre-intervention support.**

While every study community faced a variety of challenges, some communities were able to overcome obstacles more effectively than others. The research suggests that an unhealthy or dysfunctional community may not be able to successfully complete the complex process of documenting community land claims. SDI's observations illustrate that communities that struggle with elite sabotage, intractable boundary disputes, internal discord and weak pre-project cohesion, and weak leadership or power struggles between leaders may not be able to progress through community land documentation processes, irrespective of how much support they are offered. In such situations, the process may become a pawn in intra-community conflicts of power. Similarly, peri-urban communities and communities with little or no internal cohesion or a highly transient population may not be appropriate for community land documentation initiatives.

Should a dysfunctional community initiate land documentation efforts and not be able to complete them, the process may invigorate tensions and create or exacerbate conflict, leaving the community in a worse situation than before the intervention began. Before beginning land documentation efforts, facilitating NGOs or government agencies should carry out an analysis to determine whether the community can work together productively and is

willing to authentically address and resolve intra- and inter-community land conflicts. Supplemental conflict resolution training, community-building, and leadership-enhancement activities may need to be provided before a community can undertake land documentation efforts.

In instances where weaker community members initiate land documentation efforts in order to protect their land from being grabbed by local or national elites, or where elites obstruct community progress, seed conflict, or otherwise create obstacles to community land documentation progress, legal advocates must proactively address intra-community disparities of power and influence. In such instances, despite internal conflict, these communities should not be rejected as appropriate candidates for community land documentation support. Rather, civil society and government advocates should first address and resolve the underlying intra-community conflict at issue before beginning community land documentation efforts.

## Recommendations for policy

### **1. Make all community land documentation processes local, accessible, and inexpensive, so as to allow them to be truly “usable and used” by rural communities.**

To facilitate community land documentation efforts, the administrative procedures necessary to document customary land claims should be streamlined, practical, and easily navigated by rural communities. To this end, laws and regulations should:

- Administer and process community land documentation applications at the county, district, or provincial level, rather than in the national capital.
- Permit the use of GPS technology. The high costs of hiring a licensed land surveyor essentially preclude poor rural communities from seeking formal documentation of their land claims. Regulations should eliminate the requirement of a technical land survey and instead allow for the use of Global Positioning System (GPS) technology to record the dimensions of community lands.
- Impose only reasonable procedural burdens, which take into account the income, capacity, language, and literacy restrictions of rural community applicants.



## 2. Make improved local land and natural resource governance a central objective of community land documentation processes.

To leverage the land documentation process to improve community land governance, policy makers and legislators should:

- Mandate procedures through which communities must examine and amend existing community rules, norms, and practices. As in the pilot process set out in the MOU with the Land Commission, communities seeking to document their lands should discuss community norms and practices, and formally adopt a set of by-laws that govern the sustainable use of land and natural resources.<sup>8</sup>
- Mandate the creation of elected intra-community governance structures. To ensure downward accountability and a community check on the powers of local authorities, land documentation processes should include the creation of an elected group of men and women who determine land matters in concert with the wider community.
- Vest the rights to the land in the community and allow for the community name to be on the title, deed, or final community land registration document. Governments should issue all deed or title documents in the name of the community and assign the actual rights to the land to the community as a whole. Allowing a few individuals' names to appear on the land registration document may more easily facilitate corrupt land and natural resource management or illegal sale of community land and resources.<sup>9</sup>

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<sup>8</sup> Importantly, law should ensure that communities adopt by-laws by a process other than simple majority vote. Allowing an absolute majority to vote to adopt community by-laws has the potential to marginalize members of minority or more vulnerable groups. Although consensus is ideal, a super-majority vote system may be most feasible.

<sup>9</sup> Furthermore, governing officers are elected, non-permanent managers who may no longer be in office after the second election cycle. As such, putting their names (or any other individual names) on the final document will mean that the document will become inaccurate and require a change of title the moment new officers are elected or the named individuals pass away. Any process that necessitates frequent change of title procedures will add administrative hurdles, make the community land documentation process more difficult, or weaken the accuracy and strength of the final community land registration document.

### 3. Ensure that new land policies and legislation explicitly call for the creation of local mechanisms that protect women's and other vulnerable groups' land rights.

It is not enough to simply declare that women and other vulnerable groups have land rights; the law and its accompanying regulations should mandate express protections to ensure that rights of women and other vulnerable groups are implemented and enforced at the local, regional, and national level. Such interventions might include:

- Establishing a process by which women and other vulnerable groups can take action to ensure that intra-community rules for land and natural resource governance enshrine and protect their rights;
- Ensuring that all formal or informal family land documentation application forms include spaces for the names of both the husband and the wife or wives;
- Including provisions in national legislation that safeguard women's land rights (for example, requiring that the written consent of all adult family members living on the land be obtained before land can be sold or mortgaged);<sup>10</sup>
- Establishing that any community land and natural resource administration and management body include female representatives;
- Training local leaders to play a more active role in protecting the land claims of women and other vulnerable groups; and
- Creating local, accessible, and culturally acceptable mediation/arbitration mechanisms (composed of both customary and state leaders and elected women representatives) to resolve cases concerning the violation of women's and other vulnerable groups' land rights.

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**10** This is the law in Uganda. Uganda Land Act 1998, section 39.

#### **4. Establish support, facilitation, and oversight roles for government officials both during and after the community land documentation process.**

Local and regional government officials have an important role to play as supporters of community land documentation efforts. When legal frameworks devolve control over land and natural resource management to rural communities, governments should empower district and regional officials previously in charge of local land administration to take on the role of supporters and advisors. To this end:

- Local and regional land officials should actively provide support to communities during community land documentation efforts. This assistance should be request-based, rather than mandatory, as requiring state oversight may stall or impede community progress.
- Local and regional land officials should provide long-term support for community land and natural resource administration and management. Communities will likely require a range of ongoing government support after obtaining documentation. Such assistance might include:
  - » Providing technical support for intra-community land and natural resource administration and management.
  - » Protecting community lands from encroachment by elites and local power holders. Necessary enforcement support will likely concern both 1) addressing bad faith efforts to appropriate community lands and 2) penalizing illegal resource extraction. In such situations, communities should be able to seek recourse from the police and through the state court system, as theft and corruption are criminal acts under national law. In the event that the “land grabber” is a district official or has ties to powerful local government figures, the central state should enforce a community’s property rights.
  - » Acting as a check against abuse of power by community leaders and elected governing bodies. Communities may need support addressing corruption, mismanagement and unjust actions taken by elected local officials. Upon a community’s request, state officials should monitor and supervise community land administration and management bodies to ensure that the elected officers are fulfilling their fiduciary duties and acting in accordance with constitutional principles.
  - » Enforcing women’s and other vulnerable groups’ land rights, as set out in the national constitution and the community by-laws. Such enforcement support may include training customary leaders in relevant

national law, working alongside customary leaders to jointly address rights violations, and making justice systems and formal rights protections more accessible to rural women and other vulnerable groups.

- » Enforcing contractual agreements with investors. State officials should actively support communities' interests during negotiations with outside investors. State officials should also supervise and enforce the fulfillment of all benefit-sharing and/or rental agreements that communities have with investors. An impartial or independent ombudsman may best undertake these roles.

## **5. Assess the feasibility of all proposed processes for formalizing customary land claims before enactment of a law or policy.**

Policy proposals fashioned on best practices from other national contexts should be extensively tested and adapted to the unique situation of Liberia. Most critically, lawmakers should anticipate and resolve institutional challenges and obstacles to successful implementation. Such challenges will likely stem from lack of political will, corruption, low capacity of county and local officials, and resource constraints.

## **Recommendations for practice**

### **1. Enter communities with complete transparency, calling for full community participation in all community land documentation activities, taking care to include all stakeholders.**

Community land documentation efforts call for methodical and careful verification of all information concerning land ownership and use claims. At the inception of all community land documentation work, government or NGO facilitators must convene the entire community to identify trusted leaders, elect a diverse interim coordinating committee, and gather other necessary information. Information must be solicited widely and cross-checked by all relevant stakeholders, including neighboring communities. Discrepancies should be ironed out publicly and transparently resolved.

## 2. Let communities define themselves.

Defining a “community” is a complex political process with associated socio-cultural and geo-spatial implications at the local level.<sup>11</sup> As such, communities should define themselves after extensive, highly participatory discussions. It is counterproductive and ill-advised for legislation and/or government agents to define what a community is or should be and impose this structure on existing groups. In the event of a disagreement over community definition, state and customary leaders may jointly arbitrate the matter.

## 3. Include and involve all local leaders.

SDI found that communities’ capacity to successfully compete land documentation processes was directly related to leaders’ integrity, management abilities, commitment to the project, and skill in mobilizing their communities. Leaders may need special training and capacity-building support. Efforts may also need to be made to address power struggles between community leaders and to ensure cooperation and coordination between and within all local power structures, both customary and state.

## 4. Help communities create balanced, inclusive interim coordinating committees.

Communities should be supported to create an elected interim coordinating committee that is diverse and includes trusted leaders and strong, competent representatives of all interest groups, including youth, women, members of groups that practice a range of livelihoods, and all minority groups.

## 5. Train selected community members as “land paralegals” who can support their communities throughout community land documentation processes.

Well-trained and supervised paralegals proved to be the most effective and efficient method of supporting community land documentation efforts. When facilitating paralegal selection, it may be optimal to leave the community to define eligibility criteria; mandating that all elected paralegals in a community be literate may inadvertently eliminate the most effective leaders.

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<sup>11</sup> In the study region, difficulties related to community definition were rooted in overlapping definitions of authority, territory and identity. Specifically, the study communities’ process of defining for themselves the composition of their ‘community’ was often complicated by: 1) the nested quality of rural social organization in the study regions; 2) historical fractioning and division of groups/social units; 3) common areas fully shared between towns that identified as separate entities; 4) differences between customary and administrative/state-drawn boundaries; 5) historical migration patterns, ecological changes, and infrastructure development; and 6) competition over valuable natural resources; and other factors.

## **6. Leave communities to do much of the community land documentation work on their own according to local knowledge and skills.**

To support communities' individual processes, facilitating agencies should introduce each community land documentation activity, build the capacity of the community to complete it, and then leave the community to do the work, guided by the community paralegals who can call on the facilitating legal/technical team for support and assistance on an as-needed basis.

## **7. Provide targeted legal and technical assistance to help communities successfully complete community land documentation efforts.**

SDI's observations – and communities' experiences – indicate that for a community land documentation process to progress smoothly, lawyers and technicians must:

- Introduce the land documentation process and provide periodic legal education and capacity-building training;
- Provide mediation and conflict-resolution support during significant, particularly contentious land conflicts that communities are unable to resolve on their own;
- Provide legal support and technical assistance during the completion of the community's second and third drafts of their by-laws;
- Implement a women's empowerment strategy to ensure women's full participation in all community land documentation activities;
- Support communities during all administrative processes, including: contracting and liaising with government agencies, working with land surveyors/GPS technicians, and completing and filing of application forms and related documents; and
- Closely supervise each community paralegal's efforts not only to ensure that their work product is of high quality, but also to step in when necessary to demonstrate to all stakeholders that the community's efforts are supported by a team of lawyers with the capacity to take legal action.

## **8. Proactively prepare for land conflict resolution to be a central component of the community land documentation work and craft trainings designed to support open, non-violent boundary negotiation.**

Facilitating agencies should provide extensive conflict resolution and mediation training before a community begins boundary harmonization efforts. They should also train and support communities to employ a range of compromise strategies and mediation/dispute resolution tactics. Such efforts have the potential not only to resolve intra and inter-community land disputes, but also to serve as a model for the resolution of household-level land disputes.

## **9. Document each harmonized boundary in a formal MOU and by planting “boundary trees.”**

Facilitating agencies should support communities to document all boundary harmonization agreements through formal Memoranda of Understandings (MOUs). After completing the boundary harmonization process, a community should hold a large ceremony in which neighboring communities (including families neighboring the boundary lines) come together, critically assess the agreed boundaries, and formally agree to and witness these boundaries. The MOUs should ensure that all preexisting reciprocal land use and sharing agreements, as well as rights of way, are protected. Afterwards, the community and its neighbors should plant “boundary trees” or other culturally-appropriate markers in the presence of all relevant stakeholders.

## **10. Leverage the community land documentation process to support communities to improve intra-community governance.**

A highly participatory land documentation process has the potential to galvanize communities to improve intra-community governance, foster participatory rule-making, and establish accountability mechanisms for local leaders. To achieve such outcomes, civil society and government facilitators should:

- Begin the process of drafting the by-laws at the lowest level of intra-community governance (at the town level) then merge these rules into a set of community by-laws through rigorous, iterative debate and discussion.
- Ensure full community participation in the by-laws and management plan drafting processes.
- Handle the transition from oral to written rules delicately. The process of writing down previously unwritten rules and practices may change them. The

discussion of existing rules must be deftly handled to ensure that the transition from oral to written does not undermine more inclusionary practices.

- Allow communities to merge their by-laws and land and natural resource management plans into one document.
- Allow communities to base the form and content of their rules on existing custom, norms, and practices so long as the rules do not contravene the national constitution and relevant laws, and clearly establish substantive and procedural rights for all community members, including women and members of vulnerable groups, among other necessary protections.
- Ensure that the by-laws include provisions for annual review and amendment. To avoid the potential calcification of customary rules that transcribing them might imply, a yearly review of community rules should be instituted, with clear amendment procedures and the requirement that rules be changed only after full consensus or super-majority vote.

### **11. Community land documentation processes should conclude with the election of a diverse and representative governing body.**

Facilitating NGOs or government agencies may need to monitor the election of these bodies to ensure that the elections were participatory, transparent and fair, and that the positions were not captured by elites. Communities might also create parallel “watchdog” groups to monitor the elected council’s decisions and actions.

### **12. Leverage community land documentation efforts to foster sustainable natural resource management and conservation.**

Civil society and state agencies should support community-led conservation, stewardship, and sustainable management of natural resources both during and after the community land documentation process.

### **13. Leverage the community land documentation process to strengthen women’s and other vulnerable groups’ land rights and support communities to establish mechanisms for their enforcement.**

To ensure that the community land documentation processes establish intra-community mechanisms that effectively protect and enforce women’s land rights, civil society and government facilitators should: craft strategies to proactively address gender inequities that have the potential to negatively



impact community land documentation activities; plan community land documentation meetings to take place at convenient times and locations, after women have completed their house and farm work; convene special women-only meetings to help women identify and advocate for their interests in the broader community meetings; and support communities to elect a governing council that includes female representatives; among other key strategies.

#### **14. Provide supplemental support to communities facing intra-community threats such as sabotage from local or Monrovia-based elites.**

In instances where elites obstruct community progress, seed conflict, or otherwise create obstacles to community land documentation progress, legal advocates must proactively address intra-community disparities of power and influence.

In conclusion, the data illustrate that well-facilitated community land documentation exercises may result in important impacts that go beyond increased land tenure security. As one community member in Liberia explained:

*I don't care what anyone says, this project is the best thing to happen in our history. Imagine: now we know our borders; we know our resources; we know our rules, and they are written down for everyone to see and know; people are attending clan meetings; and our clan feels stronger together. This has never happened before! Now it is easy for us to organize and ask the government or [foreign investors] for things we want or refuse things we don't want in our community.*

Once a community has successfully documented its land claims, the hope is that it may then work hand-in-hand with government agencies and local organizations to fully leverage its lands for locally driven development, prosperity, and human flourishing.

# 1. Background<sup>12</sup>



Community leaders meet to discuss the community land documentation work to be undertaken in Rivercess.

## 1. Background

For many Liberians, land is their greatest asset: the source of food and water, the site of their livelihoods, and the heart of their history and culture. Yet more than ever, that land is in demand. In recent years, African governments have been granting vast land concessions to investors for large-scale agricultural enterprise and forest and mineral extraction.<sup>13</sup>

Governments award these concessions to stimulate development and strengthen the national economy. Yet such concessions are further exacerbating trends of growing land scarcity, while weakening the land tenure security of rural communities.<sup>14</sup> Communities often have little power to contest such land grants, particularly where they operate under customary law and lack formal legal title to their lands. Even when communities welcome private investment, they may not be consulted about the terms of the investment, properly compensated for their losses, or given a say in land management after the investment is launched. Alternatively, such investments may be undertaken in ways that lead to environmental degradation, human rights violations, loss of livelihoods, and inequity.<sup>15</sup>

Currently, Liberia has one of the highest rates of land concessions in Africa, as per the proportion of national lands granted to investors.<sup>16</sup> Between 2004 and 2009 alone, the Liberian government either granted or re-negotiated land and forestry concessions totaling 1.6 million hectares – over 7% of the total national land area.<sup>17</sup> To date, the Liberian government continues to grant large-scale land concessions to palm oil, mining, and logging companies. In 2010 alone, more than 661,000 hectares were granted to two foreign corporations for palm oil production.<sup>18</sup> In total, the Liberian government has granted more than 25% of the nation's land to rubber, palm, and logging concessions.<sup>19</sup> The table below illustrates only concessions with more than 25 years duration.<sup>20</sup>

<sup>12</sup> For a complete discussion of the socio-political, cultural and economic context within which this Initiative was undertaken, see: <http://namati.org/work/community-land-protection/Phase-One-Findings-and-Reports>.

<sup>13</sup> See Lorenzo Cotula, Sonja Vermeulen, Rebeca Leonard, and James Keeley, *Land Grab or Development Opportunity? Agricultural Investment and International Land Deals In Africa*, (London: IIED/FAO/IFAD, 2009).

<sup>14</sup> Many of these large land concessions are time-limited (for periods of up to 100 years, with the possibility of extension). During this time, concessions often preclude or limit local communities from accessing or using these contracted lands and all of their natural resources located therein.

<sup>15</sup> World Bank Group, *Rising Global Interest in Farmland: Can it Yield Sustainable and Equitable Benefits?* (Washington, DC: World Bank, 2011), [http://siteresources.worldbank.org/INTARD/Resources/ESW\\_Sept7\\_final\\_final.pdf](http://siteresources.worldbank.org/INTARD/Resources/ESW_Sept7_final_final.pdf).

<sup>16</sup> Id.

<sup>17</sup> Id. The report notes that of this land, only 7% went to domestic investors, while 93% went to foreign investment.

<sup>18</sup> These concessions were granted to the Malaysian palm oil company Sime Darby in 2009 (311,187 ha) to the Palm oil company Golden Veroleum (350,000 ha). Silas Kpanan'Young Siakor, *supra* note 4, at 18.

<sup>19</sup> Id. at 17.

<sup>20</sup> Id. The data in the table was extracted from the individual concession agreements and other published literature. The total land area of Liberia is roughly 10,000,000 hectares.

**Table one: Liberian land concessions with more than 25 years duration**

Company	Concession Size (ha)	Counties
Firestone	404,685	Margibi, Bassa
Liberia Agricultural Company	121,405	Grand Bassa/Rivercess
Sinoe Rubber Plantation	242,811	Sinoe
Equatorial Palm Oil	68,391	Sinoe, Grand Bassa
Salala Rubber Company	40,468	Bong
Sime Darby Plantation (Liberia)	311,187	Cape Mount, Bomi, Gbarpolu, Bong
Golden Veroleum Liberia	350,000	Sinoe, Grand Kru, Maryland, Rivercess
Forest Management Contract – Area A	119,240	Lofa, Gbarpolu
Forest Management Contract – Area B	57,262	Rivercess
Forest Management Contract – Area C	59,374	Rivercess
Forest Management Contract – Area K	266,190	Rivercess, Grand Gedeh, Nimba
Forest Management Contract – Area I	131,466	Grand Gedeh, Sinoe
Forest Management Contract – Area P	119,344	Grand Kru, Maryland
Forest Management Contract – Area F	254,583	Grand Gedeh, River Gee
<b>Total</b>	<b>2,546,406</b>	

The data in the table was extracted from the individual concession agreements and other published literature. The total land area of Liberia is roughly 10,000,000 hectares.

Analyzing these concessions, a World Bank report found that “Even where concession boundaries are mapped ... little ground-checking for potential overlaps with other land uses, including community lands, is done.”<sup>21</sup> The report also observed that “Land allocated without prior consultation [with local communities] or agreement on the amount and type of compensation and a lack of local involvement in the concession led to significant tension that affected project operations in Liberia...such conflict escalated to the highest political levels, with undesirable impacts for all involved.”<sup>22</sup>

<sup>21</sup> World Bank Group, *supra* note 15, at 61.

<sup>22</sup> *Id.* at 67 -68.

In the coming years, as investments across Liberia are realized and further concessions are granted, the amount of land still held and managed by rural Liberians will decrease significantly. This trend will have adverse impacts on already impoverished rural communities. Potential negative impacts may include displacement and dispossession of communities, food insecurity,<sup>23</sup> environmental degradation,<sup>24</sup> increased competition for land, and an associated increase in land conflict throughout the nation, which may have more wide-ranging destabilizing effects.<sup>25</sup>

## The history of land rights in Liberia

Liberia is a predominantly agrarian nation; most families make their livelihoods as rural small-scale farmers. The country has abundant natural resources, including gold, diamonds, iron ore, timber and bauxite, as well as plentiful fresh water, fertile lands, and large forest areas.<sup>26</sup> Although Liberia is endowed with valuable natural resources, the country ranks 182nd out of 187 countries on the United Nation's Human Development Index.<sup>27</sup> Poverty rates are higher in the rural areas, where people depend on natural resources for their livelihoods and survival.<sup>28</sup> Compounding this poverty are the effects of Liberia's protracted civil wars, which raged from 1989–1996 and 1999–2003. The brutal nature of the warfare weakened the social fabric of many rural communities and left Liberians traumatized. Meanwhile, the fighting often significantly destabilized community leadership structures in rural areas, weakening community leaders' authority and ability to manage resources and mediate local conflict. In the years since the conclusion of the civil wars, poor local land and natural resource governance has contributed to growing tension and competition over resources, both within communities and between communities and private investors.

<sup>23</sup> The Liberian Government's agriculture policy states "81% of the population is either highly vulnerable or moderately vulnerable to food insecurity." Government of Liberia, Food and Agriculture Policy and Strategy: From Subsistence to Sufficiency, at 1.

<sup>24</sup> Discussing the impacts of foreign logging operations on her community, one woman described how "[The logging companies] have polluted our water – no fish, no meat, they have scared our animals away, and when it rains and when the wind blows, our houses, thatches, are destroyed. Some people have zinc but most of us only have thatch for roof, and [the availability] of thatch is getting very hard and the constant demand of sticks and rope to rebuild our homes is getting difficult ... I am afraid our areas will turn into a desert one day."

<sup>25</sup> World Bank Group, *supra* note 15, at 67. "The fact that many government officials and investors interpret the law in ways that deny customary land recognition [has] facilitated the transfer of these lands to outsiders without compensation, with affected communities being notified only *ex post*. Land assigned to companies was thus often occupied, causing violent clashes and conflicts." *Id.* at 99 – 100.

<sup>26</sup> 42% of West Africa's remaining rainforest is found in Liberia. U.S. Agency for International Development, "USAID Land Tenure and Property Rights Portal," <http://usaidlandtenure.net>.

<sup>27</sup> United Nations Development Programme, "The Human Development Index," (2011) <http://hdrstats.undp.org/en/countries/profiles/LBR.html>

<sup>28</sup> International Monetary Fund, Liberia: Poverty Reduction Strategy – Progress Report, IMF Country Report No. 10/194 (2010) <http://www.imf.org/external/pubs/ft/scr/2010/cr10194.pdf>.

These trends also have negative intra-community impacts. Studies have shown that increasing land scarcity, rising competition for land, and resulting land commoditization tend to precipitate a breakdown of the customary rules that generally govern the equitable and sustainable use of common resources — rules that have in the past functioned to protect the land rights of women and other vulnerable groups and support the sustainable management of local ecosystems.<sup>29</sup> Woodhouse notes, “When competition for land intensifies, the inclusive flexibility offered by customary rights can quickly become an uncharted terrain on which the least powerful are vulnerable to exclusion as a result of the manipulation of ambiguity by the powerful.”<sup>30</sup>

Indeed, local land-related conflicts are a major source of tension in Liberia: a 2009 International Crisis Group report referred to land disputes as “the most explosive issue in Liberia today.”<sup>31</sup> Another investigation concluded that:

*Disputes about land were identified by the population as the most prevalent, countrywide source of tension. Most of the land disputes reported to our research teams in rural settings were about boundaries of agricultural land: boundaries between individual properties in a community; boundaries between communal lands; boundaries between private – statutory – and communal –traditional – titling; boundaries between communities and administrative districts and even between counties... All these disputes are a great source of anxiety for the population, which feels that the government and local authorities together with the justice system are absent in assisting them to resolve the disputes, and result in a feeling of vulnerability.*<sup>32</sup>

This sense of vulnerability is currently being exacerbated by government policy that prioritizes foreign investment over rural Liberian’s land use and management. Critically, as pressures on rural communities intensify, the prevalence and severity of land disputes are likely to increase.

29 While scholars disagree over the relative strength of women’s land claims under customary systems, the consensus is that as land becomes scarcer, existing customary safeguards of women’s rights to land have eroded. Evidence has emerged that when land is scarce, customary leaders and families move away from more flexible systems of land holding (which take into consideration a woman’s need to support herself and her children) to more rigid interpretations of women’s land claims. In some contexts, families are reinterpreting and rediscovering customary rules that undermine women’s (particularly widows’) land rights. Ann Whitehead and Dzodzi Tsikata, “Policy Discourses on Women’s Land Rights in Sub-Saharan Africa: The Implicants of the Re-turn to the Customary,” *Journal of Agrarian Change* 3, no. 1-2 (2003) at 91; Paulene E. Peters, “Inequality and Social Conflict Over Land in Africa,” *Journal of Agrarian Change* 4, no. 3 (2004) at 269-314; Ingrid Yngstrom, “Women, Wives, and Land Rights in Africa: Situating Gender Beyond the Household in the Debate Over Land Policy and Changing Tenure Systems,” *Oxford Development Studies* 30, no. 1 (2002) at 21-40. The increasing commercialization and commoditization of land has also influenced the operation of customary systems of land administration and management. Chimhowu and Woodhouse observe that even during standard customary land transactions, there is a shift towards making reference to market values, evident in the “increasing weight placed upon cash, relative to symbolic elements of exchange, and an increasing precision in the ‘seller’s’ expectation of what they should receive.” Admos Chimhowu and Phil Woodhouse, “Customary vs. Private Property Rights? Dynamics and Trajectories of Vernacular Land Markets in Sub-Saharan Africa,” *Journal of Agrarian Change* 6, no. 3 (2006) at 359.

30 Philip Woodhouse, “African Enclosures: A Default Mode of Development,” *World Development* 31, no. 10 (2003) at 1715.

31 International Crisis Group (ICG), “Liberia: Uneven Progress in Security Sector Reform,” *Africa Report* N.148, January 2009 at 8.

32 Peace in Liberia, Challenges to Consolidation of Peace in the Eyes of the Communities: A Report by the Platform for Dialogue and Peace in Liberia, Joint Programme Unit For UN/Interpeace Initiatives, JPU, 2010 at 5, available at: <http://www.interpeace.org/index.php/2011-08-08-15-19-20/latest-news/2010/107-presidents-kufuor-and-sirleaf-meet-to-discuss-findings-from-countrywide-peacebuilding-initiative>.

## Liberia's land legislation

The fragility of rural tenure security in Liberia has been compounded by contradictory national land and natural resource policies, ambiguous legal frameworks, weak implementation, low professional and resource capacity, corruption, and lack of political will to protect rural communities' land rights.

Between 1821 and the mid-1900s, the liberated slaves from the United States of America ("Americo-Liberians") who founded the modern nation-state of Liberia largely confined their rule and activities to the coast (the "littoral"), leaving indigenous Liberians to inhabit and administer the inland areas (the "hinterland") according to customary principles and leadership structures. As the Americo-Liberians slowly expanded their domain inland, they did not declare all land and resources to be the property of the state, as was common colonial practice. Instead, in 1923, they agreed to recognize tribes' ownership of their land according to customary boundaries and allow local land administration and management to be governed by customary paradigms. The Hinterland Act (1949) (An Act Approving the Revised Laws and Administrative Regulations for Governing the Hinterland) legalized this arrangement and allowed chiefs to formalize tribal land claims by applying for a deed in fee simple.<sup>33</sup> Thirteen chiefdoms seized this opportunity and their combined 2.3 million acres (930,798 hectares) remain registered today in the name of these chiefdoms.<sup>34</sup>

In 1956, however, the Liberian Government changed its policy and, under the Aborigines Law (1956) (Title 1: Aborigines Law, Liberian Code of Laws), claimed all lands as property of the state. As a result, with the exception of those 13 chiefdoms that had acquired deeds, tribes no longer owned their lands, but rather became "holders" and "users" of state land. Yet when the Liberian Code of Law (1956) was revised in the mid-1970s, the full text of the Aborigines Law (1956) was omitted.<sup>35</sup> As a result of this omission, it is not clear whether the Aborigines Law or the Hinterland Act remains operative today.<sup>36</sup>

<sup>33</sup> The Hinterlands Law (1949) established that tribes were eligible to apply for deeds to establish documentary proof of their formal ownership over their lands. The full text of article 66, entitled "Lands" is as follows: "Title to the territory of the Republic of Liberia vests in the sovereign State. The right and title of the respective tribes to lands of an adequate area for farming and other enterprises essential to the necessities of the tribe remain inherent in the tribe to be utilized by them for these purposes; and whether or not they have procured deeds from Government delimitating by metes and bounds such reserves, their rights and interest in and to such areas are a perfect reserve and give them title to the land against any person or persons whosoever." By providing indigenous persons with full ownership (not simply a right of use and benefit) and regardless of whether a formal deed had been issued, this law offered wider protection to community land holdings than any other African country at any time in history.

<sup>34</sup> Liz Alden Wily, *So Who Owns the Forests? An Investigation into Forest Ownership and customary Land Rights in Liberia*, Sustainable Development Institute and FERN (2007) 117.

<sup>35</sup> Article 270, Aborigines Law 1956 (Title 1: Aborigines Law, Liberian Code of Laws). The full text of articles 270–272 reads: "Extent of Tribal Rights in Lands: Each tribe is entitled to the use of as much of the public land in the area inhabited by it as is required for farming and other enterprises essential to tribal necessities. It shall have the right of possession of such land as against any person whomsoever. The President is authorized upon application of any Tribal Authority to have set out by metes and bounds or otherwise defined and described the territory of the tribe thus applying. A plot or map of such survey or description shall be filed for reference in the archives of the Department of State within six months after the completion of such survey. The omission of the tribe to have its territory so delimited shall not affect in any way its right to the use of the land."

<sup>36</sup> Alden Wily, *supra* note 34.



The Public Lands Act (1972–1973) (Title 34 of the Liberian Codes Revised) adds to this confusion. Under the Public Lands Act, Liberians (including chiefdoms and other community units) may purchase their lands from the state for 50 cents an acre and thereafter claim private ownership. Between 1956 and 1986, 19 chiefdoms successfully secured 2.5 million acres (1,011,736 ha) under public land sale deeds held collectively by community members.<sup>37</sup> Since 1988, however, no community has acquired a deed to its land through this process. Yet the Public Lands Act not only fails to define “public lands,” but also contains important contradictions. On the one hand, by requiring that applicants purchase such land from the state, the law implies that the state is the owner of public lands, and in this capacity may sell it to communities. On the other hand, the application process requires that tribal authorities consent to the sale of land and that the County Land Commissioner<sup>38</sup> be satisfied that the land in question is not a portion of the Tribal Reserve – an implication that tribes remain the owners of such land.<sup>39</sup>

Such ambiguities in the legal framework governing land in Liberia have been compounded by corrupt and disorganized land and natural resource management. Much of this has hinged on the fact that the Public Lands Law (1972–1973) not only allows private individuals and groups (including communities) to purchase public lands, but also authorizes the President to lease any portion of public lands “not appropriated for other purposes”<sup>40</sup> to any “foreign individual, corporation, or company for engaging in agricultural, mercantile, or mining operations in Liberia”<sup>41</sup> for a period of up to 50 years, with a possible 50 year extension.<sup>42</sup>

Most egregiously, even deeded communities have not been granted the full bundle of rights inherent in private land ownership. Under both the Aborigines Law (1956) and the Public Lands Law (1972–1973), the Liberian Government granted a number of tribes legal deeds to their chiefdoms and clans. Alden Wiley’s research located 47 deeds, which in combination cover a total of 6.8 million acres

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37 Id.

38 The Public Lands Law 1972–1973 established the basic structure of land administration in the counties; this structure is still in force today. The two main government officials responsible for local land administration are the County Land Commissioner and the County Land Surveyor. The County Land Commissioner is responsible for shepherding the Public Land Sale process, addressing land conflicts, and addressing other land-related matters in the county. The Land Commissioner must also keep “an accurate chart of the plots and parcels of public land in the county,” keep note of all of the land that has been converted into private land under the public land sale process, and send quarterly reports to the Department of Justice concerning all transfers of title to public land in the county.

39 The Public Lands Law 1972–1973, Chapter 3, section 32. It should be noted that in 1974, the Land Registration Law was incorporated into Chapter 8 of the Property Law 1972–1973 (Liberian Codes Revised, Title 29). According to Alden Wily, section 8.52(d) of this law is relevant to customary land rights, and describes customary land rights as an encumbrance on public lands that must be recorded and protected as “tribal reserves” or “communal holdings” in the event of systematic land registration. Alden Wily, *So Who Owns the Forests?*, *supra* note 34, at 139.

40 The Public Lands Law 1972–1973, Chapter 5, section 70.

41 Id.

42 All leases must be approved and ratified by the Legislature.



(2,751,922 ha) or 29% of Liberia's total land area.<sup>43</sup> However, even legal proof of land ownership has not impeded the Liberian government from granting lucrative mining and forestry concessions to investors within these community lands.<sup>44</sup>

## Relevant forestry legislation

After the end of the civil war, to address resulting violations and United Nations sanctions against Liberian timber, the Johnson Sirleaf Government cancelled all existing forestry concessions and passed the National Forestry Reform Law (2006) ("NFRL"). Under the NFRL, communities holding deeds have the right to receive a portion of the profits accrued by the corporations granted logging concessions within their lands.<sup>45</sup> However, the majority of communities in Liberia have not yet received such payments. The NFRL also mandates that local communities be fully engaged in the sustainable management of the forests of Liberia.<sup>46</sup>

To fulfill the mandates of the NFRL, the Forest Development Authority<sup>47</sup> issued regulations intended to clarify local communities' use and management rights, transfer control over forest use to communities, and build their capacity for sustainable forest management.<sup>48</sup> The resulting Community Rights Act (2009) (An Act to Establish the Community Rights Law of 2009 with Respect to Forest Land) defines communities' rights and responsibilities concerning the management, use and benefits arising from income-generating activities undertaken on community forest lands. Although the Act lacks clarity in some areas, its emphasis is on protecting the rights and interests of communities. To this end, it provides that:

- All forest resources on community forest lands are owned by local communities.<sup>49</sup>

<sup>43</sup> Alden Wily, *supra* note 34, at 145.

<sup>44</sup> For example, Forest Management Contract Area A covers significant portion of land deeded to Gou Nwolaila in Gbarpolu County. The Sime Darby Concession Area covers areas in Bokomu District, which is also deeded to the community. See also a report by Talking Drums Studio, which found that "Community lands [are] routinely taken, people evicted, and logged and resistance met with violence; in one case Government got involved and threatened the people if they resisted the company, even though the area was a deeded tribal reserve forest." *Supra* note 34, at 313 (citing Talking Drums Studio, *What the People Say Enhancing Civil Society Awareness and Engagement in Forest Concession Review and Reform*, July 2005.) *Id.* at 313

<sup>45</sup> The NFRL was a clear attempt to strengthen law and policy concerning communities' rights over local forests. However, the NFRL's language tends to obscure rather than elucidate the level and extent of communities' ownership rights over the forests they own under custom. According to Section 11.3, "[w]here the Government has granted permission for the use of Forest Resources, no Land Owner or Occupant has a right to bar that use; however, the Land Owner or Occupant shall be entitled to just, prompt, and adequate compensation for any diminution in the value of his property occasioned by the use." (National Forestry Reform Law 2006, Section 11.3) Under the law, communities holding deeds have the right to receive a portion of the profits accrued by the corporations granted logging concessions within their lands.

<sup>46</sup> NFRL, Chapter 10, section 10.1(a).

<sup>47</sup> The Forest Development Authority (FDA) is the government body responsible for administration and management of Liberia's forests and timber resources.

<sup>48</sup> NFRL, Chapter 10, section 10.1.

<sup>49</sup> Community Rights Act 2009, section 2.2(a).

- Communities have the right to manage and administer the forest resources located on their customary lands.<sup>50</sup>
- Communities must set up a governance framework for the management of their forest resources.<sup>51</sup>
- Any decision, agreement, or activity affecting the status of community forest resources shall not proceed without the prior, free, informed consent of the owner community or communities.<sup>52</sup>
- Anyone harmed by a violation of the Community Rights Act 2009 has the right to seek redress in a court of law.<sup>53</sup>

Importantly, the Community Rights Act 2009 defines customary land as owned by the communities living on it – whether or not there is any formal documentation. The Act’s definition of “customary land” is as follows:

Land, including forestland, owned by individuals, groups, families or communities through longstanding rules recognized by the community. To be recognized as customary land, it is not necessary for the land to have been registered under statutory entitlements.<sup>54</sup>

Accordingly, the Community Rights Act (2009) appears to establish that all communities currently holding land according to customary rights already own their land (whether they have a document or not) and moreover, have a degree of control and jurisdiction over these lands. It remains to be seen whether this pronouncement – made only in the “Definitions” section of the Community Rights Act (2009) – clarifies the status of communities’ customary land rights in Liberia.<sup>55</sup>

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**50** Community Rights Act 2009, at section 3.

**51** Community Rights Act 2009, at section 4.

**52** Community Rights Act 2009, at section 2.2(c).

**53** *Id.* at section 7.

**54** *Id.* at section 1.3 (emphasis added).

**55** As subsidiary legislation to the National Forestry Reform Law 2006, the Community Rights Act (2009) does not set out a clear administrative process for formalizing land claims. The only administrative processes outlined fall under a section called “Community Forest Management” and are to be overseen by the Forest Development Authority. The Community Rights Act (2009) states that to formally claim management responsibility for its forests, a community must follow these procedures:

1. Establish a Community Assembly (supervised by an Executive Committee), which “shall be the highest decision-making body of the Community with respect to community forestry matters.” (Community Rights Act 2009, section 4.1(a)).
2. The Community Assembly must then “adopt a vision of community forest management” and “approve a set of Constitutions and By-laws to govern community forestry operations” that are “consistent with the Constitution and laws of Liberia as well as regulations by the [Forest Development] Authority.” (Community Rights Act 2009, section 4.1(j)).
3. The community must also develop a Community Forest Management Plan approved by “the Executive Committee, the Community Assembly and the [Forest Development] Authority.” (Community Rights Act 2009, section 6.4(d)).

To address these legal ambiguities, conduct research on the current state of land affairs in Liberia, and initiate the process of drafting a new Liberian land policy, the National Legislature established a Liberian Land Commission on August 4, 2009. The Land Commission's purpose is to "propose, advocate and coordinate reforms of land policy, laws and programs in Liberia" and its objectives are to promote:

- Equitable and productive access to the nation's land, both private and public;
- Land tenure security and the rule of law with respect to landholding and dealings in land;
- Effective or sustainable land use, management and administration; and
- Investment in and development of the nation's land resources.<sup>56</sup>

With the appointment of the Land Commission, Liberia's current policies, laws, and regulations are now undergoing a review. Importantly, the Liberian Government recognizes that the protection of rural community land rights is a critical component the national peace building process. In this vein, the Land Commission's first action was to ask President Johnson Sirleaf to place a temporary moratorium on the sale of public land. This moratorium came into effect on March 10, 2010. In April 2011, an Interim Public Land Sale Process was unveiled. The moratorium continues to remain in place, however, "until a thorough review of the full process, including verifying the issue of existing tribal certificates" is complete.<sup>57</sup>

## A way forward: Community land claims documentation

In Liberia, strong legal protections for community lands and natural resources and the expedient implementation of clear, simple, and easy-to-follow legal processes for the documentation of customary land rights are urgently needed. Effective documentation processes for community lands held under custom can help to protect rural communities' land claims, livelihoods, and way of life. They can also reduce conflict and instability in the long term and foster endogenously-driven community development.

In particular, efforts to protect common areas<sup>58</sup> are critical, as common properties and community lands not currently under cultivation are often the

<sup>56</sup> Land Commission of Liberia, Annual Report: January – December 2010, available at <http://www.lc.gov.lr/doc/AnnuaReport2010.pdf>.

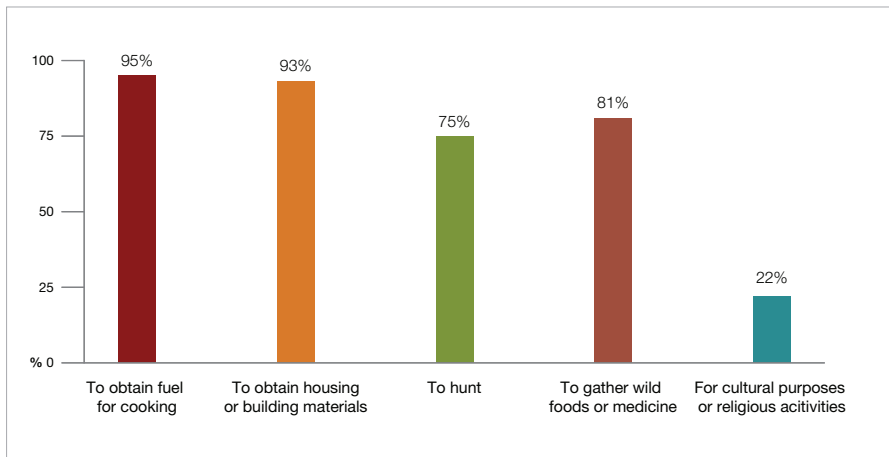
<sup>58</sup> According to community members, a common area is defined as any area commonly owned and used by community members. This may include, but is not limited to, high forest, water sources (i.e., creeks, rivers and lakes), wild palm trees, and spiritual and traditional places of worship. While such areas belong to all members of the community, the areas are regulated according to a set of community rules and norms.

<sup>57</sup> Personal interview with members of the Land Commission.

first to be allocated to investors, claimed by elites, and appropriated for state development projects. Community members often rely on common resources such as forests, grazing lands, and water sources for their livelihoods and daily needs. Under customary legal paradigms, all community members are generally considered the co-owners or rightful users of these common resources.

In the study region of Rivercess County, communally-owned forests are essential to people's lives. In the pre-service survey and focus group discussions, community members reported that they routinely gather the following resources from the forests: the thatch, sticks, and rope that they use to build their homes; the food necessary to a balanced diet (they hunt for bush meat and gather fruits and palm nuts for food, oil, and wine); firewood and fuel; and plant medicines. From streams and rivers within the forests, they gather water for consumption, wash clothing, and fish. Importantly, communities also carry out cultural practices in the forests: the Poro and Sande societies have both men's and women's bushes<sup>59</sup> located at secret sites within the forest.<sup>60</sup>

**Figure 1: Respondents' use of common forests**



<sup>59</sup> Sites of traditional cultural practice.

<sup>60</sup> Focus groups explained that as a direct result of the reduction in the size of their forests, the availability of natural resources has declined, a trend which is negatively impacting the community members' livelihoods. One man explained, "We depend on the forest for everything, and now it hard to get anything. Now, to get sticks, animals, and thatch is very difficult." Another man explained, "We are feeling bad. Getting certain things like thatch... has been difficult; we have to walk far away just to fix the thatch on our house." Focus groups described how "places to hunt have reduced in size" and "[the availability] of fish has decreased." Focus groups also expressed a sense of powerlessness concerning the reduction and loss of their forests and the depletion of their natural resources. They reported that one result of the growing resource scarcity was an increase in competition for these resources, as finding them was now more time-consuming and labor-intensive. More vulnerable community members were reported to suffer the most from the impacts of resource depletion, particularly women, the elderly, and the disabled. Focus groups explained, "It is now difficult to get thatches; one has to walk almost hours to get some. Elders and [the] disabled suffer the most" and "Widows and elders don't have anyone to get things like meat, thatch, sticks for them."

While individual land titling has been largely successful in facilitating high levels of tenure security in developed countries, individual land titling schemes have generally proved inadequate to protect the full range of usufruct rights typical of customary land management systems. Customary land administration and management systems generally comprise a complex mesh of overlapping land ownership, use, and access rights; under customary systems, land is held by individuals, families, clans and entire communities, and land rights are often considered to be held not only by all present occupants, but also by all past and future generations.<sup>61</sup> Individual titling is generally not designed to take into account communal or secondary rights over land, including rights of way, common pool resource claims or the migratory routes of nomadic groups and hunter-gatherers. As a result, these rights remain unrecorded and may be lost.<sup>62</sup> In some cases, individual titling efforts have led to increased inequity and disenfranchisement of vulnerable groups in rural areas.<sup>63</sup> A particular concern is the loss of women's land rights that can occur where formal title documents are issued only in the name of (usually male) household heads.

One way of protecting the full range of customary land rights is to allow communities to register their lands as a whole (documenting the "meta unit" or "tenurial shell"), with reference to the community's boundaries, and to then build community capacity to sustainably and equitably manage community land and natural resources.

In regions where much of the land is held communally according to custom, titling or registering the whole community can facilitate the recognition of communal, overlapping, and secondary land rights. Most importantly, this method safeguards an entire community's land at once, thus representing a more efficient and cost-effective means of protection than individual titling.

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61 See generally Ben Cousins, "More Than Socially Embedded: The Distinctive Character of 'Communal Tenure,'" *Journal of Agrarian Change* 7, no. 3 (2007).

62 See generally Tim Hanstad, "Designing Land Registration Systems for Developing Countries," *American University International Law Review* 13, no. 3 (1998): 647; Whitehead and Tsikata, "Policy Discourses"; David A. Atwood, "Land Registration in Africa: The Impact on Agricultural Production," *World Development* 18, no. 5 (1990); Richard Barrows and Michael Roth, "Land Tenure and Investment in African Agriculture: Theory and Evidence," *The Journal of Modern African Studies* 28, no. 2 (1990); John W. Bruce, "Land Tenure Issues in Project Design and Strategies for Agricultural Development in Sub-Saharan Africa," (Madison, WI: Land Tenure Center, University of Wisconsin-Madison, 1986); Angelique Haugerud, "The Consequences of Land Tenure Reform among Small Holders in the Kenya Highlands," *Rural Africana* 15-16 (1983). Experience in implementing individual titling schemes has also shown that: i) the high costs of recording the ownership and multiple use claims of every plot of land within a nation can lead to poorly executed or unfinished mapping exercises, which can serve to further undermine the tenure security of those parcels of land not yet mapped and registered; ii) the costs of officially registering one's land may be prohibitively expensive for the poor, which can lead to a situation in which only elites gain formal title to their lands; iii) individual land titling and registration can facilitate and lead to distress sales in time of hunger, sickness and extreme poverty; and iv) land registries can be difficult for already-vulnerable groups to access and use, and unless particular care is taken by government administrators, under-represented groups such as ethnic minorities and women may be excluded.

63 Whitehead and Tsikata, "Policy Discourses"; Atwood, "Land Registration in Africa"; Barrows and Roth, "Land Tenure and Investment in African Agriculture"; Bruce, "Land Tenure Issues"; Haugerud, "The Consequences of Land Tenure Reform."

Furthermore, devolving land ownership, administration, and management to the community may help to foster local economic growth and promote sustainable natural resource management.<sup>64</sup>

Efforts to document and protect community lands and natural resources raise complex questions, however. Community land documentation systems necessarily devolve land management and administration to communities themselves. This presents its own risks in terms of elite capture, corruption, and exploitation of vulnerable groups. Land management associations may be dominated by local power-holders, and community decisions relating to land titling and management may entrench class differences or perpetuate discriminatory practices.<sup>65</sup> Leaders may act corruptly, manage natural resources unsustainably, or personally capture economic benefits stemming from external investment. In such contexts, community members with more tenuous land claims – particularly women, widows, orphans, etc. – are at increased risk of having their land appropriated in bad faith and their rights violated.<sup>66</sup> According to Chimhowu and Woodhouse, “The social embeddedness of vernacular land markets means that those with greatest influence over land under customary tenure (tribal chiefs and heads of patrilineages) will be best placed to gain from the commoditization of land through sales and rents.”<sup>67</sup>

The question, therefore, is how best to support the protection of community land and natural resources rights, while simultaneously ensuring that intra-community land governance is structured in a manner that ensures equity, justice, accountability, and sustainable natural resource use. The Community Land Titling Initiative aimed to investigate precisely this question and to determine methodologies likely to ensure positive outcomes. The study’s design, implementation, and all resulting findings are detailed below.

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64 Liz Alden Wily, “The Commons and Customary Law in Modern Times: Rethinking the Orthodoxies” (Presentation to a Conference Hosted by UNDP on Land Rights for African Development: From Knowledge to Action: A Collaborative Program Development Process, 2005, draft).

65 See Cotula et al., *Land Grab or Development Opportunity? Agricultural Investment and International Land Deals In Africa*.

66 Paul Mathieu, Philippe Lavigne Delville, Hubert Ouédraogo, Mahamadou Zongo, and Lacinan Paré, 2003, *Making land transactions more secure in the west of Burkina Faso*. London, IIED/GRET; Peters, “Inequality and Social Conflict Over Land in Africa”; Woodhouse, “African Enclosures: A Default Mode of Development”; Yngstrom, “Women, Wives, and Land Rights in Africa.”

67 Chimhowu and Woodhouse, *supra* note 29, at 360.

## 2. Project design and methodology



## 2. Project design and methodology

### Project design

In the context of large-scale land concessions, growing land scarcity, increased local competition for land and natural resources, and the Land Commission's review of Liberia's land legislation, The Sustainable Development Institute (SDI) and the International Development Law Organization (IDLO) set out to investigate how best to support communities to successfully follow legal procedures to formally claim and protect their land rights. This effort, the Community Land Titling Initiative, was carried out in Rivercess County, Liberia, from March 2009 to March 2011. The study was simultaneously undertaken in Uganda and Mozambique to allow for cross-national comparisons.<sup>68</sup>

The study's goal was to investigate how to best ensure that communities can successfully claim, protect, and leverage customary land rights for local prosperity. The project objectives were to:

- Facilitate the documentation and protection of customarily held community lands through legally established community land titling processes;
- Understand how to best and most efficiently support communities to protect their lands through legally established land titling processes;
- Devise and pilot strategies to guard against intra-community injustice and discrimination during community land titling schemes and protect the land interests of vulnerable groups; and
- Craft country-specific recommendations for the improvement of Liberia's community land documentation laws and policies aimed to improve fairness and make titling procedures easier for both communities and land administrators to follow.

The project therefore investigated the following central questions:

#### 1. What type and level of support is required in order for communities to successfully complete community land titling processes?

- Is there a correlation between the level of assistance provided and community progress through the mandated community land documentation processes?
- Is there a correlation between the level of legal assistance provided and communities' effectiveness in overcoming obstacles faced in the process of following the mandated legal procedures?

<sup>68</sup> For further information on the cross-national study and results, see "Protecting Community Lands and Resources: Evidence from Liberia, Mozambique, and Uganda," available at <http://namati.org/work/community-land-protection/Phase-One-Findings-and-Reports>.



- Is there a correlation between the level of legal assistance provided and community participation in community land documentation activities?

## **2. During community land documentation efforts, how can the protection of women's and other vulnerable groups' land rights best be facilitated?**

- Is there a correlation between the level of assistance provided and the meaningful participation by vulnerable groups throughout the community land documentation process?
- Is there a correlation between the level of assistance provided and whether communities adopted safeguards aimed at protecting the land rights of women and vulnerable groups?

The Community Land Titling Initiative originally aimed to determine what level of support communities needed to successfully navigate the administrative procedures detailed in Liberia's *Public Lands Act (1972-1973)*. However, after President Johnson Sirleaf placed a moratorium on the issuance of public land sale deeds in March 2010, the project worked with the Liberian Land Commission to sign a Memorandum of Understanding (MOU) that contained an alternative procedure for the project to follow, loosely based on the *Community Rights Act (2009)*. This agreement established a working relationship between the Community Land Titling Initiative and the Land Commission, the spirit of which recognized and validated the study communities' efforts at documenting and formalizing their customary land. The central tenets of this MOU are set out below.

### **Box 1: Relevant sections of the Memorandum of Understanding between the Sustainable Development Institute (SDI), the International Development Law Organization (IDLO), and the Land Commission of Liberia**

Now, therefore, the Land Commission, IDLO and SDI, in consideration of the mutual covenants and conditions set forth in this MOU, enter into an agreement concerning the legal procedures that the Project will follow from July 1, 2010 until December 2010 or the end of the project, if extended:

1. From March 2010 until the President ends the moratorium on the use of the *Public Land Act 1972-1973* or until the Land Commission's completion of the Act's review and revision, SDI and IDLO will work with the study communities to undertake the following processes, commencing with the process described in *Section 4* of the *Community Rights Act 2009*:

- » Establishing Executive Committees to lead their communities through the foregoing processes;
  - » Meeting with their neighbors and peacefully harmonizing boundaries; marking these agreed boundaries by brushing, planting soap trees or establishing other customary markers; and documenting their agreements with their neighbors attesting to the agreed boundaries;
  - » Drafting and adopting by-laws within the framework of the Community Rights Law to govern intra-community land and natural resource administration;
  - » Drafting and adopting intra-community land and natural resource management plans.
2. Once the Government establishes and adopts a revised “Interim” public land sale/land titling process (“The Revised Process”), which should be completed by the end of August, 2010, SDI will work to help the communities to follow this Revised Process to the communities’ successful and complete land documentation or titling application.
  3. During the period of the interim public land sale process, the Land Commission will work with SDI and IDLO to assist the local communities in the study to begin identifying their borders and to obtain an official, government-issued title or deed.
  4. This Memorandum of Understanding marks the beginning of an understanding that the parties are henceforth committed to working together on issues of land policy in Liberia. It is the parties’ hope and expectation that the data gathered from the study communities’ piloting of this interim process will support the Commission’s work going forward.
  5. IDLO and SDI will report quarterly to the Land Commission to ensure that it stays abreast of all evolving project developments. To facilitate this and to ensure that the project’s findings can immediately inform the Commission’s work, SDI and IDLO will meet quarterly with the Land Commission and present all findings and analysis collected to date.

This MOU, signed by SDI, IDLO, and the Land Commission in June 2010, established an extra-legal but officially sanctioned process that thereafter directed all community land documentation activities and fieldwork. The study communities were cognizant of this agreement with the Land Commission; SDI took pains to ensure that the study communities were aware that, due to the moratorium on public land sale, they were engaging in an experimental procedure. However, based on the agreements set out in the MOU, SDI assured the communities that their efforts would eventually result in deeds or titles for their lands. The text of the MOU further strengthened communities' resolve to successfully complete the agreed community land documentation activities, as it provided a formal guarantee that they would be beneficiaries of Liberia's new land policy.

## Methodology

Given Liberia's post-conflict situation and the potential for land documentation work to incite confrontation, SDI determined that it was best to conduct the investigation in a county with a relatively homogenous population and a low-density residential pattern. For these reasons, SDI selected Rivercess County as the study region, as 97% of residents are Bassa, and the county has a population density of 33 people per square mile.<sup>69</sup> SDI hypothesized that these characteristics would assure a fairly unified local population and reduce the potential for identity-based conflict during the community land documentation process, as might occur in more diverse counties.<sup>70</sup>

### Map 1: Liberia



Source: UN Cartographic Section, Map of Liberia, January 2004.

<sup>69</sup> Liberia has an average population density of 93 people per square mile; Rivercess is the third least populated county in Liberia.

<sup>70</sup> The Land Commission repeatedly invoked Rivercess County's homogeneity and low population density as a detriment to the nationwide applicability of the investigation's potential findings; Commissioners argued that given these characteristics, the findings would not necessarily pertain to the characteristics of more diverse, high-density areas of Liberia. SDI and IDLO acknowledged that this was indeed possible, but deemed it necessary to begin the work in a context less prone to arousing suspicion, fear, and violent conflict.

To undertake the objectives and investigate the central research questions, SDI conducted a randomized controlled trial.<sup>71</sup> SDI randomly selected 20 communities that actively expressed an interest in seeking documentation for their community land rights and were not currently engaged in a protracted land conflict and then randomly assigned these communities to one of four different treatment groups, each of which received a different level of legal services provision.<sup>72</sup> (20 communities were also selected in Uganda and Mozambique; in total, 58 communities took part in the study.) The four legal services treatments were as follows:

- **Monthly legal education and training (Education-only):** These five communities received one three-to-six-hour training session each month for 14 months. The training was conducted by the project field team, composed primarily of two professional community organizers. All community members were invited to take part in these training sessions. Specific measures were adopted to ensure the participation of women and other marginalized groups.<sup>73</sup> Specific training methodologies were developed to ensure that information was transmitted in a culturally appropriate manner, taking into account literacy levels and the time and resource constraints of community members. The trainings included information and capacity-building concerning:
  - » The community land documentation procedures as set out in the MOU with the Land Commission;
  - » Customary land tenure rights;

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**71** Randomized controlled trial studies are used to determine the effectiveness of an intervention. The primary goal of conducting a randomized controlled trial (RCT) is to test whether an intervention works by comparing it to a control condition, usually either no intervention or an alternative intervention. RCTs are considered to be the gold standard of intervention studies, as they are the most reliable form of testing the effectiveness of programs and policies and the only known way to avoid selection and confounding biases; random assignment and the use of a control group ensure that any extraneous variation not due to the intervention is either controlled experimentally or randomized. That allows the study's results to be causally attributed to differences between the intervention and control conditions. RCT use reflects a growing recognition that observational studies without a randomly assigned control group are a poor way of testing whether an intervention works. If properly designed and conducted, RCTs are likely able to determine even small and moderate impacts of an intervention, something that is difficult to reliably establish in observational studies. For these reasons, the Community Land Titling Initiative was designed as a randomized controlled trial.

**72** Dozens of communities asked to participate in the Initiative. SDI randomly selected 20 clans to participate in the Initiative. Once these communities had been selected, SDI called a meeting of the clan elders and the Clan Chief of each clan involved. During this meeting, SDI fully explained the experimental nature of the Initiative and asked the leaders to sign informed consent forms. SDI then placed 20 small folded pieces of paper, on which were written the various treatment groups, into a hat and had each community leader select a piece of paper. This step was done publicly for transparency and to give the responsibility of treatment group selection to the leaders themselves. Efforts were made to inspire all communities to work hard to complete the process. It is important to note that given the geo-political topography of Rivercess County and the nature of the randomization, many of the study communities share borders with other study communities. This created opportunities for 'leakage' or 'contamination' between the treatment groups. These opportunities were intensified during the boundary harmonization exercises, wherein even the control groups negotiated directly with groups receiving more legal support.

**73** Measures included: scheduling meetings in places and at times that women could more easily attend; sending community leaders and community paralegals/animators door-to-door throughout the village specifically requesting that women attend, and that husbands bring their wives with them to meetings, among other strategies described below in Section 05.

- » Relevant national law, including relevant sections of the national constitution, national inheritance law, and national natural resource law;
- » The position of customary law within the statutory legal framework;
- » The practical skills required to document community lands, mediate and resolve land conflicts, and harmonize boundaries;
- » Strategies for discussing intra-community land administration and governance rules;
- » The location and role of all relevant government agencies;
- » Instructions for creating required documentary proof; and all other necessary skills and information.

The communities also received copies of a draft “how-to” guide detailing each stage of the national community land documentation process.<sup>74</sup> After each month’s training, the field team gave these communities “homework” assignments to complete before the following month’s meeting; the assignments included the completion of whatever steps of the process that the community was working on at the time.

- **Paralegal support and monthly legal education and training (Paralegal):** These five communities received the monthly legal training, the “how-to” guides and the “homework” assignments described above, as well as the added support of two community-based, elected “paralegals.”<sup>75</sup> In Liberia, the paralegals were called “community animators.”<sup>76</sup> These individuals were not certified paralegals, however, but trained and supervised community members. In preparation for their role, the paralegals received two intensive two-day trainings covering the topics detailed above. The paralegals then attended monthly supervision meetings with SDI’s field team, during which they were rigorously trained, reported on progress made and challenges faced, and had the opportunity to ask SDI technical and legal questions.

<sup>74</sup> See the draft “how-to” guide at <http://namati.org/work/community-land-protection/Phase-One-Findings-and-Reports>.

<sup>75</sup> The election methodology was generally decided on by the communities themselves. The field teams did mandate that each community elect one male and one female animator and that the animators be literate, trusted by their communities, and have a high degree of personal integrity. Four of the five paralegal communities (Central Morweh, Bars, Jowein and Duah) elected their animators, while Tobo chose to select their animators. In those communities that elected their animators, the community called a community-wide meeting, with representatives from all towns in attendance. The criteria for qualification, agreed upon by the community prior to the election process, were read aloud. After candidates expressed their interest in the position, each candidate was vetted against the criteria agreed on by the community. On average, each community put forward six candidates. After the vetting process, qualified candidates were nominated for the election. The first two candidates with the highest number of votes were selected as community animators. Notably, among the ten animators selected, only two were women. Communities explained that they could not find women with the required background (i.e. literacy). SDI observed, as the intervention progressed, that mandating that paralegals be literate may have inadvertently eliminated the most effective leaders and limited the pool to youth.

<sup>76</sup> The terms “community animator” and “paralegal” will be used interchangeably throughout this report.

- **Full legal support and monthly legal education (Full-service):** These five communities received the monthly legal training and “how-to” guides described above, as well as the full support of SDI’s field team of legal and technical professionals.<sup>77</sup> The assistance provided included: mediation support during land conflict resolution and boundary harmonization efforts; help drafting and revising community by-laws and land and natural resource management plans; support during all interactions with government officials; and all other necessary legal and technical support.
- **Control/Minimal Legal Information (Control):** These five communities were assigned to be the “control” group. However, they were not “pure” controls in the usual sense: these communities received one project introduction meeting, at which time efforts were made to encourage these communities to do their best to follow the pilot process on their own. The communities were given copies of SDI’s draft “how-to” guide for community land documentation and other relevant training materials. The intent behind this group was to observe how much of the community land documentation process a community could accomplish on its own, given that it both 1) knew that the process existed/was aware of what actions to take and 2) actively sought community land documentation and was indeed working to accomplish the task without any legal support. At the one project introduction meeting, SDI explained that should a community complete the requisite steps of community land documentation procedures outlined in the MOU, the project would cover the costs of the formal technical survey of their lands, a necessary precondition to a deed. This was offered to all communities in order to distinguish financial obstacles from procedural obstacles.

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<sup>77</sup> The project design included hiring a Liberian lawyer as a core member of the field team. However, despite an ongoing search for a suitable attorney throughout the entire duration of the Initiative, SDI was unable to procure a competent lawyer willing to work full time on the Initiative. SDI resolved this challenge by hiring two community organizers, and contracting with a lawyer to review the communities’ by-laws and land management plans to ensure that that they did not contravene Liberian law.

### Box 2: Defining “community”

Defining “community” is an exceptionally complex and difficult endeavor. In Liberia, the project’s definition of “community” was a careful choice, made with regional officials and leaders based on the structure of local governance in Rivercess County.

Rural social and political organization in Rivercess is composed of a series of nested units, with anywhere from 10 to 22 towns making up a clan, and two to three clans making up a chiefdom. Two chiefdoms make up an administrative district, which is governed by a District Commissioner.

To determine the optimal community unit, SDI held a series of consultative meetings with customary and state leaders from across Rivercess County. The drawbacks and benefits of working at the chiefdom, clan, or town level were debated, and community leaders decided that the project should work at the clan level.

In making this decision, the leaders weighed various factors, including the logistics of the work (the distances to be traveled), the average population densities of the social units, and the extent of land implicated at each level. For example: working at the chiefdom level would have documented and protected the largest amount of land, but would have limited the ability to ensure full community participation; working with towns would have ensured high levels of engagement and participation, but the very small town populations and limited amounts of town land would not have protected the larger common areas nor secured land rights for a significant number of families. Clans were deemed the optimal compromise option, as their direct involvement would ensure full and meaningful participation of the majority of community members while protecting a fair amount of land and natural resources.

Once this decision was made, however, it was often difficult for the clans to define the socio-political and geo-spatial limits of their “community.” Difficulties related to community self-definition were rooted in overlapping definitions of authority, territory, and identity. Specifically, the process was complicated by:

- » The nested quality of rural social organization in the study regions;
- » Historical fractioning and division of social units;
- » Common areas fully shared between towns or clans that identified as separate entities;

- » Differences between customary and administrative/state-drawn boundaries;
- » Historical migration patterns, ecological changes, and infrastructure development; and
- » Competition over valuable natural resources.

The process of community self-definition was further complicated by the Initiative's randomized controlled trial design; the freedom for each community to choose its composition was compromised by the need for the study communities to be similar and comparable.

Communities often resolved these issues after a review of historical identities (based on customary kinship) and a process of town self-definition.

SDI tracked each community's progress through the community land documentation process established in the MOU with the Land Commission, noting: all obstacles confronted and their resolutions; all intra- and inter-community land conflicts and their resolutions; and all internal community debates and discussions. In Liberia, a pre- and post-service survey of over 700 individuals and more than 100 structured focus group discussions<sup>78</sup> supplemented these observations. Cross nationally, the study included the participation of over 2,225 survey respondents and more than 250 focus group discussions.

To ensure that relevant district and regional land administration officers had adequate knowledge of community land titling laws and procedures, SDI also conducted bi-annual workshops to train relevant local, district, and regional land officials. Participants included the County Land Commissioner, the district superintendents and commissioners, and all participating clan and paramount chiefs.

To keep government apprised of the project and its progress, SDI met with both the County Administration and the Liberian Land Commission quarterly, at which time it briefed officials on the project work to date and all relevant findings. SDI and IDLO also made periodic formal presentations of the projects' preliminary findings to various national-level ministry officials throughout the course of the project.

**78** The focus group discussions held in each community involved: 7-10 women, including roughly 50 percent widows; 7-10 community leaders; and a random grouping of 7-10 community members, mainly youth, for a total of roughly 60 pre-service focus group discussions and 40 post-service focus group discussions.



### 3. Project implementation and findings



Community members discuss the boundaries of their land.

### 3. Project implementation and findings

Due to the moratorium placed on public land sale, the project activities were driven by the terms of the MOU between SDI, IDLO, and the Land Commission. Based on the research methodology and the provisions in the MOU, communities were supported through a series of steps:

1. Establishing Interim Coordinating Committees to be responsible for leading their communities through the community land documentation process;
2. Harmonizing community boundaries and documenting the agreed boundaries;
3. Drafting and adopting community by-laws to govern intra-community land and natural resource administration;
4. Drafting and adopting community land and natural resource management plans; and
5. Electing a governing council.

These procedures gave the project an internal momentum and clear direction: communities were educated about the full arc of the process and guided to successfully complete each successive step. Due to their complexity and depth, the boundary harmonization and by-laws drafting efforts were undertaken in tandem, as they each required extensive discussion and iterative deliberation. The work was exceptionally time-intensive and difficult, necessitating hours of meetings each week, most of which, due to the project's design, took place without SDI's direct involvement. As explained by one of the paralegals/community animators, "We have two meetings a month; one with SDI and one just among ourselves. We also have other meetings about border harmonization and by-laws [creation], so I can say we meet more than two or three times a month. In some months, we met four or five times."

This section first provides a brief overview of the field team's efforts to introduce the project. Next, the communities' experiences following the steps laid out in the MOU followed are described in detail, under the following subject headings:

- **Conflict resolution and prevention**, encompassing the boundary harmonization and demarcation process;
- **Intra-community governance**, encompassing the by-laws drafting process and the election of governing councils; and
- **Conservation and sustainable natural resource management**, encompassing the drafting of land and natural resource administration and management plans.

The section concludes by analyzing the central obstacles confronted by the study communities as they worked to complete the necessary community land documentation processes.

## Project introduction

All 20 study communities benefitted from SDI's preparatory education and project introduction efforts. To ensure that information about the project was widely available to community members, SDI introduced the project to all of the communities through a series of "town hall" meetings over a three-month period, both at the clan level and within each of the largest towns in each clan. In an attempt to get broad-based consensus and participation in project activities, SDI often spent two full days holding meetings in each clan.

At these meetings, SDI outlined key aspects of the project, including the project's goals, objectives, methodology, timeline, and expectations. Importantly, SDI explained that the project would be community-driven and that the communities themselves would be responsible for completing much of the project work on their own. SDI also repeatedly urged communities to include the voices and interests of women, youth, and strangers<sup>79</sup> in all activities. SDI also asked each community to schedule project meetings at times and locations that accommodated all community members' working hours and allowed for full participation.

The introductory phase of the project culminated with the drafting and adoption of Rules of Engagement, which thereafter governed all SDI-community interactions during the Initiative, and defined the roles and responsibilities of SDI, the interim committees, and the community members themselves.

## Election of interim coordinating committees

Each community was requested to elect or establish a group responsible for coordinating project activities and mobilizing the community to achieve project goals. These groups, called "Interim Coordinating Committees" were composed of representatives from each town in the community. SDI asked each community to develop its own criteria for the characteristics of committee members, telling them only to choose "people who could help them get through the process, and who could help bring the community together to make it one." Each community convened town-level discussions to draft eligibility criteria<sup>80</sup> and select town residents to represent them on the clan-level Interim Coordinating Committee.

<sup>79</sup> In the study region, a "stranger" is a person who was not born in the clan where he or she is currently residing. "Youth" are generally men younger than age 35.

<sup>80</sup> For example, one town's selection criteria were: "Someone who has a little education – can read and write; A person with good understanding and honest; A committed person; Someone who has the fear of God – truthful and honest; Someone who will not misuse public resources; [Someone who will] have control and will not allow things to get out of hand; Someone who will have fear [respect] for public money."

Although SDI did not mandate that the interim committees be diverse, it did suggest that committee composition should be guided by principles of broad-based inclusion and participation, and should include women and youth among the members. As a result, interim committees ranged in their degree of diversity and representation. Some committees were established by community leaders, while others underwent a community-wide selection process. In some communities, the existing leadership structure became the interim committee. Critically, those Interim Coordinating Committees that were simply based on existing leadership structures tended not to function as well as those that were specifically selected or elected for the task at hand.<sup>81</sup>

Once selected, the Interim Committee members elected officers (a chairperson, secretary, treasurer, etc.) from among their numbers to lead their work.

The Interim Coordinating Committees proved to be critical to the land documentation process. The Committees successfully ensured the active participation of a high percentage of community members,<sup>82</sup> facilitated SDI's ability to reach the full community by serving as the project's spokesperson to the clan, and motivated their communities to put in the energy necessary to complete each step of the land documentation process.

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**81** Of note is that over the course of the project, SDI observed a number of communities holding their Interim Committee members accountable to representing community interests. For example, when towns felt that a representative on their Interim Committee was not advocating strongly enough for the town's interests, the community tended to replace him or her. One community went so far as to fire its Interim Committee Chairman after it was discovered he had been working to impede the community's progress (to protect his own land holdings) and misappropriating funds collected to provide food at community meetings. Importantly, SDI observed that when communities took action to remove and replace poorly-performing leaders, the change immediately improved the clan's ability to progress through the land documentation activities. For example, in the community described herein, after the Interim Committee Chairman was replaced, the community was able to complete the remaining work relatively quickly and with little intra-community resistance. See Appendix B for a full description of such incidents.

**82** Community participation levels are detailed below in Section 04.

## 1. Conflict resolution and prevention: boundary harmonization

The community land documentation process is an important opportunity to address local land disputes, harmonize contested boundaries, and resolve intra- and inter- community land conflicts. However, because boundary harmonization efforts expose all existing land conflicts and may instigate new disputes, facilitators should provide conflict-resolution training and mediation support throughout.

After spending two to three months introducing the community land documentation process, supporting communities to elect intermediary groups and, as necessary, elect community animators/paralegals, SDI's field team supported communities to begin the complex process of boundary harmonization. The boundary harmonization process comprised the following activities, each of which is detailed below: 1) community mapping; 2) boundary harmonization, including conflict resolution with neighbors and boundary tree planting; and 3) boundary demarcation, including MOU-signing ceremonies. While SDI hoped to conclude the process with GPS-mapping or a formal survey, SDI did not receive the approval of necessary government agencies in time to take this step before the Initiative concluded in late 2010.<sup>83</sup>

### Community mapping

To ensure that each community agreed internally on the limits of their community's domain prior to beginning boundary harmonization negotiations with neighbors, SDI led the communities through land and natural resources mapping exercises. In order to create the most comprehensive maps possible, SDI facilitated each community to ensure that a wide range of community stakeholders and livelihood practitioners were involved in the mapping process, and divided the participants into separate groups of women, youth, and male elders (including traditional leaders or *Zoes*). SDI instructed the groups to identify and include on their maps:

- All borders and landmarks defining community borders (such as roads, rivers, hills, and trees);
- All towns and major roads;
- All neighboring towns and the clans to which those towns belong;

<sup>83</sup> Positively, the Liberian Land Commission later approved SDI's plans to take GPS measurements of the study communities. Phase II of the work will therefore include taking GPS coordinates and/or formally surveying the study communities' land.

- All man-made infrastructure, such as schools, clinics, and churches;
- All natural resources located within the boundaries of the community (including forests, rivers, springs, lakes, caves, areas where thatch and rattan can be gathered, palm bushes, medicinal plants, forestry concession areas, etc.); and
- All sacred/forbidden places, such as men's bushes, women's bushes,<sup>84</sup> and others.

After drawing their maps, the groups reconvened to share and discuss what they had drawn. Each community then compared the various groups' maps and integrated them into one comprehensive map, agreed upon by all meeting participants. Community members then marked all sites of current boundary conflicts as well as the locations of past boundary disputes. SDI then scanned this map and left the original copy with the community for its future use and reference in the upcoming activities. Over the course of the project, SDI observed that the communities periodically updated their maps on their own to reflect new information or evolving details.

SDI observed that **by facilitating information exchange between towns, the mapping exercises helped community members to gain an overall view of the entire clan territory, rather than only of the town in which they resided, and become conscious of the limits of natural resource availability.** The map-making process also served to clarify the location of historical and cultural sites that were not known to the broader community; this clarification required the active participation of the traditional authorities, the *Zoes*.<sup>85</sup> Importantly, rather than seeking to obscure the locations of sacred sites so as to hide them from outsiders, the *Zoes* felt that by including the sacred sites clearly on all maps, the sites would be protected and respected in the future. In one community, for example, elders mapped a less known but "[very] important... traditional cave... so community members, strangers, and [investors]" would be aware of and respect the area.

In contrast, **communities hesitated to map the location of valuable natural resources, as they were concerned that indicating the presence and locations of such natural resources on maps would potentially expose these resources to appropriation or usurpation by outside speculators.**<sup>86</sup>

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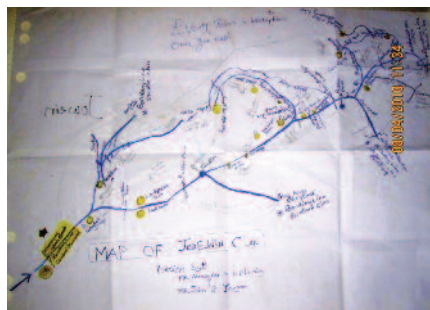
<sup>84</sup> Sites of traditional cultural practice.

<sup>85</sup> SDI observed that the *Zoes* (traditional leaders) proved to be fundamental actors in the mapping exercises, as in many instances they were the only ones in the community with the knowledge of where certain customary ritual sites were located. Being sought out for their knowledge made the *Zoes* feel included and valued. The mapping both honored their knowledge and gave them the space to speak and take action to ensure the ongoing protection of traditional religious sites. As a result, *Zoes* began to feel that they were important contributors to the community work, which strengthened their commitment to the process. SDI observed that in some clans, the mapping exercises and the involvement of the *Zoes* helped youth to learn about their customs and traditions.

<sup>86</sup> The mapping exercises also made it clear that people were not fully aware of the boundaries of the concession areas in their communities and whether these areas could be included on their community maps; the deeper query was whether the concession areas still 'belonged to' the communities and if communities had any control over the long-term management of that land.



Community members working with SDI's field team to make a first draft of the boundaries of their lands.



Community map of Jowein Clan.

SDI also observed that **women tended to map more thoroughly than the men**, and to include resources — such as water sources — pertinent to their livelihoods and household roles. SDI noted that when the women shared their maps with the wider group, the men repeatedly exclaimed, “Oh, we forgot about that!” Such differences highlight the importance of fostering women’s active involvement in land and natural resource management activities.

When asked how they found the experience of making maps of their communities, focus groups explained how “The process helped us to identify our borders and also our neighbors, the resources we have in our community, and where in our community to find them,” and that “Drawing the map was very helpful because we knew where the companies are, where our resources are, and also where borders are. Now we have peace among ourselves.”

SDI observed that community elders were especially pleased with the mapping efforts. They expressed satisfaction that the traditional sites were included on the maps. One elder said, “We now know where all our [cultural] places are; no one can say ‘I don’t know,’ because we all can see it here on this paper. This will help strengthen our [practices] again”. Another elder expressed a personal satisfaction that for the first time, “I have been able to see our whole community on a paper. All the places I used to visit; even if I can’t go there anymore, they look near and real to me now. I am very happy.”



## Boundary harmonization and boundary tree planting

While each community used different strategies to meet this challenge, most communities used the following steps to harmonize their boundaries:

1. Communities first sat together with their map and identified what the whole community believed were the boundaries of their lands. This process often involved holding special meetings with all border towns within the community.
2. Each community then organized a special team to lead the boundary harmonization effort. For the most part, the team included: a clan elder or a group of elders as advisors, stakeholders from the all town(s) along that clan boundary, and one or two Interim Committee members (usually led by the chairman).
3. The boundary harmonization teams then met with representatives of their neighboring clans. The neighboring clans sat together (at the site of the border in question, when possible) deliberating and discussing where the boundary lay until a consensus was reached. Often, multiple meetings were necessary to come to consensus.
4. Once a boundary harmonization team reached an agreement with representatives of the neighboring clan, the two clans signed an informal, provisional MOU documenting the agreement. The boundary harmonization team then returned to its community to present the boundary agreement and seek full community consensus on whether to accept or reject the negotiated boundary. Meanwhile, the neighboring clan also sought to reach community consensus concerning the negotiated boundary. If either community expressed disagreement, the team returned to its neighbors to discuss the basis for the rejection, seek more clarity, and find a way to address the concern until a boundary acceptable to both communities was found.
5. After all members of both communities agreed on the negotiated boundary, a new provisional MOU was signed. If there were no existing landscape-based boundary markers (such as a cotton tree, river or road), the communities planted culturally accepted markers along the agreed boundary (generally fire-resistant “soap trees,” traditionally used as boundary markers). Members of both communities were always present to witness the tree-planting efforts.



The boundary harmonization process was the most challenging component of the community land documentation process for all communities. **The process not only unearthed every latent, unresolved land conflict — long dormant or festering for years — but also created new boundary disputes that flared up in response to the impending documentation efforts.**<sup>87</sup>

The very exercise of drawing definite boundaries created a situation in which people were jockeying to claim as much land as they could before the boundaries were finalized. SDI observed that when intra-community conflicts arose, community cohesion and cooperation often weakened, and rumors and accusations emerged. Parties to a conflict who knew that they were in the wrong often worked to undermine support for documentation efforts, seeking to keep land that they had acquired in bad faith. Inter-community land disputes revived memories of past conflict, reinvigorated divisions between families and clans, and at times aroused intense anger.

**As such, boundary harmonization was the beginning of serious intra- and inter-community conflict, even in communities that previously reported no boundary disputes and generally peaceful relations with their neighbors.** Land conflict resolution was therefore a critical component of the community land documentation process, and a significant part of the field team's work. Anticipating the work involved in proactively addressing longstanding boundary disputes, the field teams rigorously trained community members on mediation and dispute resolution techniques before the start of boundary harmonization efforts. These techniques included strategies for mediation and compromise when discussing and agreeing on the boundaries of their communal areas. After the conflict resolution trainings, unless asked to intervene, the field teams left all but the full-service communities to negotiate boundaries with their neighbors on their own.

When a boundary harmonization team proved unable to successfully negotiate an agreed boundary, or a boundary dispute erupted in the process of negotiation, SDI provided mediation support. In the instance of a particularly virulent or longstanding boundary dispute, SDI provided conflict resolution services to all treatment groups, as it was deemed risky to deny communities this mediation support in the face of a potentially volatile conflict.<sup>88</sup> SDI also called in customary leaders and government officials for additional support during many of these resolution efforts.

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<sup>87</sup> The new conflicts were generally more easily resolved than the long-standing conflicts, as community members recognized these conflicts were the result of bad faith efforts to claim land before the technical survey.

<sup>88</sup> Although this support adulterated the purity of the groups' differences in treatment, SDI and IDLO decided that the need to avert conflict and violence outweighed the sanctity of the experimental design.

### **Box 3. Relevant sections of SDI's draft community land titling and natural resources guide to resolving land conflicts**

#### **How to resolve land conflicts that occur during boundary harmonization**

**Go to the physical site of the conflict; do not discuss it theoretically.** Some communities get good results when they take the discussion right to the disputed boundary location; if you go and see the boundary, it may be easier to reach an agreement about where the boundary should be.

**Go back to the history of the boundary.** One good system of arriving at a compromise is for both sides of the conflict to tell their history of why they think the boundary is where it is. After each side tells its story, everyone looks for those places where the stories have some points in common. Everyone then agrees to those points being “the truth” and then looks at the parts of each story that are different. Then decide which story is more accurate after looking at the reality on the ground today. This strategy could also benefit from a third party (reputable person) acting as a mediator....

**Use modern and traditional means together.** It may be best to use both modern and traditional means of resolving disputes together. For example, you could convene traditional leaders, but consult any copies of modern laws which describe the other sub-divisions to help inform your decisions.

**Mediation.** To ensure that the outcome will create a lasting peace and resolution, mediation may be a good conflict-resolution strategy. Mediation is a process where both sides talk through their conflict with the help of a third person who does not favor either side. This person is a mediator.

**Remember the ties that you have with your neighbors.** For example: inter-marriages, shared land use agreements, joined histories, and similar beliefs. Think carefully about how important it is to live in peace with your neighbors. Remember that sometimes it is good to compromise a little to gain peace. It is better to lose a small bit of land and be able to document the whole community than to claim all the land for yourselves and remain in conflict and without papers.

**Remember, focus only on the area that is in dispute.** Be clear from the beginning about which part of your neighbors' land areas you recognize as theirs and do not dispute in any way. All future negotiations and compromises should focus only on the area that is in dispute....

The boundary harmonization process generally took between two and ten months of intensive discussion and negotiation; communities reported holding up to a dozen separate meetings with their neighbors to arrive at workable compromises.

## Resolution of boundary conflicts

In Liberia, every community had at least one boundary dispute with a neighbor, with 37 major conflicts emerging over the course of the intervention. **As a result of mediation efforts, communities successfully resolved many of these ongoing land conflicts, some of which had been percolating under the surface of communities for decades.** By the conclusion of the project, only nine land conflicts remained unresolved.

A wide look at communities' land conflicts and their resolutions yields some important lessons. SDI observed that boundary conflicts often hinged on or were related to:

- Individuals' encroachment into the land of another clan, town, or family by planting crops or life trees (rubber, orange, mango and other resource-bearing trees, which, under custom, establish the planter's claim to the land);
- Confusion stemming from differences between customary and state-drawn boundaries or state-mandated changes in clan boundaries or towns' clan allegiances, which then impacted community boundaries (with each community asserting as valid the boundary system most favorable to their own land claims);<sup>89</sup>
- Historical ownership based on a "founding family's" sense of claim to town land, which often translated into that family's sense of entitlement to more extensive or stronger land rights than other residents;<sup>90</sup>
- Migration patterns and population shifts, which tended to exacerbate competing or multiple claims to a particular area of land or natural resource;
- The suspected or known presence of valuable natural and/or mineral resources, making the costs and benefits of each negotiated meter particularly weighty;<sup>91</sup> and
- The past division of families or clans due to internal power struggles or intra-community disagreements, where one side of the conflict split off and formed a new community. (Such land conflicts tended to be more about power, control, authority, autonomy, and pride than about land — and were the most intractable.)

<sup>89</sup> Community members reported that the government had at times divided communities administratively without properly informing the people living in the area.

<sup>90</sup> SDI observed that, in some towns, there was a perception that the land belonged to certain family heads with historical ties to a town's founding, rather than individuals. Certain families therefore saw themselves — and acted — as the *de facto* 'owners' of the land. When these families did not accept the project work or resisted the boundary harmonization, the negotiation was either fully halted or stagnated until their consent was given to participate in the negotiation.

<sup>91</sup> These conflicts tended to occur at mountainous border points, which communities believed were rich with valuable natural resources. However, when communities were able to realize the value of dividing such an area and receiving a deed for it, they tended to agree with dividing it equally rather than neither owning any of the land at all.

SDI also noted that in some instances, a boundary disagreement was not authentically about a boundary at all, but rather an internal elite's tactic to keep the community focused on external threats while he continued to claim community land as his personal property. Often, these individuals were community members living in Monrovia who maintained influence within the power structure of their local communities.

SDI observed that a community's successful boundary harmonization efforts were primarily related to four main factors:

1. **The composition of the boundary team.** SDI observed that coalitions including both elders and youth proved to be the most effective in negotiating boundaries, as they had complimentary negotiation tactics and viewpoints: the youth tended to see land as a tradable and negotiable commodity ("something a house is built on") while elders tended to define land as "what our forefathers left us" or "where our forefathers are buried," attaching strong emotional, historical and territorial sentiment. Although elders' opinions were more respected, elders tended to be rigid in negotiations, while the youth tended to be more flexible. SDI also observed that including the Zoes and other traditional leaders in the boundary harmonization efforts helped to make the agreed boundary more legitimate to all. Finally, the paralegal communities were particularly successful at harmonization: four out of the five paralegal communities harmonized all of their boundaries within eight months of the paralegals' election and training. This outcome was partly due to the close proximity of these paralegal communities, which allowed for collective efforts that fostered strong working relationships and cooperation throughout the boundary harmonization process.
2. **A community's degree of willingness to compromise.** Communities motivated by a desire to both maintain good relations with their neighbors and document their land claims valued compromise and moved through the process more quickly. Describing their process, one community explained:

*We could not come to one understanding; one of our neighbors was trying to take our lands. Also, everyone was using different boundaries. We used patience. We kept going to our neighbors and talking about different ways we could resolve the conflict. We used our elders and other towns in our neighboring community to help with the discussions. In the end, we made some compromises to resolve the conflict. But we are happy.*

3. **Complex allegiances between and within clans.** Negotiations tended to be less successful where boundary lines involved towns with split allegiances between clans.
4. **Loss of previously-approved boundary markers.** Communities tended to have difficulty harmonizing boundaries in situations where a pre-existing boundary marker (such as a tree) had been removed or a new division (such as a new road) had been created, challenging previously accepted boundary lines. In response, some communities used pre-existing boundary lines as a framework or starting point, working toward an agreed border that better reflected the current terrain. The team observed that many communities agreed to some form of land ‘swap’ with their neighbors to accommodate the current reality.

SDI also noted that the boundary harmonization efforts went more smoothly when the boundary harmonization teams physically traveled to the boundary location — where they could see the evidentiary landscape and discuss the matter in practical, tangible terms — rather than when they remained in the village meeting house, discussing the boundaries theoretically.

The study communities employed a variety of creative and flexible strategies to arrive at a compromise and harmonize their boundaries. The strategies tended to be tailored to the type of boundary conflict, as well as the relationship and history of the communities involved. Strategies employed included:<sup>92</sup>

- **Agreeing, more or less, with one community’s definition** of the boundary.
- **Dividing the land in half.** Some communities elected to divide the disputed land equally, each conceding half the land they believed to be theirs.
- **Allowing disputed towns or households to choose their preference.** In situations where differences between administrative/state and customary boundaries caused conflict and confusion, clans often decided that it was best to allow the towns or families at the center of the boundary dispute to decide — either as a group or individually — where they felt they most belonged. These towns or households then met with members of both clans and decided on an optimal solution that took into account all interests and identities. For example, focus groups in one community discussed the boundary harmonization process:

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<sup>92</sup> Interestingly, although it was presented to them repeatedly as a compromise solution, communities did not choose to resolve boundary conflicts by sharing the disputed land as a common area, recorded on formal documents as owned by or belonging to both communities with equal rights of use and access.

*We failed to come to one understanding, so we fought among ourselves. We wanted to control other people. Some people kept talking about history, and we could not go nowhere. So we started talking to the community people and the towns to decide what they wanted to do. [In the end] we allowed the town at the border to decide what they want to do and then we supported them.*

- **Locating and compromising on the administrative boundary.**

Positively, most communities were generally able to come to an agreement, although often only after weeks or months of deliberation, mediation, and the intervention of district and county officials. Irrespective of the strategy used, the successful resolution of boundary conflicts appeared to stem from the communities' commitment to resolving the conflict by compromising and meeting each other halfway.<sup>93</sup>

While the great majority of boundaries were harmonized, not all boundaries were agreed within the time frame of the project. Further analysis is necessary to understand why resolutions cannot be found in these instances and what interventions may successfully address the underlying roots of these conflicts.<sup>94</sup>

## **Boundary demarcation and signing memorandums of understanding (MOU)**

Due to the moratorium on public land sale, the study communities did not have a legal process to follow to document their lands. As such, after the boundaries were harmonized, it was deemed necessary to create a way of formally recording and memorializing communities' negotiated boundaries. SDI's aim was to document the agreements in a manner that would both create locally-valid and recognized forms of proof of the agreements as well as allow for future legal enforcement, should it be necessary. Although not technically set out in the agreement with the Land Commission, what came to be called "MOU-signing ceremonies" became a critical step in the community land documentation process. To help communities plan for these ceremonies, SDI prepared a guide outlining the process, as well as a template that included spaces to:

- List the parties to the MOU;
- Describe the agreed boundaries with words;
- Draw a picture of the agreed boundaries;

<sup>93</sup> SDI is providing additional support for the resolution of these conflicts in Phase II of the Initiative, undertaken in partnership with Namati's Community Land Protection Program.

<sup>94</sup> Analysis should include questions such as: Does the conflict run deeper than the land at issue? Are there people in the communities who have an interest in the conflict remaining unresolved? If so, what steps must be taken to resolve these issues first so that the parties can yield their positions and compromise during negotiation?

- Set out any agreements about land and natural resource use and access rights; and
- Allow for as many signatures as there were witnesses interested in signing.<sup>95</sup>

SDI observed that the MOU-signing ceremonies very clearly helped to stimulate community participation in the land documentation work. The ceremonies themselves were characterized by high attendance, singing and dancing, speeches, religious readings, and post-signing celebratory meals. Many of the MOU-signing ceremonies brought together hundreds of participants from many of the clans in the region, as well as a variety of local leaders and politicians. The County Superintendent, district superintendents, district commissioners, and County Land Commissioner routinely took part in the signing ceremonies.<sup>96</sup> The presence of the officials appeared to alleviate community members' fears that the project was not supported by the Liberian government.



MOU signing ceremony.

<sup>95</sup> See the template, included at the back of the “how-to” guide, available at: <http://namati.org/work/community-land-protection/Phase-One-Findings-and-Reports>. SDI decided that as many witnesses as possible and appropriate should sign the MOUs: to this end, SDI encouraged not only all government officials, chiefs and elders to sign the documents, but also the youth and women’s representatives from all involved communities, as well as anyone else deemed appropriate by the communities themselves. The MOU template included 32 signature lines, but stipulated that there was no limit to the number of witnesses who could sign the document. A few of the MOU’s were signed by over 200 witnesses; collectively, the average was 110 witnesses per MOU.

<sup>96</sup> SDI also observed that some of the community leaders took part in project activities out of personal interest. For example, some leaders insisted that either the community or the project compensate them for signing the MOU; SDI and the communities refused to compensate leaders. Furthermore, many local and regional leaders made efforts to appear closely associated with the Initiative, particularly in advance of the upcoming 2011 elections. Indeed, some politicians appeared to try to co-opt the MOU-signing ceremonies to gain popular support. Overall, the leaders’ participation seemed to stem both from local pressure (community expectation of their support) and from the political motive of leveraging the community land documentation process to gain popularity and support in the communities.

While all of the signing ceremonies were peaceful, a few were characterized by last-minute challenges to the agreed borders or to the descriptions of the agreed borders in the MOU. These challenges caused a delay in at least five MOU-signing ceremonies; in these ceremonies, the signing had to be postponed and the agreement re-negotiated until a new consensus was reached.

The ceremonies appeared to help communities view the project as a community-powered initiative, not something dependent on government officials. In one ceremony, when a Paramount Chief tried to halt the MOU-signing process because he was not familiar with some of the harmonized borders, the community challenged him to accept the clan-wide agreement of borders. They argued that their efforts were based on community decisions, and that the Paramount Chief had to choose if he wanted “to be a part of the community or not.” Realizing that the border agreements had overwhelming community support, the Chief reversed course and conceded that the MOU could be signed. A clan elder resolved the misunderstanding by commenting, “This [boundary harmonization] thing is our own thing...we have been working on this together as [a] community, and we are happy, very happy, we have come to agreement with our neighbors without disturbing the government.” Another man explained, “This is a great day...We were able to harmonize our borders without major conflict, and [without] getting the government embarrassed.”

SDI observed that, generally, the ceremonies served as a clear halfway point towards achieving the set goals and provided further motivation for community involvement in project activities. The MOU-signing also appeared to foster an increased sense of tenure security and ownership both within and between communities. One elder explained that, “With the help of [this project] we were able to agree between ourselves on our borders. Some of these borders have been disputed or unknown for years, and now we are happy that we have come to one understanding about our land. This is a blessed day.” After another MOU-signing ceremony, one man reported, “This [project] is helping us to feel like one people again.”

**To date, many of the MOUs appear to be holding strong and serving their purpose.** While most of the clans’ agreed boundaries have been respected, a few have been challenged and/or encroached upon by neighbors. Most of these challenges have been quickly settled by interim committee members through reference to the maps and descriptions in the signed MOUs.

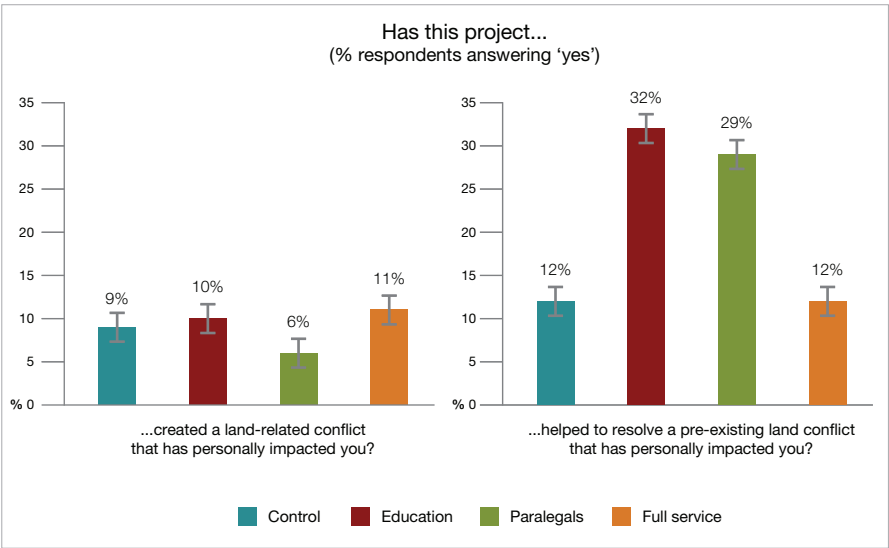


# Impacts on local land conflict and tenure security

## Creation and resolution of land conflicts

In Liberia, SDI worked to support communities to resolve all of the 37 intra- and inter-community land disputes that emerged. By the project’s end, only nine boundary disputes remained unresolved. To gauge whether the project had a net negative or positive impact on land conflicts in the study communities, post-service survey respondents were asked if the project had directly contributed to the creation or the resolution of a land conflict that personally impacted them. **Positively, the Liberian data indicate that the community land documentation process resolved more conflicts than it created.** Across all 20 communities, an average of 9% of respondents reported that the project had created a land conflict that personally impacted them, while an average of 21% of respondents reported that the project had helped to resolve a pre-existing land conflict. Of note is that the reported rate of conflict resolution was much higher in the education-only and paralegal treatment communities, potentially indicating the robustness of these treatments.

Figure 2: Project impact on land conflict



When post-service survey respondents reported that the project had directly *created or contributed to a land conflict* that personally affected them, they were asked to describe the conflict. Almost all of these respondents described a boundary conflict between clans or towns, and then explained that the boundary harmonization work either created or exacerbated land conflicts between towns on the borders of the clans. For example, respondents reported that “They are making us to know much about our boundary, and for some areas it is causing problems;” and “Kayah refused to harmonize the main boundary we had with them, so we are still in the conflict;” and “Since SDI came in, there have been conflicts between Teekpah clan and Zialue clan. This conflict had not been resolved.”

Similarly, many focus groups explained that the process of boundary harmonization had not created many new conflicts, but that it brought up old conflicts that had been festering below the surface. Interestingly, some groups noted that while the project did not create any new land or boundary conflicts in their communities, the Initiative did create conflicts of power, authority and jurisdiction.<sup>97</sup>

When asked to describe what land conflicts the Initiative had helped to *resolve*, post-service survey respondents provided explanations such as: “We had a boundary dispute with [our neighboring community], but since SDI came it has been resolved;” and “The project helped solve a problem between our town and the nearby town.” Only one respondent spoke about an individual land problem, reporting that what he learned about boundary dispute resolution helped his family to resolve a conflict with a neighbor concerning a “brushing [clearing] dispute on my family land.” Focus groups explained, “The project did not create any new problems, but it forced us to deal with some old conflicts between ourselves” and “The process of land ownership is something we want, so the old problems had to come out so we could resolve them.”

Notably, **focus groups reported that the community land documentation process helped their communities to create new land conflict resolution strategies.** Participants described a renewed dedication and commitment to peaceful dispute resolution. When asked if they had created any new or different ways of resolving land conflicts as a result of the project activities, focus groups reported that: “We are more open to talking now. First everybody would just curse each other and leave, but now we sit and talk;” “We solve disputes by] talking to parties, allowing each person to speak before deciding, being patient with decisions, be ready to negotiate and negotiate, and lastly, be willing to give [something] to get [something back];” and “Now we talk about things in the open. Also, we try to get other people with information involved in the discussions. We invite respected elders to intervene in some of our border discussion, and it is very helpful. We also learned from SDI teachings that ‘not all battles you can win.’”

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97 For more in-depth descriptions of some of these power struggles, see the community experiences detailed in Appendix B.

Many Liberian focus groups reported that their communities successfully resolved disputes only after recognizing their common roots. One focus group related a vivid story of their community's challenges and how they resolved them:

*The boundary harmonization was the most difficult. We took a long time to solve that one. There was no understanding, the chairman was not working hard, we had some new clans that confused the borders, people were not serious, there were historical grievances, people were claiming areas they did not know about, and there were rumors... [To resolve these issues], we kept talking, bringing elders from different communities [to discuss] and we talked to people on the family level (sending people with family ties from our community to our neighbors). [Eventually], we went back to our roots and realized that we are the same family.*

Another focus group explained that:

*The boundary harmonization was the hardest because we had lots of disagreement. We could not come to one understanding. We tried to use SDI's teachings, but our neighbors tried to take our land by force, using traditional methods. We challenged that. We met them without traditional authority or people from Monrovia — we met them with our elders, and they brought their elders. We talked among ourselves as brothers and sisters, and we were willing to trade. Finally, we came to one understanding.*

Talking as “brothers and sisters” and realizing “we are the same family” allowed these groups to find agreement and end their boundary conflicts. While such outcomes are only anecdotal, they point to a shift towards community openness to learning or returning to non-violent modes of conflict resolution, which is particularly meaningful after so many years of violent conflict.

### **Potential areas of future concern relative to land conflicts and tenure security**

Improved land tenure security is the overall goal of community land documentation. By supporting communities to complete their nation's land documentation process, the project hoped to contribute to the strengthening of community members' sense of tenure security.

Overall, the resolution of long-standing land conflicts appears to have had a positive impact on land tenure security in the study communities. Focus group discussions indicated that the process of harmonizing boundaries and resolving longstanding land conflicts promoted community harmony and increased community members' sense of tenure security. For example, SDI observed that the boundary harmonization activities helped to improve communities' sense of security concerning neighbors' infringement of clan and town boundaries; community members expressed that

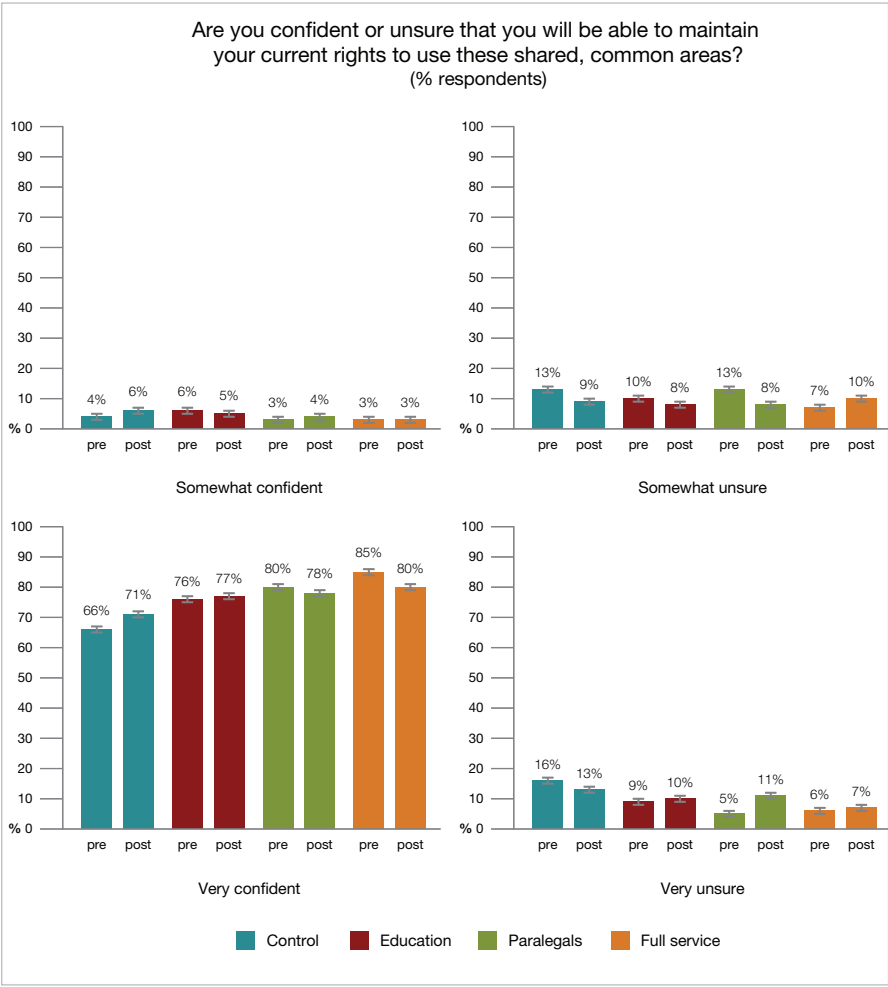
resolving long-term conflicts and establishing boundaries clearly had helped them to feel more secure. For example, after one MOU-signing ceremony, one elder said, “Oh, thank God, today we know our boundaries and our boundaries are there forever!” At another MOU-signing ceremony, a man explained, “We now know our borders... With this project I know we will be able to live in peace with our neighbors.”<sup>98</sup>

Unfortunately, at the time of the post-service survey, the study communities had not yet completed the community land documentation process and been issued documentation of their land rights. Likely as a result, when the post-service data is analyzed against the pre-service data, the results indicate little to no change in tenure security across treatment groups. This is particularly evident when looking at the overlapping error bars.<sup>99</sup> For example, a slightly higher average of pre-service survey respondents reported being “very confident” of maintaining their current rights to shared common areas than post-service survey respondents (80% versus 78%). Meanwhile, the average percentage of treatment group respondents that replied that they felt “very unsure” about their ability to maintain their current land rights increased slightly from an initial average of 7% in the pre-service survey to an average of 9% in the post-service survey. **The findings are likely the result of premature data collection; once communities have been issued deeds or titles for their lands, new data should be collected to assess the full impact of project activities on community members’ sense of tenure security.**

<sup>98</sup> Of note is that as community members worked to harmonize community boundaries, they increasingly asked SDI for help demarcating and documenting individual and family land claims. SDI observed that while such requests most often came from local elites, youth also became more vocal about seeking to document their individual land claims. In other cases, some towns asked about town-level demarcations and deeds. If not properly controlled, this could be a potential source of conflict in the future. SDI observed that while some people were receptive to individual deeds for personal land, this idea was strongly challenged and opposed by elders. Interestingly, some of the clans provided for this eventuality in their by-laws. For example, one community’s by-laws included the following provision, “Every community/town has the right to obtain their own deed from the mother deed; all towns closer to that town should be informed one month ahead of time. Likewise [for] any individual who wants to obtain a piece of land.”

<sup>99</sup> The majority of bar graphs in this report show the percentage change between the pre- and post-service respondent data. Because the same individual respondents were interviewed in both surveys, the data indicate changes in all individual respondents’ answers, averaged by treatment group. In other words, each percentage (as represented in the graphs) is the average difference by treatment group between individual respondents’ pre-service and post-service answers to each question. Also important to note is that during any random sampling exercise, there is a potential for error relative to whether the respondent sample is fully representative of the population from which it is drawn. To account for this, each bar on the graph includes a thin, bounded line, or “error bar.” The error bar represents the broader range of answers that may be found in the full population. Analysts can be 95% confident that the population’s average lies within the upper and lower bounds of the error bar. The error bars are designed to allow the data to be easily compared using a ‘visual overlap’ test. If the error bars of any two bars overlap, then the difference between the two bars is not statistically significant – i.e., the difference in project impact on that treatment group cannot be said to be statistically significant. Conversely, if the error bars do not overlap, the difference is statistically significant and represents a real impact on the respondent pool for that treatment. Finally, the study randomized communities into control and treatment groups, but responses were collected from individuals. However, people living in a given village may share many characteristics in addition to being in the same treatment group. These shared characteristics, and not their treatment assignment, might be the reason that their survey responses are similar. In statistical terms, this means the data is “clustered” (i.e., individuals are being sampled from “clustered” groups, in this case, villages). Not accounting for this feature of the data would make the error bars appear smaller than they should be, and smaller error bars would make it seem as though the difference between two bars was statistically significant, leading to errors of interpretation. To take this into account, we adjusted for clustering by calculating the cluster-corrected standard errors for each outcome, and using those standard errors to generate the error bars using the method described by Schunn (1999). C.D. Schunn, “Statistical significance bars (SSB): A way to make graphs more interpretable,” (Unpublished manuscript, 1999).

**Figure 3: Respondents' confidence in their ability to maintain current rights to shared common areas**



Importantly, the data offer insight into the community land documentation process, and illustrate **how critical it is to see boundary harmonization and documentation processes through to their successful completion.** One possible analysis of the slight decrease in respondents' perceived tenure security is that, as explained above, the very act of starting the documentation process exposed existing land conflicts and exacerbated land grabbing in advance of formal documentation. Such findings highlight the risks of leaving land documentation work unfinished; **a community that starts the land documentation process and then rejects or withdraws from the effort partway through may face higher incidences of land conflict and greater tenure insecurity than before it began.**

Furthermore, not all study communities were able to resolve all land conflicts within the span of the project: despite over a year of conflict resolution efforts, some boundary conflicts have only grown more entrenched.

In particular, SDI observed a few issues of considerable concern. First, **it likely that some towns or communities hastily agreed on boundaries based on social pressures, desire to “get their papers,” or a perceived threat of concession encroachment.** In some of these cases, people were not fully satisfied with the agreement reached. Some community leaders expressed that the border agreements they signed were “not the real borders” and that their neighbors “took some of our traditional lands.” Indeed, some survey respondents reported that new conflicts were brewing over the newly harmonized borders. One respondent explained, “A major problem is emerging because we have been cheated in the boundary harmonization process.” These statements reflect that the boundaries were agreed to without a true resolution of the conflict. These conflicts will likely resurface in the future; it is important to anticipate some friction or resistance during the survey of the communities' borders. Additional monitoring and dispute resolution support will be critically necessary.

Second, **new individual and family farms that extend beyond the agreed community boundaries made in the months between the boundary harmonization and future GPS mapping or formal survey may challenge agreed boundaries.** Of particular concern are those instances when elites from Monrovia with links to these communities return to their community to claim land for their families, which in some cases may call into question an agreed clan-level boundary. Positively, SDI has observed that in those instances when agreed boundaries were challenged by individuals, communities have settled these disputes with reference to the signed MOUs, maps, by-laws, and natural resource management plans (described below). Going forward, how such conflicts are handled will implicate the strength of the boundary harmonization MOUs.

To further the communities' boundary harmonization efforts, **the Liberian government should formally recognize the MOU agreements.** Such recognition would lend strength to the communities' assertions of land ownership and enforce the agreed boundaries. State issuance of a deed or other form of recognition would also likely reduce the potential for conflict and be particularly helpful in the event of elite appropriation of community lands. Meanwhile, ongoing monitoring and support for intra- and inter-community land conflict resolution will be necessary. Local government actors could provide such support, with reference to the MOUs and the community's agreed rules for conflict resolution, as set out in the by-laws.



Community member signing MOU attesting to the harmonized boundaries of his community's land.

## Main findings

1. The results of the boundary harmonization exercises provide strong proof that community land documentation is not merely about demarcation. Rather, boundary harmonization efforts are conflict-resolution exercises, and should be treated as such. Facilitating agencies should proactively prepare for land conflict resolution to be a central component of community land documentation work. Such agencies should craft curricula and trainings designed to support open, non-violent communication during boundary negotiation, compromise strategies, and mediation/dispute resolution tactics. Facilitating agencies should also stand ready to support resolution of particularly intractable land conflicts. Such efforts have the potential not only to resolve intra and inter-community land disputes, but also to model for community members how to resolve all local land conflicts, including family-level land disputes.
2. Map-making is not a neutral activity. Mapping exposes all bad faith appropriation of community lands and identifies all of the community's natural resources and their locations. It therefore has the potential to instigate intra-community conflict. To prevent conflict, the entire community should be convened for mapping-related activities until all boundaries are harmonized, all land conflicts are resolved, and all boundary trees are planted or markers are placed.
3. The goal of securing community land documentation created a strong impetus for communities to peacefully resolve long-running boundary disputes. In some communities, boundary disputes had festered for generations, destabilizing relations with neighbors and contributing to tenure insecurity. However, compelled by the goal of documenting their land claims, communities worked to resolve these disputes.
4. Communities that were prepared to make concessions or compromises to resolve their boundary conflicts progressed more rapidly through the land documentation process. These communities' capacity to compromise largely stemmed from their appreciation of the bigger picture; their emotional focus was to protect the whole community. In contrast, communities who refused to compromise over two to three acres tended to be more emotionally attached to the conflict. In some instances, elites from Monrovia used their influence to interfere with and obstruct the boundary harmonization efforts so as to preserve



their own farms, plantations, or investments, some of which crossed over clan boundaries and extended into other clans' lands.

5. The boundary harmonization process resolved many more conflicts than it created, and helped communities to adopt new conflict resolution strategies. In some instances, community members describe a renewed dedication and commitment to peaceful dispute resolution.
6. The study communities' experiences indicate the importance of documenting every boundary agreement not only with trees, but also with a formal contract in the form of an MOU. Before the boundaries of a community are demarcated, a MOU-signing ceremony should be held, in which neighboring communities (including families neighboring the boundary lines) come together, critically assess the agreed boundaries, and formally agree to and witness these boundaries.
7. Some communities reported that the community land documentation process exacerbated or created conflicts of power, authority, and jurisdiction. In other communities, including the Zoes and other traditional leaders in the boundary harmonization efforts helped to make the process appear more legitimate. Such findings lead to the conclusion that community land documentation work should include all respected leaders and should establish mechanisms to ensure that all leaders feel that their contributions are valued. Efforts should be made to proactively address any power conflicts among leaders that might arrive during the negotiations.
8. Some communities hastily agreed to their borders in order to successfully complete the project within the given time period. In these instances, community members expressed that they were not fully satisfied with the agreement reached; their sentiments indicate that some of the boundaries were agreed to without a true resolution of the underlying conflict. This situation indicates the importance of carrying out the boundary harmonization activities slowly and not rushing to agreements that may later be contested.
9. Once begun, community land documentation processes should be seen through to their successful completion. If boundary conflicts are not fully resolved and harmonization efforts are left incomplete, the documentation process may contribute to increased conflict and tenure insecurity in the region. Government or civil society facilitators should carefully screen communities to ascertain whether they are committed

to authentically resolving local boundary conflicts before beginning an intervention. Facilitators should clearly explain the risks of abandoning community land documentation efforts mid-way through the process. They should also provide extensive conflict-resolution support throughout, until all land conflicts are successfully resolved.

10. Communities will need state support for enforcement of agreed boundaries over time. As land scarcity continues to rise, encroachments may become more prevalent. Government officials' support will be key in efforts help communities to deal justly with encroachers and maintain all agreed and documented boundaries. In such instances, signed and witnessed MOUs may constitute critical evidence of community boundaries.

## 2. Intra-community governance and land administration

If well facilitated, community land documentation efforts have enormous potential to galvanize communities to improve intra-community governance and promote participatory, democratic land and natural resource management.

The Liberian data indicate that community land documentation processes that include comprehensive processes for cataloguing, discussing, and amending community rules, norms, and practices have the potential to foster participatory rule-making, establish accountability mechanisms for local leaders, and promote transparency in rural communities. As such, these efforts may present an exceptional opportunity to create positive change that extends beyond the documentation of customary land claims.

After briefly describing the by-laws drafting process and the process of electing governing councils, this section summarizes all initial findings relative to intra-community governance. Further impacts of the by-laws drafting process are described below in the sections concerning natural resource conservation and the rights of women and other vulnerable groups.<sup>100</sup>

### Drafting and adoption of community by-laws

In Liberia, the community land documentation process set out in the MOU with the Land Commission included the drafting and adoption of community by-laws. The process was necessarily iterative and drawn-out, as it called for the transcription of previously unrecorded norms and practices, and hinged on full community engagement in the discussion and production of multiple drafts.

To ensure that the by-laws drafting process was well attended, participatory,<sup>101</sup> and comprehensive, SDI established a rigorous series of steps to which it asked communities to adhere. Because of the nested structure of community

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**100** See Appendix C for examples of some of the draft Liberian by-laws.

**101** To ensure that the process was fully participatory, SDI encouraged communities to plan their by-law drafting and vetting exercise at least one week in advance; clearly advertise the time and place of the meeting (through a town crier or radio announcement) at least three days prior to the meeting; and request that at least ten representatives of each town attend each by-laws drafting meeting (including the Town Chief, at least one town elder, the town youth leader, the town chairlady and all other interested citizens).

governance in Rivercess,<sup>102</sup> SDI recommended a process in which each town first brainstormed its existing rules, which were then combined with all other towns' rules and debated at the clan level. These procedures were both set out in the "how-to" guides and taught repeatedly during monthly meetings.

#### **Box 4: How to develop community land and natural resources by-laws and management plans<sup>103</sup>**

##### **Suggested process for writing community by-laws**

**Step 1:** Gather existing rules. At a general community meeting, ask each town in the community to brainstorm and write down all existing rules they have in their towns.

- It may be necessary for groups of youth, women, and men/elders to each make their own draft separately before coming together as a town to form the first draft. This is can help to increase the participation of everyone in town. If you all meet first as a big group, some people might be afraid to speak out.
- Towns that do not have people who can write their by-laws should be helped to write down their town's rules by educated people from other towns in the clan.

**Step 2:** Put all the town rules together at the clan level. When all the town rules are together, separate the things that all the towns have in common in their rules from those rules that are different. This list is the first draft of your by-laws.

**Step 3:** Present the first draft to the whole community and discuss it; see what can be easily agreed to. The first copy or draft should be presented to the entire community at a meeting that brings together people from all the towns. At this meeting, someone should read out loud the first draft, line by line, and explain what the rule means in simple English and the local language to make sure that everyone understands it. During this meeting, again separate all the rules that the whole community agrees to from the ones that some people disagree with and you still need to discuss. If you are discussing your rules and come to a rule that not everyone agrees with, skip it, and leave the discussion to the end.

**102** In the study region, multiple towns make up a clan; the Initiative worked at the clan level. See the section on Project Design and Methodology above.

**103** See SDI's full guide for community land documentation, available at <http://namati.org/work/community-land-protection/Phase-One-Findings-and-Reports>.

**Step 4:** Add any rules that are missing. Check to see if most of the things that happen in your community are covered by the rules. For example, is it clear what a community member can do and what a community member cannot do? What rights do all community members have? What responsibilities do all community members have? Is it clear who your leaders are and how they will be selected or elected? Is it clear how these leaders will work with and represent the community? If some of the answers to some of these questions are “no” then discuss these questions and add what you all agree on to your rules. This is now the second draft of your by-laws.

**Step 5:** Send the second draft out to towns for discussion. Send the second draft to all the towns in the community. Ask each town to discuss **ONLY** those things that you did not agree on in the last meeting, or what people disagree with in this second draft. Also request them to think about other important things that are not yet in the by-laws. Ask them to write those things down and come back to another general meeting. You should all agree on the next meeting date, where it will be held, and when it will start.

**Step 6:** Collect the towns’ suggestions again and agree on what to include or exclude. Collect all the suggestions from each town. Again separate all the ones that all towns agree on from those that are not common or most towns disagree on. Whenever you reach agreement on any of these new suggestions add them to the by-laws. This is now your third draft of the by-laws.

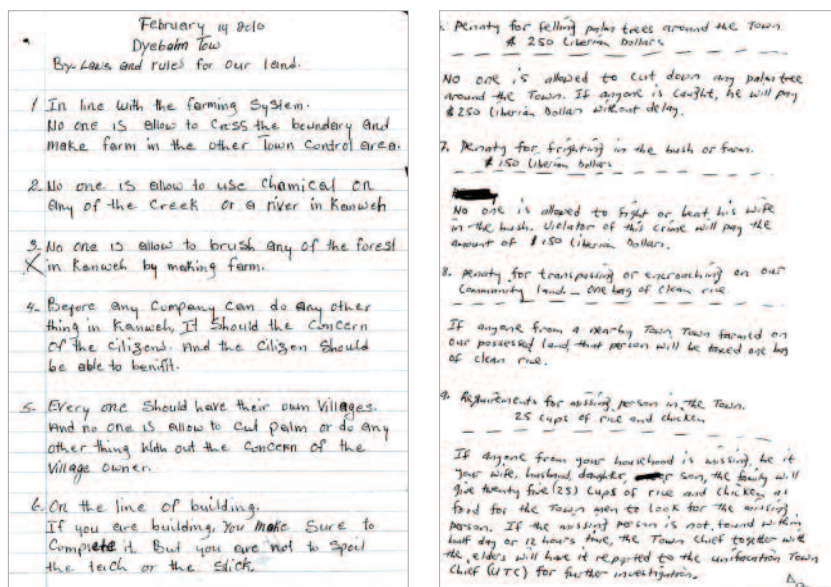
Do these steps until you are sure that your rules are complete and you have what you feel is a final draft that everyone in the community has agreed on and will accept.

**Step 7:** Check to make sure your laws do not violate the Liberian Constitution. Request a lawyer or NGO with legal knowledge to review your third draft of your by-laws. Ask them to check and make sure none of your rules conflict with the Liberian Constitution or other Liberian laws or international agreements that Liberia has signed onto. Make any necessary changes to your by-laws so that they do not go against Liberian law. This is your final draft.

**Step 8:** Formally adopt your by-laws. Once you are sure your by-laws do not contradict Liberian laws, it is time to adopt your by-laws as the rules of your community. All male and female heads of all households should be at the meeting to adopt the final draft of your by-laws. Keep good record of this vote: list all those community members who were present and voted, which towns each person who voted came from, the date of the vote, and where the vote was held.

We strongly suggest adopting your rules by consensus – 100% agreement by all. This is important because a majority vote will not get the support of everyone – and this may cause conflict and confusion in the community. It is better to discuss and discuss a rule until everyone agrees. If people cannot agree on a rule, then that rule should not be included in your by-laws.

SDI observed that the study communities took the by-laws drafting process very seriously, and strictly adhered to the established process. For example, during the process of compiling the first drafts of the by-laws, in those instances when a town did not have a resident sufficiently literate to write down its rules, clans organized to “lend” the town a literate person to help with the exercise.



Examples of first draft clan by-laws.

To ensure that all voices and interests were represented during the process, intensive and continuous community mobilization was necessary. Largely due to these mobilization efforts, a range of stakeholders, including women, strangers, and youth, were fully engaged in the by-laws drafting debates. Across all study communities, more people actively participated in the by-laws and natural resource management plan-drafting process than all of the other project-related activities. As a result, the process proved to be a vital component of the community land documentation efforts; on many levels, it was the most transformative activity undertaken.

SDI observed that the process of turning the first drafts of the by-laws (many of which were quite rudimentary) into second, third, and final drafts proved to be particularly invigorating and interesting for community members; communities took the process seriously and engaged in authentic, animated debate. This was partly due to the fact that the drafting process provided communities with the opportunity to discuss local rules for the first time in living memory: **members of all the study communities reported that their community's rules, norms, and practices had never before been publicly debated.** Moreover, the process allowed communities the space and time to question the purposes of the existing rules and to decide whether to keep or alter each rule to reflect community needs.

Focus group participants expressed their pleasure at having the opportunity to sit together as a community and talk about their rules. For example, the men's focus group in one community explained, "Now people know why a particular rule is made for... If someone [doesn't] like the rule, they can say it and we can discuss it." One women's focus group described how, "People challenged some of the rules that did not make sense and made new rules to help the community."

The transition from the first to the second draft was of particular importance. **During this process, women, youth, and elders had the opportunity to both argue against rules they felt to be arbitrary and discriminatory as well as advocate for the inclusion of rules that would protect or promote their interests.**

For example, elders in one Liberian community wanted their by-laws to include restrictions concerning access to and harvesting of palm nuts, a major source of income for the youth. The elders argued that the youth's focus on palm harvesting was undermining the community's food supply; very few youth were planting rice and other locally consumed products, as they were occupied with planting palm, a non-food cash crop. The youth became alarmed and countered that palm harvesting was a major source of their income and that they deserved to "have a say" in the rules governing household palm oil production. They argued that they were responsible for contributing to local development projects and needed income to support their commitments to the community and their families. Interestingly, the women's group was called to intervene as a neutral arbitrator between the youth and the elders. The women concluded that, while some restrictions on palm oil production were indeed necessary, any new rules had to take account of the youth's interests. In the end, the community collectively agreed to a three-month annual freeze on palm harvesting during the rice farming season.

SDI observed that the by-laws drafting discussions created space for participatory rule-making and local democracy. Various focus groups explained how: "The rules

were decided in clan wide meeting, with everyone – women and youths, took part. Everyone that wanted to speak spoke;” “We were plenty in the town hall. Women were talking;” “We all took part in the adopting the rules. We talked until we came to one agreement;” “It was done in a clan meeting. We met in a big meeting and talked about the laws. We stayed for two days; people disagreed and agreed. It really helped us come together closer and make us to know each other;” and “The rules were decided in clan wide meeting, by the citizens of the clan...It was the first time we had a discussion like this, so it was good we all took part.”

In between the second and third drafts of the by-laws, SDI’s attorney reviewed the drafts to ensure that the rules complied with Liberian law. In some instances, SDI consulted a judge to determine constitutionality. Communities were then guided to make necessary changes to the next draft of their by-laws.

Of note is that while SDI mandated a fairly rigid *process*, the content of the by-laws and natural resource management plans was left open and flexible to ensure that communities felt free to draft their laws as they best saw fit. As a result, the communities’ rules tended to be simply written, insufficiently detailed, and far broader – covering a range of non-land and natural resource-related mandates – than originally anticipated.<sup>104</sup> Yet it was deemed appropriate to allow communities to craft their rules according to their preferences, with the assumption that as additional rules are found to be necessary, each community may amend its by-laws over time. To this end, SDI encouraged the study communities to include provisions for annual amendment procedures in their by-laws.

Depending on the community, it took from three to eight months of weekly or bi-weekly meetings (the majority of which were held independently of SDI’s facilitation) to proceed from a first draft to a third draft of a community’s by-laws. After months of robust discussion, a total of ten communities were able to arrive at a second or third draft of their by-laws before the project’s conclusion.<sup>105</sup> By the end of the project timeframe, the communities had not yet formally adopted their by-laws.<sup>106</sup>

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**104** Going forward, a potential improvement to the process would be to create a checklist of rules relating to land tenure and land and natural resources use and governance, including: election of Governing Council members; term limits and impeachment procedures; community decision-making protocols, including how and when general and other meetings are to be called; quorum or procedure of representation at such meetings; the powers of association and any limitations on them; procedure for change and amendment of the by-laws; procedures for dispute resolution, and others.

**105** The by-laws drafting process was necessarily long and drawn-out due to the communities’ decision to agree on each rule by consensus. Furthermore, the process involved the creation of entirely new procedures and rules concerning future governing council elections, procedures for impeachment and removal, how to amend the by-laws and management plans, and various other protocols.

**106** Phase II of the work, to be undertaken by Namati and SDI from 2012 until 2015, will support all study communities to complete this drafting process and formally adopting their community by-laws. For more information, see <http://namati.org/work/community-land-protection>.



## Election of governing councils

Although they had not formally adopted their by-laws, some communities chose to hold Governing Council elections towards the end of the by-laws drafting process. To ensure that the elections were fair, transparent, and participatory, SDI supported communities to include in their bylaws provisions on election procedures; descriptions of the roles of the governing council members; criteria for council elections; details of council members' responsibilities in office; and procedures and criteria for removal from office.

In their by-laws, communities generally assigned their Governing Councils the responsibility of administering and managing community lands and natural resources and ensuring that community members respect all by-laws and natural resource management plans. Some communities also gave their governing councils the role of representing the community in meetings with investors and government officials concerning future community development.

While leaving communities to decide on their own election processes, SDI advised communities that the Council should, as a whole, represent each town within the clan as well as all stakeholder interests in the community. SDI also suggested that councils include men, women, youth and elders, and that members should be honest, incorruptible, reliable and responsible. SDI then facilitated each community to make a list of the characteristics they would like individuals on their Governing Councils to possess. Many communities included their lists of criteria directly in their by-laws. These criteria generally established that elected officers should be Liberians, married, resident in the community, of good moral character, and of "good financial status."

By the conclusion of the project timeframe, eight of the 20 communities had elected their Governing Councils.<sup>107</sup> However, SDI observed only some of these processes to be fully democratic; **while the framework used to elect governing councils had the basic tenets of democracy, vested elites competed for control of the council in four of the eight communities.** SDI also observed that the elections were not always fully participatory: some towns chose Governing Council representatives in a small caucus of elites. Positively, a number of community members, emboldened by the by-laws drafting process, spoke up against the unjust election processes. **Most of these councils were ultimately challenged and new, fully participatory elections held.**

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<sup>107</sup> Communities generally followed a combined process of selection and election of Governing Council members. Some communities selected two people from each town and then called a large, all-community meeting at which clan residents from all towns voted for a few of these town representatives to be officers on the Council (Secretary, Treasurer, Chairperson, etc.). The other town representatives then became Council members. Other communities chose alternate methods; in one community, the by-laws called for each town in the clan to organize a five-person administrative committee, which then formed part of the clan-wide Governing Council.

SDI noted that many communities created mechanisms to hold their Governing Councils accountable. These communities elected parallel “watchdog” groups whose sole responsibility is to monitor the Governing Council and ensure that Council members do not abuse their powers or make decisions that run contrary to community interests. One community referred to this body as their “Citizen Committee.”

## Findings: Impacts on local governance

The most significant impacts of the Community Land Titling Initiative may be found in the study communities’ rules changes concerning intra-community governance. These changes evince dramatic shifts in community conceptions of democracy, leaders’ downward accountability, and the equitable administration of community lands and natural resources.

Such shifts warrant further investigation: **if the by-laws are indeed implemented and enforced over time, the community land documentation process may promote democracy building and good governance at the local level.**

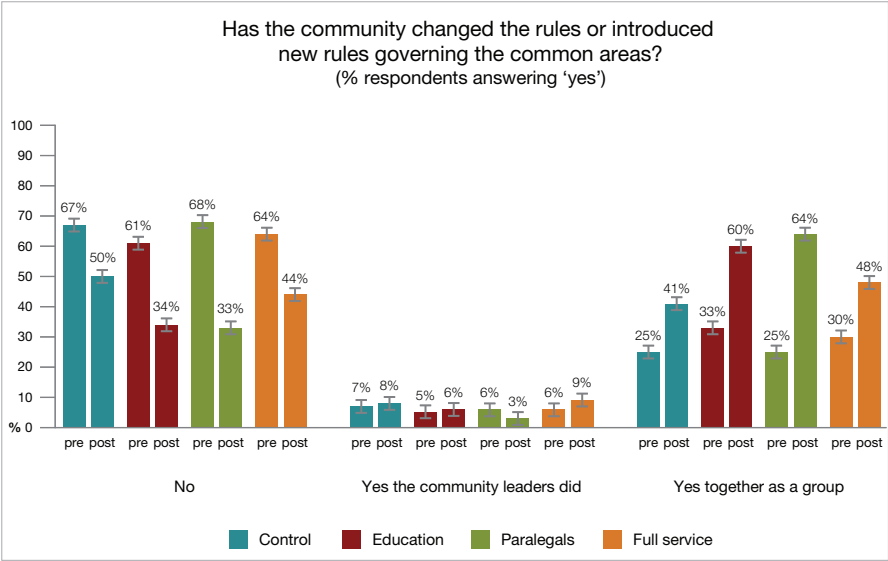
Specifically, the project activities appear to have resulted in three significant shifts in various facets of local governance in the Liberian study communities. First, it appears that there has been some transfer of decision-making authority from local customary and state leaders to the community members themselves. Second, in the communities where there was weak leadership, community members instituted new mechanisms to hold leaders downwardly accountable. Third, the process appears to have had supported greater transparency and consistency of penalties for infractions. These three trends are described below.

### Increased community decision-making authority

SDI observed that as a result of the by-laws drafting process, community members directly participated in community rule-making, a function previously dominated by customary and state authorities. The data substantiate this observation; pre- and post-service survey respondents were asked if their community had changed the rules or introduced rules concerning governance of local common areas over the past twelve months and, if so, who was responsible for any changes made. Positively, the majority of post-service survey respondents who reported changes to community rules described that these rule changes were made predominantly by the full community together, not by leaders acting on their own authority. Across treatment groups, post-service respondents reported that rule changes were made by the whole community an average of 57% of the time, as compared to 28% of the time in the year before the project began.

Analyzing the post-service data from another perspective, when changes were made to community rules during the duration of the project, the changes were reported to have been made by the whole community 82% of the time in the control communities, 91% of the time in the education-only communities, 95% of the time in the paralegal communities, and 84% of the time in the full-service communities.

**Figure 4: Liberia: Changes in rules governing of the common areas made over the previous 12 months**

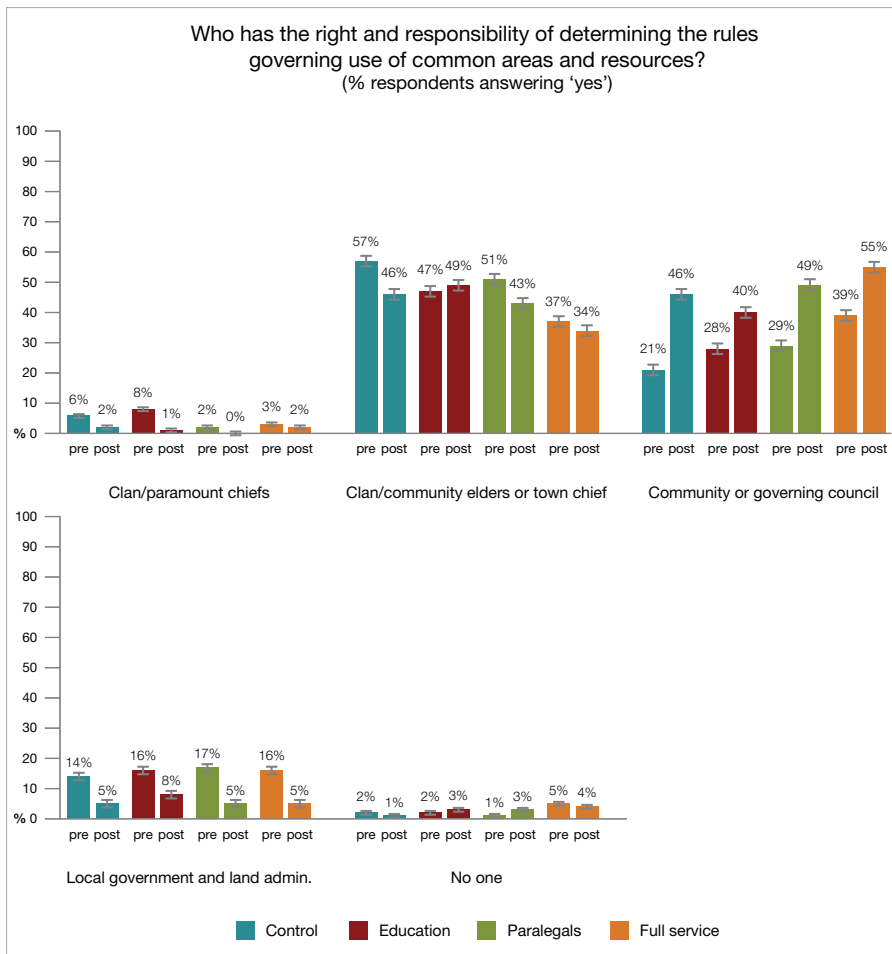


These results indicate a truly participatory by-laws drafting processes across all treatment groups.<sup>108</sup> This finding is particularly positive, as one foreseen danger in leaving the education-only and paralegal treatment communities to complete the activities on their own was that a small group of elites and leaders could have dominated the process, marginalizing women, youth and others. While these responses are not sufficient proof that this exclusion did not occur, the low percentage of respondents attributing rule changes solely to their leaders is promising. However, the control group data indicate that some degree of legal facilitation is necessary to ensure that these processes are fully participatory and not driven by local power-holders.

**108** It is also interesting to observe the high percentage of respondents who reported that no rule changes were made. SDI observed lengthy, months-long debates about community rules in all 15 treatment group communities. As such, the respondents in the education-only, paralegal, and full-service groups who reported that their community had not changed community rules may be considering that, as their by-laws were based on the communities' existing rules, no changes were made. Alternatively, these respondents simply may not have been aware of the process of drafting community by-laws and all related discussion meetings, although this is less likely, as only 16-24 percent of respondents across the various treatment groups reported not attending any project meetings.

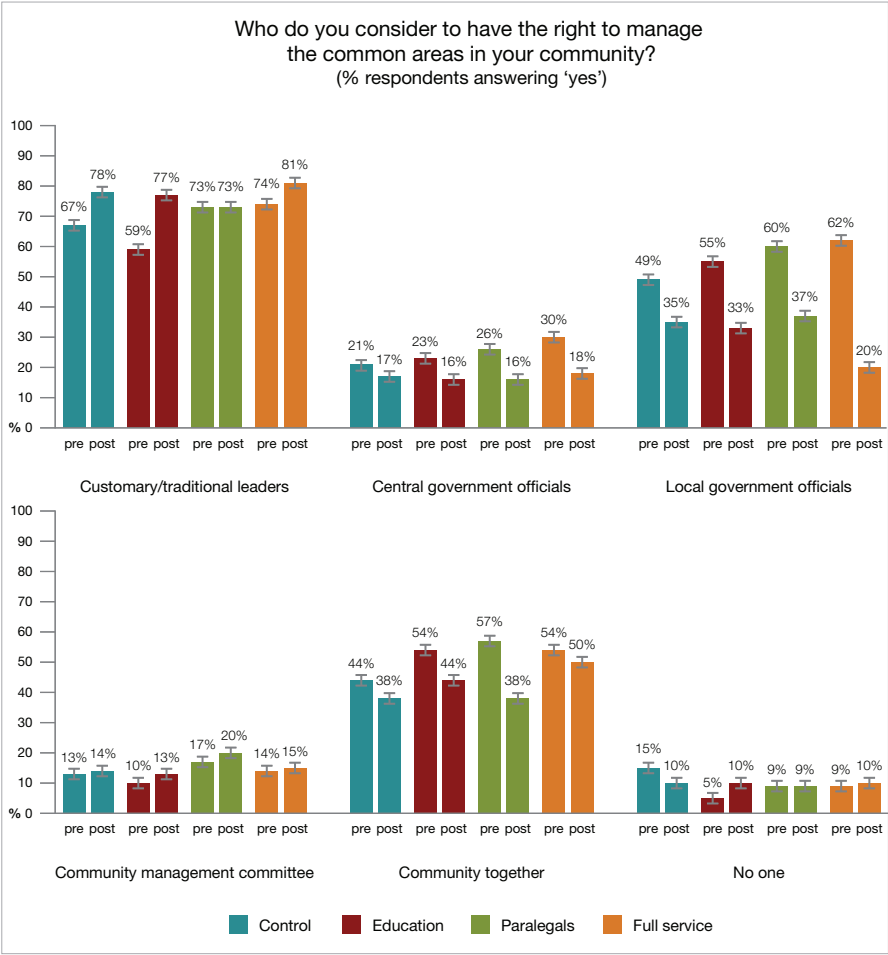
The survey data also illustrate changes in respondents' perceptions of who has the authority to make new community rules. When asked, "Who has the right and responsibility of determining the rules governing land and natural resources?" post-service respondents indicated a shift towards community responsibility for rule making. Across treatment groups, an average of 48% of respondents believed that the community together should make the rules, a significant increase from the pre-service survey responses. Notably, there was a corresponding reduction in respondents' belief that local government land administrators have the right and responsibility to make rules to govern common areas.

**Figure 5: Who has the right and responsibility to determine the rules governing the use of common areas and resources?**



Importantly, these shifts in perceptions of authority do not appear to extend to the actual management of the common areas. While post-service survey respondents more often claimed the right to *decide* rules as a community, the right to *implement, enforce, and monitor* these rules continued to be considered primarily the domain of local customary leaders. Meanwhile, the perceived authority of both central and local government officials to enforce community rules and manage community natural resources declined significantly.<sup>109</sup>

**Figure 6: Liberia: Who is considered to have the right to manage the common areas?**



**109** Community members' perceived responsibility for managing local common areas and natural resources also appears to have declined during the study period; this may be a negative outcome, as community self-monitoring – according to the new by-laws – has the potential to be a highly effective natural resource management strategy.

To assess the validity of the survey data, post-service focus groups were also asked whether their communities had changed how community decisions were made in the past year. Focus groups generally reported that decisions are now more often taken by a larger group — by consensus or vote — after listening to everyone’s opinions, rather than by a few leaders acting alone. Focus groups reported, “There has been a change in decision making process: all the community members have to come together to agree or disagree on any new decision, and the voice of women is also considered;” “Decisions are [now] made together as a group, not by few individuals, and conflicts are resolved harmonically in the presence of every member and neighbors;” and “There are changes. In the past, elders made all the decisions – now we are all involved. Now elders don’t just make decisions without consulting the whole community.” In another community, the women’s focus group explained, “In the past elders and our big people made all the decisions. Now we call meetings for everyone to take part.”

### **Increased accountability mechanisms for leaders**

In rural Liberia, the protracted civil wars destroyed social and political institutions and weakened both governance structures and the rule of law. In the process, local government positions were often co-opted by different warring or political factions; in some areas, the individuals put into power by those factions remain in place today. Some are feared, others are not seen as legitimate leaders.

Positively, over the course of the project, **many study communities leveraged the by-laws drafting process to improve local governance structures or directly challenge leaders who they felt were acting against their best interests.** SDI observed that communities did this by including in their by-laws various provisions to:

- **Establish term limits and strict criteria for local leaders**, such as: “Chairpersons should be of good behavior, married, he/she should be a Liberian who has lived in the community for over a period of five years, he/she should not be denied because of his/her ethnic back ground, education or association;” and “The leader should be elected for a period of six years.”
- **Establish criteria for the suspension or impeachment of leaders not acting according to community interests**, such as: “Community members have the right to tell the leaders what to do and what not to do...The community is to advise leaders if they are doing wrong for about two to three times. Failure on the part of the leader(s) [to correct these mistakes gives] the [community] the right to call for re-election in a general meeting.”

- **Establish norms concerning good governance and downward accountability.** The process of electing representatives for the interim committees and governing council appears to have helped expand the ideas of good governance and downward accountability in some communities. The examples above — that “community members have the right to tell their leaders what to do and what not to do” and that the community will warn a leader if s/he is acting contrary to community interests, then remove him/her if the aberrant behavior does not change — may be read as an indicator that some communities are forging local governance systems that include downward accountability. This trend was particularly prevalent in communities where youth were more assertive. Indeed, after an election in one community, a youth proclaimed, “We can now hold our leaders accountable!”

Over the course of the project, SDI observed a number of communities holding Interim Committee members accountable to representing their interests. For example, when towns felt that an Interim Committee representative was not advocating strongly enough for the town’s interests during clan-wide meetings, they acted quickly to replace him. One community went so far as to fire its Interim Committee Chairman after it was discovered he had been quietly working to impede the community’s progress through the land documentation process (to protect his own land holdings) as well as misappropriating funds collected to provide food at community meetings. In another community, women and youth argued against the actions of Interim Committee members who privileged local elites’ interests during community boundary harmonization. Importantly, SDI observed that when communities took action to remove and replace corrupt or poorly-performing leaders, the change immediately improved the clan’s ability to progress through the land documentation activities.

Remarkably, as the community land documentation process unfolded, community members also took steps to:

- **Directly or indirectly challenge leaders in public fora.** SDI observed that the by-laws drafting process and the MOU-signing ceremonies created an opportunity for people to openly challenge their leaders to better represent community interests. For example, when one community’s MOU-signing ceremony was delayed by the absence of the Paramount Chief, District Commissioner and the Statutory Superintendent, a community debate ensued, during which it was resolved that, “We elected our leaders; they are responsible to us. This [MOU signing ceremony] is a very important day for us, if any of them don’t want to be part of our signing ceremony, then

we will question who they are working for!” The leaders were then sent for, and their presence demanded. Upon their arrival, the community impressed upon their leaders to “act as community members first and political leaders second.” During the ensuing discussion, an elder requested, “[This] is a community thing. Let the community decide what to do, and you [leaders] can supervise and guide our decisions.”

- **Demand and establish mechanisms to ensure local transparency.** SDI observed that the by-laws drafting discussions helped communities to address inequities that caused resentment, but for which there were previously no appropriate fora for discussion or means of redress. In one community meeting, a youth leader challenged local elders, asserting:

*When guests come in our communities, the elders go into caucus and divide whatever gift [the guest has] left [for the community].... We always ask the elders to keep some of [this] money for community development ... but as soon as a visitor comes, we are left out of the discussion. This time, we want to be part; we want transparency and a say in what happens to tokens given to our communities by our guests.*

At the conclusion of the Initiative, post-service focus groups were asked if their communities had made any changes to try to improve leadership in their communities, and if so, what changes they had made. The focus groups described four main changes that generally align with SDI’s observations. First, focus groups reported that, if they had not done so before, they now vote for their community leaders. Second, they described how community leaders must report to the community on the successful or unsuccessful fulfillment of their responsibilities. Third, focus groups explained that they would now remove leaders who performed poorly or acted corruptly. Fourth, they explained that they will now elect youth leaders and women leaders to take part in community governance. Focus groups described, “People are now elected. If you do something wrong we will remove you;” “Leaders are now held accountable because we are using democracy to put people in position;” “Now people are aware that if you are a leader, you will have to account to the people;” “Yes; we have democracy. Also, the leaders have to report to the community. [They] cannot make all decisions on [their] own;” and “The whole community is now watching our leaders. Also, the committee we set up had to be done in the open and we can remove you if we don’t like what you doing for us.”

However, a few focus groups noted that the progress made towards improved governance was incremental, slow, and applicable only to their local leaders. These groups explained, for example: “The chairlady was elected. But we have



the same system still in place. Things are changing small small [gradually];” and “In terms of state leadership, no [there is no change], but for community leadership, people are now held accountable.”

### **Increased transparency and consistency of penalties and the opportunity to question inequitable rules**

Both SDI’s observations and the focus groups’ reports indicate that the by-laws drafting process helped to increase the transparency of community governance procedures by: 1) defining clear penalties for infractions; 2) establishing fair procedures for rule enforcement, and 3) allowing community members to air their grievances or publicly question norms and practices that they felt to be unfair. Over the long-term, such impacts may enhance good governance and equity at the local level.

First, SDI observed that **the process of drafting and adopting by-laws helped to build consistent norms and establish clear, publicly known penalties for infractions.** Focus groups reported that in the past, when a rule was broken, enforcement mechanisms were not consistent between and within towns, and the consequences for infractions were generally unknown by community members. For any given offense, the clan chief generally decided the penalty to be paid and/or the punishment to be meted on a case-by-case basis. This left people vulnerable to leaders’ arbitrary and selective rule enforcement. Penalties tended to depend on the social standing or characteristics of the offender, with harsher penalties enforced for strangers and other vulnerable groups.

To remedy this problem, the majority of study communities established a fixed-value penalty system in their by-laws. Focus group participants praised the fact that community rules were now transparent, clear, and widely known, describing that the by-laws drafting process “brought about law and order in our community.” They explained how, “Before, when you do something, the community leader [would] just say you have to pay this fine but now we can look at our by-laws before we make any payment;” and “Now people are more aware of the rules. Also, the punishments for breaking rules are now clear for everyone to see. This is helping our communities to live in peace.”

Second, the **by-laws drafting discussions appear to have enhanced norms enforcement.** Focus groups explained that after publicly debating and discussing all community rules, it was easier to enforce norms, as no one could feign ignorance. One respondent noted, “In the past some people were respecting our oral rules, and other people were just ignoring [them]. Now we have them written down; now it is easy for us to refer people to what is written in our by-laws.”

Third, the **by-laws discussions appeared to help communities address inequities that caused resentment, but for which there were previously no appropriate forum for discussion or means of redress.** Focus groups frequently explained how the process allowed people to air their grievances in a neutral forum. One women’s focus group provided a succinct explanation of how the by-laws discussion and drafting process “...was good, because there were things we did not talk about and that were not right. For example, men beating their wives – now no man is allowed to beat his wife.” In another community, a group of youth expressed their appreciation that the project forced the community leaders to be transparent about community income and to include the wider community in discussion of how these funds will be spent or divided. One youth explained, “[The elders] used to just welcome guests and divide whatever token was left for the community, now we all have a say in what happen with gifts for the community.” Another youth explained that as a result of the new rules, the “community treasure is now opened for the whole community to know what we have.”



Community meeting to discuss by-laws.

## Main findings

1. A highly participatory land documentation process has the potential to galvanize communities to improve intra-community governance, foster participatory rule-making, and establish accountability mechanisms for local leaders. To achieve such outcomes, civil society and government facilitators should:

- Begin the process of drafting the by-laws at the lowest level of intra-community governance (the town level), then support communities to merge these rules into a set of community by-laws through rigorous, iterative debate and discussion at both the town and clan level.
- Ensure full community participation in the by-laws and management plan drafting processes by taking steps to support the active involvement of women, youth, strangers, and other vulnerable groups.
- Handle the transition from oral to written rules delicately. The process of writing down previously unwritten rules and practices may change them. The discussion of existing rules must be deftly managed to ensure that the transition from oral to written does not undermine more inclusionary practices.
- Allow communities to base the form and content of their rules on existing custom, norms, and practices. A community's by-laws should be modified only as necessary to ensure that the rules:
  - » Do not contravene the Liberian Constitution and relevant Liberian law;
  - » Establish equal rights for all community members, including women, youth, and strangers;
  - » Protect the existing use and access rights of all stakeholders;
  - » Include provisions that particularly important and weighty decisions – such as whether to cede land to an investor – must be made by consensus or supermajority vote, rather than by local leaders acting alone; and
  - » Are approved by consensus or super-majority vote by all households in the community.
- Ensure that the by-laws include provisions for annual review and amendment. To avoid the potential calcification of customary rules that writing them down might imply, a yearly review of community rules should

be instituted, with clear amendment procedures and the requirement that rules be changed only after full consensus or super-majority vote.

2. Members of all study communities reported that the land documentation process provided the opportunity to publicly discuss and evaluate community rules and norms for the first time in living memory. Throughout the exercise, community members argued against rules they felt to be arbitrary and discriminatory, and advocated for the inclusion of rules that would protect their interests. As a result, the process appears to have made four significant shifts in various facets of local governance in the Liberian study communities. The findings indicate that the by-laws drafting process:

- Involved the direct participation by community members in decisions previously taken solely by customary and state authorities;
- Created the opportunity for community members to institute new mechanisms to hold local leaders downwardly accountable and improve leadership;
- Allowed communities to establish consistent norms and institute clear, publicly known penalties for infractions; and
- Helped to align local custom and practice with national law; after learning about national laws relevant to community land and natural resources administration, community members took steps to change local rules so that they no longer contravened national law.

3. Communities require legal and technical assistance to successfully complete final versions of their by-laws. In particular, a legal review is necessary to ensure that community by-laws do not contravene the Liberian Constitution and other national laws. Legal support may also be necessary to ensure that community by-laws address all necessary topics, such as procedures for election and impeachment of natural resource management bodies.

4. Community land documentation processes should conclude with the election of a diverse and representative governing body. Facilitating NGOs or government agencies may need to monitor the election of these bodies to ensure that the elections were participatory, transparent and fair, and that the positions were not captured by elites. Communities might also create parallel “watchdog” groups to monitor the elected council’s decisions and actions.

### 3. Conservation and sustainable natural resource management

The following section briefly details the process of drafting land and natural resource management plans in Liberia. It then reviews the initial impacts of this process on current community behavior related to resource use and summarizes the short-term trends observed, including: 1) a growing sense of conservation and dedication to sustainable natural resource management; and 2) an increased emphasis on monitoring outsiders' use of community lands and natural resources.

#### Drafting land and natural resource management plans

In Liberia, the community land documentation process outlined in the MOU with the Land Commission included “drafting and adopting intra-community land and natural resource management plans.” To this end, SDI advised communities that a good natural resource management plan should include:

1. A map indicating the location of all of the community's natural resources;<sup>110</sup>
2. A comprehensive list of the community's natural resources and the ways in which community members access and use these resources;
3. All community rules (past and present) addressing use and conservation of community resources; and
4. A zoning plan that takes into account community aspirations for future growth, development, and natural resources use.

However, SDI observed that the study communities included all of their rules for natural resource management into the first drafts of their by-laws. SDI therefore determined that the communities should be allowed to combine the by-laws and natural resource management plans into one document, as to do otherwise would be an artificial separation of what was clearly considered to be a coherent body of customary rules. To accommodate this and to ensure clarity and coordination, SDI suggested that communities split their by-laws into two sections, one concerning governance and one concerning land and natural resource management, and adopt both together as a complete document. As a result, the process of drafting and adopting land and natural resource management plans was seamlessly integrated into the by-laws drafting process detailed above.

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<sup>110</sup> As described above, communities were extremely hesitant to mark the location of their natural resources on a map, as doing so would potentially make them vulnerable to capture by outsiders. SDI's field team therefore left communities to identify and map only those resources they felt comfortable marking.

To ensure that all rules concerning natural resource management were recorded, SDI instructed community members to brainstorm a list of every natural resource found in their community. To do this, the communities returned to the participatory maps they had drawn and, using the maps, identified all of the natural resources located within the boundaries of their lands.

Once a comprehensive list was compiled, SDI led communities to either remember/revive or create new rules for the sustainable management of each identified resource. In large participatory meetings, SDI encouraged community members to “shout out” all town and clan rules governing the use of each resource. SDI also facilitated community discussions of how each resource was used in the past, what rules applied to their use, and how the community would like to use and regulate the resource in the future. Each community then analyzed, amended, and adopted these rules as part of the by-laws drafting process.

Notably, women’s active involvement in the process improved the documents’ comprehensiveness; SDI observed that women tended to be more focused on protecting water sources than men, and included greater detail concerning community natural resources on their community maps than the men.

## **Findings: Natural resource management impacts**

Observing the communities’ processes of map-making, boundary harmonization, and deliberation of their land and natural resource management plans, SDI noted two main shifts in community members’ conceptions of natural resource management. First, SDI observed a growing commitment to conservation and sustainable natural resources use, associated with a revival of “old” rules that had functioned in the past to ensure resource conservation. Second, SDI noted an increased community interest in monitoring outsiders’ use of community natural resources, and a resulting emphasis on crafting by-laws to enforce restrictions and ensure community benefit. Such changes are briefly described below.

### **Increased dedication to sustainable natural resource management**

Before the project began, SDI noted that due to the dense forests, low population density, and highly dispersed settlement patterns in the study region, community members tended to believe that “land can’t finish.” Indeed, when asked about the rules governing their lands and natural resources, participants in the pre-service focus groups explained that the use of the community’s forests was generally open to everyone in the community. They noted that, with the exception of strict rules concerning strangers, there were no specific or defined rules about which resources

could be used, how much of a given resource a family was allowed to use, or when each resource could be accessed. “You do as you wish,” said one community member.

Positively, SDI observed that over the course of the intervention **communities increasingly came to understand that both their lands and their natural resources were finite and, if not well managed, could become depleted.** Perhaps as a result, community members began to exhibit an increased sense of dedication to conserving their lands and natural resources. Post-service focus group participants explained that: “The project opened our eyes;” “Now we know what is [scarce] and what is plenty;” and “Now we are aware that if you misuse a resource it could finish.”

Furthermore, the process of drafting rules for natural resource management appeared to impact community members’ recognition of the value of their own resources. For example, SDI observed that communities at first routinely failed to list mundane substances such as mud, sticks, or gravel as important natural resources (for housing construction) that needed to be regulated. When communities were first asked to identify local “natural resources,” they tended to talk about gold, timber, and diamonds – resources valued in a cash economy. Unless prompted, they rarely listed such “common things” as thatch, water, or plant medicine as natural resources.<sup>111</sup> However, once communities began to discuss how these resources were necessary for daily survival, they began to establish rules for their conservation.

In response, **communities “remembered” and reinforced old rules for resource conservation that had previously been disregarded or weakly enforced.** Indeed, one focus group explained how “The traditional rules were made strong [during the process] because the elders took part and explained the sense behind some of the old rules.” Communities also crafted new rules to conserve and ensure the sustainable use of these resources.



Sacred forest, Cestos.

<sup>111</sup> SDI noted that the shift from oral to written rules at times failed to capture community norms and practices so fully taken for granted that they did not even occur to community members as being “rules.” This was one example of this phenomenon.

### **Box 5: Examples of by-laws and rules agreed in natural resource management plans in Liberia**

#### **Forest conservation**

- “No one is allowed to cut down the community hard forest for farming: no farming in the community reserve forest, so as to avoid deforestation, farming is allowed in the secondary forest, low land, or swamp. Anyone caught in such practices will pay that amount of ten thousand Liberian dollars (LD\$10,000).”
- “No one is allowed to make farm from Camp One to Zuah Mountain – that is the reserve forest for Bar clan. Violators’ farms will be taken from them.”

#### **Reserve Areas**

- “The community shall have reserve areas, such as creeks, rivers, Zoe Bush and forest. Some of the reserves areas identif[ied] are; the Wru-nee creek located in Blatoe – no one should set net, fishing and set basket on it. The reserve forest is located between Blatoe and Normah – no hunting, farming, logging and pit sawing is allowed. The mountain is reserve[d] for minerals and a place near sand beach.”

#### **Water Sanitation**

- “No one is allowed to put chemicals into any of our water for any purpose. Violators shall pay the fine of LD\$1,500. No one is allowed to toilet into any of the water constantly – creeks are not latrines. Anyone found using the creek as a latrine shall pay the amount of LD\$300 as fine. If any of our neighboring clan is mining up our territorial water, which causing water pollution, that clan shall give to the affected clan 10% of any agreement reached.”

#### **Sustainable use of resources/minimization of waste**

- “Local building materials (round poles, rattan, raff–falls, thatch, etc.) are not to be sold, they should be used for community member to build. As a community member, if you destroy these local building materials, the community will ask the person to pay for the items; To misuse palm is not allow, anyone violating this rule, the community will hold you responsible to pay for the palm;”
- “No one is allowed to clear a large area of thatch bush for farming. The thatch has to be managed for our thatch buildings; The round poles



and rafters must be manage well, stick cut should be used for the intended purpose; To manage the forest, the community should practice and encourage young bush and swamps farming; Large palm bush areas should not be allow for farming activities; No illegal pit sawing will be allow to damage the forest, anyone wishing must obtain a legal document from government or a permit from the community.”

**Animal Protection/hunting control:**

- “Every individual is allowed to lock 50 traps in the bush for local animals; No one is allowed to hunt and kill wild animals in the clan.”

Importantly, a number of communities set aside reserve forests to guard for future community use. SDI noted that at the inception of the project, communities initially conceived of “reserve forests” as areas kept free for external investment, in order to “bring development.” However, by the end of the Initiative, some communities had reconceived of “reserve forests” as areas to be carefully guarded for the communities’ own future use, so as to accommodate anticipated population growth, increasing demand for necessary natural resources (such as thatch, rope, and wood), and future community development. For example, one focus group reported, “We have big forest, so it is good we use it the right way, otherwise we will be like [our neighbor, who lost most of its forest to concessions].” Another explained, “We are conserving our traditional and reserve forest so no one, not even a company, can touch it.”

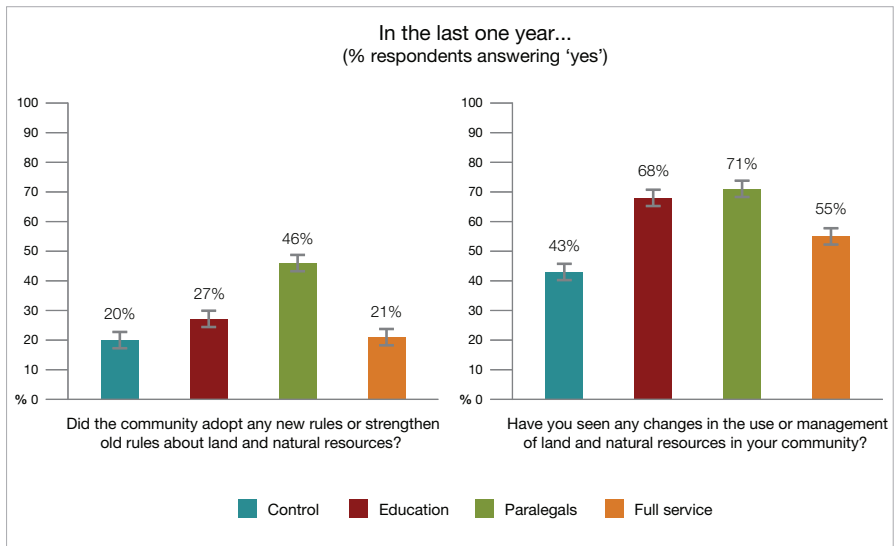
Post-service focus groups in Liberia reported being very satisfied with their by-laws and natural resource management plans. One focus group explained, “Now people know where the resources are, and how much we have, and what the laws about them are. Talking about the laws helped everyone see it for themselves. Now no one can complain they don’t know the law.” Other focus groups reported that the process of drafting the management plans was a “good idea because we all know our resources, where they are, and how much they are. Now we all can respect the rules the guide their use.”

When asked whether their community had either *adopted new rules or strengthened old rules* concerning community land and natural resource management in the past 12 months, roughly a quarter of post-service treatment group respondents answered affirmatively, with a full 46% of the paralegal group respondents reporting that changes were made. Yet, when asked if they *had observed changes* related to the use and management of land

and natural resources in their community over the past 12 months, an average of 65% of post-service treatment group respondents reported seeing changes.

Together, the data point to the conclusion that the largest impact of the by-laws drafting process may have been a reinvigorated adherence to and enforcement of existing rules.

**Figure 7: Adoption of new rules; changes observed**



Indeed, post-service focus groups in Liberia described that certain rules about natural resource use were already being enforced, with resulting changes seen. In some instances, rule enforcement appears to be impacting certain groups' livelihoods. For example, various focus group participants made the following statements: "I am a hunter, and some of the laws say one man cannot lock more than 100 traps, and we cannot cut down big trees;" "I am a pit sawyer, and pit sawing is now regulated under our community law. You have to report to the community first;" "The land management plan has affected me: no work on Sunday in our community, no cutting palm;" "Now I know I cannot just cut sticks and leave it in the bush, so [while I am in the forest working] I am always thinking about what we discussed in the meetings." Similarly, in a community that decided to prohibit children from going to rivers and wells (in order to protect their safety), a woman complained that now her children could not help her gather water. These comments indicate that some communities began enforcing their rules fairly rigorously, even before formal adoption.

## Increased attention to monitoring outsiders' use of community forests

The process of drafting land and natural resource management plans appears to have led communities to become increasingly vigilant about monitoring and enforcing limits on outsiders' extraction of community resources. Notably, SDI observed that the study communities did not attempt to fully impede outsiders' resource use, but only to control, monitor, and tax these activities for community profit and development.

SDI also observed that communities established rules to address issues related both to private investments by corporations as well as to "strangers'" small-scale extractive activities within their forests. Some examples of new community restrictions include:

- "No logging company is allowed to do hunting in and around the community common forest and as well as the concession forest, anyone caught violating will bear the full weight of the law";
- "Strangers are not allowed to cut palm in our community, until he/they can meet the community leaders. After accepted, he/they will pay 2 tin of palm oil to the town. If in any case, the palm cutter have to run away without paying the contribution to the town people, the stranger father is responsible to pay the 2 tin of palm oil to the town. No stranger is allowed to get in our bush to dig gold without consulting the community leaders, failure to do so, he/they shall pay US\$5,000";
- "Any stranger who expresses interest to live in the town, should spent three months in consultation with the stranger father before he is allow to enter the bush to cut palm or hunt";
- "If a company wants to make farm on our land all of the community members and all of the leaders elected, including government officials are to meet in a big community meeting. If all of the community members, official elected by the their various communities and the officials of government are not present, not less than 50% of the community is allow to document a sale of land to any company";
- "The community should receive 20% of each plank saw and 80% goes to the individual sawing the planks; Every creek owner operating or mining within our community should pay one gram of gold per month; Persons wanting to do investment or business in our community should pay a percentage"; and

- “No illegal pit sawing will be allowed to damage the forest, anyone wishing [to do so] must obtain a legal document from government or a permit from the community.”

Importantly, the communities’ land and natural resource management plans illustrate receptiveness to outside investment, but within a regulatory framework that ensures that the community has the power to determine how their lands and resources are used and provides that the community will concretely gain and prosper from the arrangement. Specifically, while being open to investors using some of their lands and natural resources, communities in Liberia were adamant that such integrated development should only proceed if:

1. The community itself is involved in discussing and negotiating all aspects of the investment project, and has authentically given its full free, prior informed consent;
2. Restrictions are put into place to protect the environment as well as community members’ health, livelihoods, and culture;
3. Benefits/fair compensation accrue to the community; and
4. A signed contract ensures that all community benefits are paid and promised benefits delivered.

For example, as detailed in one Liberian community’s land and natural resource management plan:

*Any company wishing to operate within Central Morweh Clan should meet the land management committee ... Any company mining gold in the clan should pay 25% per gram to the Council ... Any company wishing to operate in the clan for any purpose, that company should employ 75% of the residents [and any] company wishing to operate in the clan shall allot the personnel manager position to the clan.*

## Main findings

1. The process of discussing rules for natural resource management helped communities to re-conceptualize such “common things” as thatch, gravel, water and plant medicine as important natural resources to be conserved.
2. Women’s active involvement in the by-laws/natural resource management plan drafting process improved the documents’ comprehensiveness. Women were more focused on protecting water sources than men, and included greater detail and more resources on their community maps than the men.
3. The natural resource management plan drafting process prompted communities to craft new rules to conserve natural resources and to “remember” and reinforce old rules promoting sustainable natural resource use. Communities revived old rules and instituted new mandates designed to conserve forest resources such as firewood and thatch, to ensure sustainable hunting and fishing, and to ensure proper sanitation and the maintenance of clean drinking water. **Notably, a number of communities set aside reserve forests to guard for future community use.**
4. The natural resource management plan drafting process appears to have led communities to become increasingly vigilant about monitoring and enforcing limits on outsiders’ extraction of community resources. The resulting new rules do not generally impede outsiders’ use of community natural resources, however, but rather to allow communities to better control, monitor, and tax such activities to ensure sustainable use and community profit.
5. Communities were not necessarily adverse to concessions being granted within their communities but rather were concerned that all negotiations between communities and investors are clear, open, and transparent; that proper safeguards are established to ensure against potential investor abuse and negative social and environmental impacts; that fair compensation accrues to the community; and that all promised community benefits are recorded in an enforceable legal contract that holds investors accountable to contributing to community prosperity.

## 4. Impediments and obstacles confronted

SDI observed that a community's successful completion of the requisite community land documentation activities was often impeded by various inter-related factors. Specifically, communities tended to struggle when:

- Community leaders were weak, corrupt, or engaged in power struggles;
- Local and national elites interfered with or sabotaged a community's process;
- The greatest threat to community land was coming from elites within the community, rather than an external source;
- The community lacked internal cohesion and consequently failed to cooperate;
- An intractable boundary dispute consumed a community's attention, to the exclusion of all other land documentation activities.

These factors are briefly explored below.<sup>112</sup> However, SDI observed that for those communities who persevered successfully through the process, the greatest impediments to community land documentation were administrative obstacles related to the President's moratorium on public land sale in Liberia.

### Weak leadership and power struggles between leaders

SDI observed that without exception, when a community had one or more weak leaders, leaders amenable to the influence of outside elites, and/or leaders who covertly opposed land documentation efforts, the community was unable to successfully complete the project activities, even when provided with paralegal or full legal support. Notably, SDI observed that those few communities who proactively ousted corrupt leaders mid-way through the community land documentation process – instilling trusted individuals in their place – were thereafter able to progress quickly. SDI also observed that communities fortunate to have motivated, dedicated and trusted leaders progressed well through the activities, even when only provided with monthly legal education support.

SDI also noted that poor cooperation or conflict between community leaders (the town and clan chiefs, the clan elders, the Zoe, etc.) and other relevant and influential community figures (clan elders, "town owners,"<sup>113</sup> or former community leaders) had a generally negative impact on community progress.

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**112** See Appendix B for detailed descriptions of the study communities' experiences.

**113** In the past, individual families founded towns by moving into an uninhabited area in the forest and clearing land. Over time, these families grew, and other families joined them. Today, in many towns, the founding family still maintains a strong influence over town decisions.

SDI observed that when one or two influential community leaders expressed a lack of support for their community's land documentation efforts, at least part of the community would disengage from the process, even if other influential leaders supported and encouraged the work.

## Elite interference

SDI also noted that **the presence of feared or influential local elites who opposed the project often had the power to stall project activities for months at a time or to fully sabotage community efforts.** In a number of communities, SDI observed both county- and Monrovia-based elites interfering with land documentation efforts to preserve their own farms, plantations, or investments, in many instances acting against the expressed interests of the broader community. SDI also observed a variety of power conflicts between local elites (i.e. politicians and businesspersons operating within the county) and Monrovia-based elites that appeared to stem from clashing financial and political interests inflamed by the desire to leverage community land documentation activities for personal gain.

For example, in one community, Monrovia-based elites effectively halted community progress by forbidding any boundary harmonization agreements without their approval; an elder in this community threatened “big trouble” for anyone who attempted to negotiate community boundaries without first consulting community members living in Monrovia. These Monrovia elites effectively commandeered the boundary negotiations, marginalizing local leaders' roles and entrenching existing boundary conflicts in the process.

Communities struggled with these power dynamics, and handled such situations in various ways. Some communities proved unable to overcome negative elite interference, while others successfully surmounted the power dynamics either by making changes to community leadership or by refusing to let elites from Monrovia intervene in community affairs. For example, focus groups in one community explained that as soon as they decided to stop listening to the people in Monrovia, they were able to resolve their boundary harmonization issues. They reported, “Boundary harmonization was very difficult because...we could not come to one agreement with our neighbors. Other people tried to get people in Monrovia involved in our negotiation. It was difficult. We kept talking, and agreed between ourselves that we will agree internally, and not depend on outsiders.”

## Lack of internal community cohesion and cooperation

SDI observed that communities with a high degree of internal friction and division were less able to make progress through the community land documentation process, regardless of the level of legal support provided. Noting this, one woman's focus group explained, "The hard part was meetings. No one went to meetings. We just sit on our hands. We don't know, maybe the men don't want the land. The problem is not solved yet; we have no meetings." Generally, the project did not cause this disunity; such lack of cohesion was often described by pre-service focus groups and observed by the field teams as a pre-existing community dynamic.

SDI observed that certain key factors tended to impact the degree of community cohesion and its ability to complete the project work, including:

- *Proximity and number of towns in a "community."* Clans with isolated and dispersed towns and clans composed of a large number of smaller towns often had a hard time creating a sense of a coherent "community unit." In such situations, it was often difficult for the various towns to work collaboratively and in unison.<sup>114</sup>
- *Transience of community members/degree of urbanization.* Peri-urban communities with larger populations and communities with a high percentage of transient residents (living in the community while working as short-term gold miners or pit-sawers<sup>115</sup>) or natives currently residing in Monrovia (who therefore rarely participated in community meetings) tended to struggle to work together and had more difficulty completing project activities.
- *Historical grievances/conflict between towns in a clan.* Entrenched disputes between towns in a clan often made it difficult for the clan to work collaboratively.

Conversely, communities that had a high degree of internal cohesion and unity tended to successfully complete the work, even in the presence of other obstacles. Specifically, the field teams observed a direct correlation between community cohesion, leaders' support for the project, and community participation in community land documentation activities. Indeed, **robust community cooperation and widespread participation are lynchpins of successful land documentation efforts.** Without strong community cooperation, it is likely that the by-laws will either not be drafted and adopted by consensus, or that they will reflect only a few elite members' views, and should therefore arguably be annulled.

<sup>114</sup> However, when a community felt a strong sense of threat to its land claims, size and distance tended to matter less, as community fears of external forces were enough to unite them to cooperate.

<sup>115</sup> Small-scale, usually illegal, loggers.



## Intra-community threats to community land

SDI observed that if the most significant threat to community land comes from inside the community itself (local leaders/elites seeking to claim communal lands and resources for themselves in bad faith), even the full support of a legal and technical team may not be enough to prevent community rejection of or failure to complete community land documentation activities. Internal encroachers' ingenious and varied efforts to sabotage the documentation efforts – leaving land undocumented and vulnerable to exploitation – were often highly effective. For example, one community was largely controlled by elites with ties to Monrovia residing in one of its towns; these elites argued that their town already had a deed and that their participation in the community's overall documentation efforts was unnecessary. For months, the community's meetings were dominated by discussions addressing the legitimacy of the town's deed claim, and the community made no progress. Community members ultimately challenged these town elders and elites from Monrovia to present the deed. When an incomplete, unofficial document was eventually presented, community members became angry, rejected the document, and challenged their Interim Committee to double their efforts. An elder admonished, "If we lose this thing, all you people that been telling us about this deed will be to blame!"

Similarly, in another community, all community land documentation efforts were initially stalled by a protracted land dispute between an elite community member (claiming 3,500 acres of community land as his own private, deeded land) and two towns in the clan. The community spent a great deal of time and energy grappling with this conflict, and as a result struggled to complete the community land documentation process. However, due to strong community paralegals and the community's dedication to the project activities, the community was able to address the conflict and complete the project activities.

Conversely, SDI observed that **when a community had faced or was currently facing a specific external threat to its lands, the community fully embraced community land documentation and worked diligently and cooperatively to complete the process, regardless of the degree of legal support provided.** Indeed, SDI noted that the communities' past experiences with logging operations and the very real threat of additional forestry concessions within their lands was a significant motivating factor for all 20 study communities; it was frequently mentioned as a source of anxiety and insecurity during project meetings.

## Lack of permission to take GPS coordinates of community lands

As explained above, none of the study communities have yet obtained formal documentation of their customary land claims. **While this outcome was partly due to the study's limited duration, the President's moratorium on public land sale (defined within the *Public Lands Law (1972–1973)*) has been the central impediment to formal documentation.** As a result of the moratorium, the Liberian communities followed the pilot process set out in SDI's MOU with the Land Commission. Because this process did not require filling out forms or pursuing specific administrative processes that could lead to formal documentation, after completing all of the steps in the MOU, community progress stalled, with no further action possible under the moratorium.

Positively, Clause 3 of the MOU sets out: "During the period of the interim public land sale process, the Land Commission will work with SDI and IDLO to assist the local communities in the study to begin identifying their borders and to obtain an official, government-issued title or deed." Therefore, when the Land Commission issued its revised "interim public land sale process" in early April 2011, both SDI and the communities anticipated that they would be able to either formally survey or, at a minimum, take GPS coordinates of the communities' lands. The Land Commission, however, communicated that such action necessitated the approval of the Ministry of Internal Affairs. Although the Land Commission facilitated a number of meetings to help SDI secure this approval, by the end of the intervention, the Ministry of Internal Affairs had not granted permission to survey the communities.<sup>116</sup>

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**116** While there is no legal precedent for this approval, SDI and IDLO deemed it prudent to abide by the Land Commission's dictates. This work is now going forward in Phase II of the work; SDI and Namati will work with the Land Commission to GPS the communities' lands in early 2013.

## Main findings

1. When a community had weak leaders, leaders amenable to the influence of outside elites, and/or leaders who covertly opposed the land documentation efforts, the community was frequently unable to successfully complete project activities.
2. The presence of feared or influential local elites who opposed the project often had the power to stall project activities or to fully sabotage community efforts. Both county- and Monrovia-based elites interfered with community land documentation efforts to preserve their own farms, plantations, or investments, in many instances acting against the expressed interests of the broader community. Power conflicts between local elites and Monrovia-based elites also impeded community progress.
3. Communities with a high degree of internal friction and division were less able to progress through the community land documentation process, regardless of the level of legal support provided. Conversely, communities that had a high degree of internal cohesion tended to successfully complete the work, even in the presence of other obstacles. Robust community cooperation and widespread participation appear to be key to successful land documentation efforts.
4. If the most significant threats to community land come from community elites, even the full support of a legal team may not be enough to prevent community rejection of or failure to complete the land documentation activities. Conversely, when a community had faced or was currently facing a specific *external* threat to its lands, it worked diligently to complete the process, regardless of the degree of legal support provided.
5. The research suggests that an unhealthy or dysfunctional community that struggles with elite sabotage, intractable boundary disputes, internal discord, weak pre-project cohesion, and weak leadership may not be able to successfully progress through community land documentation processes, irrespective of how much support they receive. In such situations, the process may become a pawn in intra-community conflicts of power. Similarly, peri-urban communities and communities with little or no internal cohesion or a highly transient population may not be appropriate for community land documentation initiatives.

6. Should a dysfunctional community initiate land documentation efforts and not be able to complete them, the process may invigorate tensions and create or exacerbate conflict, leaving the community in a worse situation than before the intervention began. Before beginning an intervention, facilitating NGOs or government agencies should carry out an analysis to determine whether the community can work together productively. Supplemental conflict resolution training, community-building, and leadership-enhancement activities may need to be provided before a community can undertake land documentation efforts.
7. For those communities who persevered successfully through the process, the greatest impediments to community land documentation to date have been administrative obstacles related to the President's moratorium on public land sale in Liberia.

## 4. Optimal support for successful community land documentation



Community leaders and SDI field team prepare the documents for an MOU-signing ceremony.

## 4. Optimal support for successful community land documentation

With adequate legal education and capacity-building, communities can successfully complete many of the community land documentation activities on their own. The data suggest that communities were most successful when supported by trained community paralegals supervised by a legal and technical team.

The following section details the cross-national findings<sup>117</sup> relative to the question “What type and level of support is required in order for communities to successfully complete community land titling processes?” Within this question were two secondary queries:

- Is there a correlation between the level of assistance provided and the relative success achieved?
- Is there a correlation between the level of assistance provided and communities’ effectiveness in overcoming obstacles faced in the process of following the mandated legal procedures?

The resulting analysis, derived from pre- and post-service survey responses, a comprehensive statistical analysis of the data, and SDI’s observations, lead to two central conclusions. **First, the paralegal support model of service provision proved to be the most successful**, due to two factors: the empowering effects of giving a community the responsibility to carry out the activities on its own and the comparatively weaker ability of the legal and technical field team to effectively address intra-community obstacles. **Second, while paralegal support is effective, communities unquestionably need legal and technical support for specific discrete components of the community land documentation process.**

This section first describes findings relative to the progress of each treatment group. It then briefly outlines the correlation between the level of legal assistance provided and communities’ effectiveness in overcoming the various challenges faced. The section next reviews the degree of community participation in the project activities by treatment group. It concludes by summarizing the potential benefits of the paralegal support model and detailing which components of the community land documentation process require active legal and technical support.

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<sup>117</sup> A cross-national analysis was necessary to ensure statistical significance of the findings.

## Overview of community progress by treatment group

### Progress of the full-service communities<sup>118</sup>

The full-service group had less success overall than the other treatment groups. Despite having SDI's full support, only two of the five full-service communities fully harmonized their boundaries, signed their MOUs, completed a third draft of their by-laws and natural resource management plans, and elected their Governing Councils. The success of these two communities was due to the positive influences of well-organized towns, general internal community cohesion, good cooperation between community leaders, and tangible external threats to community lands (both from neighbors and logging concessions).

The other three communities in this group faced a number of challenges, which made internal cohesion difficult. For example, towns in one community were located far from one another, impeding collective action. This community's difficulties were compounded by the influence of several Monrovia-based elites with ties to the community who used their power to interfere with and obstruct all boundary harmonization efforts, which also served to negatively impact neighboring communities' land documentation efforts. Indeed, another full-service community shared a border with this community; despite having strong leaders and good community cohesion, it failed to harmonize its boundaries due to its neighbor's refusal to negotiate. In the third unsuccessful community, leaders controlled the project activities, to the exclusion of other community stakeholders. Part of the leaders' efforts to control the project appeared to be driven by their individual and family land claims, some of which crossed over clan boundaries and would have been called into question had the land documentation process progressed. The leaders' domination of project activities and bad faith negotiation over community boundaries appeared to leave most community members apathetic towards the project.

### Progress of the paralegal communities

The paralegal (community animator) group was by far the most successful. All five communities in the paralegal group fully harmonized their boundaries and signed MOUs, a success that may have been due to the fact that four of the five paralegal communities were situated in close proximity, allowing the communities to benefit from a flow of information. SDI observed that the

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<sup>118</sup> See Appendix B for full details of each community's experiences.

paralegals' common training and collective boundary harmonization efforts fostered productive working relationships and cooperation – as well as a healthy sense of competition – between the paralegals. The paralegal communities' progress also appeared to be aided by strong community cohesion (reflected in the frequency and attendance level of community meetings); good relationships between various leaders and stakeholder groups; and the active and frequent participation of women, elders and youth in all land documentation activities.

Importantly, the education-only group communities' ingenious efforts to seek information and support from neighboring paralegals illustrate the positive impact that paralegals might have not only on their own communities but also in the region. For example, SDI observed one education-only community's Interim Committee Chairman and various elders attending several meetings in a neighboring paralegal community. These paralegals also reported that the neighboring community's Interim Committee Chairman visited them on a number of occasions to seek guidance and information.

### **Progress of the education-only communities**

The experience of the education-only treatment group was mixed, depending on the strength of community leaders and the urgency of community motivation to seek documentation of their land claims. The overall success of this group, despite receiving only monthly legal education from SDI, is a testament to how much of the documentation work can be achieved by highly driven, focused communities. For example, in one community, a particularly well-educated Committee Chairman and enthusiastic community leaders helped to ensure that their community successfully completed all land documentation activities.

Of particular note is that one of the education-only communities abandoned all community land documentation efforts. Due to the community's size and peri-urban quality – Rivercess County's second largest town, Yarpah town, is located there, and overall the clan consists of more than 20 towns, with a distance of seven hours walking between many of them – it lacked cohesion and struggled to organize even one successful meeting. Moreover, the residents of Yarpah Town failed to engage with the project, and the rest of the clan thereafter ceased to undertake project activities. However, SDI observed that individual towns within the community who were interested in the project took the opportunity to work on harmonizing their town borders. In contrast, another education-only community was very sparsely populated, and the



community land documentation activities became a rallying point around which the community could unite; focus group participants expressed how, as a result of the project meetings, “People were coming from far places to take part, and [this] made our community feel like one again.”

### **Progress of the control communities**

The control group’s progress was used as a measure of communities’ capacity to undertake delimitation activities without any assistance; these communities also served as a comparison against which the other treatment groups’ efforts and outcomes could be measured. The five control group communities were very unhappy to have randomly assigned themselves to this treatment group.<sup>119</sup> When SDI’s project researcher visited these communities to assess progress, community leaders routinely complained. For example, one lamented, “We are not getting no help; other communities are getting SDI’s lessons but not us.” Some leaders in these communities reported that they feared that their neighbors were using information and training provided by SDI to disadvantage them in boundary negotiations. Although all five communities successfully elected an Interim Committee to lead them through the process, the control communities had difficulty advancing through the process without outside assistance. However, one particularly motivated community was able to successfully complete most of the project steps, and was among the first communities in the study to harmonize its boundaries and host a successful MOU-signing ceremony.

SDI observed that this relatively successful community was able to succeed due to strong community cohesion and energetic, well-organized, and highly competent leaders who worked together to mobilize the community. The community was also motivated by an imminent sense of threat to its lands from one of its neighbors, stemming from a disagreement over a tree plantation established by the Oriental Timber Company (OTC) on land spanning both clans; the conflict was resolved when both clans agreed to compromise and equally divide the plantation land between them. Interim committee members with strong leadership, literacy and management skills also enhanced community progress: they were able to draft their own documents and dispatch literate individuals to all towns to help throughout the by-laws drafting process. SDI also observed that some of these individuals made a point of discretely attending SDI’s monthly meetings in neighboring clans.

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<sup>119</sup> As detailed above, the communities were randomly assigned to treatment groups in a large public meeting; SDI placed 20 small folded pieces of paper, on which were written the various treatment groups, into a hat and had each community leader select a piece of paper.

## The impact of service provision on community progress

To enhance the observational data, the Initiative employed both statistical and non-statistical analyses to assess the impact of service provision on the communities' progress. To ensure parity in the statistical analysis, the three different national land documentation processes were simplified to an index of four core non-administrative components, which communities in all three nations were required to complete.<sup>120</sup> These four stages were:

1. Creation and election of a coordinating or interim committee;
2. Boundary harmonization with neighbors;
3. Drafting and adoption of community rules for local land administration; and
4. Drafting and adoption of community land and natural resource management plans.<sup>121</sup>

The resulting statistical analyses suggest that, as measured against the control group, the level of service provided had a statistically significant impact on community progress through the land documentation process. When compared against the other groups, the paralegal group's progress was significantly stronger and more robust than that of both the education-only and the full-service group, while the education-only group's performance was also stronger than the full-service group's performance.

### Statistical analysis of treatment impact across all three nations<sup>122</sup>

- Control group: average completed 19% of the process.
- Education-only treatment group: average completed 50% of the process.
- Paralegal treatment group: average completed 58% of the process.
- Full legal services treatment group: average completed 34% of the process.

**120** In Liberia, the communities' desire to document and protect their customary lands was so high that they progressed with determination through the community land documentation activities. Even the control communities, afforded no legal support, completed an average of 45% of the process. By way of comparison, in Mozambique and Uganda, the control groups completed 25% and 0%, respectively.

**121** To create parity between nations, the final stage of the Liberian process — the election of the governing councils — was not included in this analysis.

**122** See Appendix B for summaries of each community's progress.

These relatively surprising outcomes support two main conclusions. First, the finding that the full-service treatment group communities performed more poorly than both the education-only and paralegal communities may indicate that when communities have the responsibility to complete most project activities on their own, they are motivated to take the work more seriously. As a result, communities appear to integrate and internalize the legal education more thoroughly, address intra-community obstacles more proactively, and claim greater “ownership” over the land documentation process than when a legal and technical team completes the work on behalf of the community.

Indeed, SDI observed that the presence of paralegals appeared to further communities’ feeling of empowerment by allowing the process to be internally-driven and by fostering the sense that the community was performing the land documentation work on its own initiative. Conversely, SDI observed that some of the full-service communities appeared to adopt a passive attitude towards the process, possibly taking for granted that, as one man explained, “The lawyer is going to run behind our paper.”

Such observations indicate that even when community land documentation work is compelling, engaging, and accepted as necessary to promote land tenure security, if the work is led by an outside NGO, a community may see the process as removed from village life, with the final responsibility for the desired outcomes lying with outsiders.

Second, the relative success of the education-only and control groups that neighbored paralegal group communities indicates that well trained and rigorously supervised paralegals may positively impact not only the progress of the immediate communities in which they work, but may also have wide-ranging spillover impacts throughout the region in which they are based. As explained above, SDI observed that the education-only and control communities adjacent to paralegal communities routinely sought information and support directly from the paralegals. For example, one control community in Liberia described how they were only able to resolve their boundary harmonization difficulties when they looked to paralegals from neighboring communities for help:

*The hard part was boundary harmonization. We had too many conflicts among ourselves... We could not have meetings. That was frustrating. There was misunderstanding. We were not thinking like one people; maybe we did not understand the project. People refused to come to meetings; it was hard for us. Then we started talking to the animators [paralegals] in other clans. They helped us a lot.*

### Non-statistical analysis of treatment impact in Liberia\*

- Control Group: average completed 45.2% of the process.
- Education-only treatment group: average completed 70% of the process.
- Paralegal treatment group: average completed 85.2% of the process.
- Full legal services treatment group: average completed 57.6% of the process.

\*See Table 2 for an explanation of how these percentages were calculated.

Non-statistical analysis of the Liberian study communities' progress according to the specific steps of the pilot process agreed in the MOU<sup>123</sup> yielded similar results, although as a whole the Liberian communities progressed further through the process than their Ugandan and Mozambican counterparts. The differences in progress may be due to the prevalence of forestry concessions throughout Rivercess County, which has contributed to profound tenure insecurity in the region and a resulting widespread desire to seek formal documentation for customary land claims.

It is particularly significant that the control communities in Liberia were able to complete over 45% of the community land documentation process set out in the MOU with the Land Commission with no more direction than written guides and handouts. SDI observed that by secretly sending emissaries to listen in on the full-service and paralegal communities' meetings, approaching neighboring paralegals personally for advice and support, and otherwise going to great lengths to get necessary information, the control communities were able to successfully complete a fair percentage of the process. Again, these findings indicate that given clear direction, guidance, and the promise of land documentation, communities can and will undertake much of the community land documentation work on their own.

However, the field teams observed that communities need targeted legal and technical support to complete certain formal steps within the community land documentation process. The above statistical analysis includes only intra- and inter-community activities; it does not include those steps of the process that involve community interaction with government agencies or administrative systems. Indeed, in Mozambique and Uganda, the field teams observed that communities always needed outside support when interacting with state agents and completing application forms.

**123** Because the sample sizes for these national-level analyses were so small, the findings are not conclusive and should be considered only indicative of potential trends.

In Liberia, SDI noted that the study communities required **conflict-resolution** and **capacity-building** support throughout the **boundary harmonization** process as well as strong **facilitation** throughout the **by-laws drafting** process. Furthermore, SDI's repeated efforts to ensure the participation of **women, strangers, and youth** were necessary for full community involvement in the **land documentation** activities.



**Table two: Comparative analysis: Communities' capacity to complete project activities**

Clan/ Community	Interim Committee Elected (1 possible point)	Boundaries Harmonized /MOU Signed (2 possible points)	Bordering communities	By-laws (3 possible points)	Management Plan (1 possible point)	Governing Committee (1 possible point)	Total Points (8 possible pts)
<b>Boehtarr</b> (Full Service)	YES (1)	Signed (2)	Goenotarr, Jowein, Duah, Central Morweh	3rd draft (3)	Completed (1)	Selected/ Elected (1)	<b>8/8 = 100%</b>
<b>Geonotarr</b> (Full Service)	YES (1)	2 borders yet unharmonized	Boehtarr, Jowein, Gbarsaw, Kiyah	2nd draft(2)	In process	In process	3/8 = 38%
<b>Zialue</b> (Full Service)	YES (1)	Signed (2)	Teekpeh, Beawar, Dorbor	3rd draft (3)	Completed (1)	Selected/ Elected (1)	<b>8/8 = 100%</b>
<b>Gbarsaw</b> (Full Service)	YES (1)	4 borders yet unharmonized	Kahwhere, Goenotarr, Wheasaye, Kiyah, Dorbor	1st draft (1)	In process	In process	2/8 = 25%
<b>Kanwhere</b> (Full Service)	YES (1)	1 border yet unharmonized	Kiyah, Gbarsaw, Wheasaye	1st draft (1)	In process	In process	2/8 = 25%
<b>Central Morweh</b> (Paralegal)	YES (1)	Signed (2)	Sawpue, Teekpeh, Jowein, Duah, Zarque, Boettarr	3rd draft (3)	Completed (1)	Selected/ Elected (1)	<b>8/8 = 100%</b>
<b>Duah</b> (Paralegal)	YES (1)	Signed (2)	Central Morweh, Bar, Zarque, Boehtarr, Sawpue	3rd draft (3)	Completed (1)	Selected/ Elected (1)	<b>8/8 = 100%</b>
<b>Toboe</b> (Paralegal)	YES (1)	Signed (2)	Kebbeh, Dowein, Hwolorzohn, Jueh	2nd draft(2)	In process	In process	5/8 = 63%
<b>Jowein</b> (Paralegal)	YES (1)	Signed (2)	Boehtarr, Goenotarr, Sawpue, Dorbor, Central Morweh, Teekpeh	3rd draft (3)	In process	In process	6/8 = 75%
<b>Bars</b> (Paralegal)	YES (1)	Signed (2)	Zarque, Duah	3rd draft (3)	Completed(1)	Selected/ Elected but then challenged	7/8 = 88%
<b>Zarque</b> (Education-Only)	YES (1)	Signed (2)	Central Morweh, Duah, Bar	3rd draft (3)	Completed (1)	Selected/ Elected (1)	<b>8/8 = 100%</b>
<b>Dorbor</b> (Education-Only)	YES (1)	Signed (2)	Zialue, Gbarsaw, Teekpeh, Dowein, Jowein	2nd draft(2)	Completed (1)	Selected/ Elected but then challenged	6/8 = 75%
<b>Kebbeh</b> (Education-Only)	YES (1)	Signed (2)	Garyeazohn, Banama, Hwolorzohn, Toboe, Dowein, Siahn	2nd draft(2)	In process	Selected/ Elected (1)	6/8 = 75%
<b>Wheasaye</b> (Education-Only)	YES (1)	2 borders yet unharmonized	Siahn, Dowein, Kanwhere, Gbarsaw, Beorquiah	1st draft (1)	In process	In process	2/8 = 25%
<b>Dowein</b> (Education-Only)	YES (1)	Signed (2)	Wheasaye, Toboe, Siahn, Kebbeh, Dorbor	3rd draft (3)	In process	In process	6/8 = 75%
<b>Siahn</b> (Control)	YES (1)	Signed(2)	Wheasaye, Banama, Kebbeh, Dowein,	3rd draft (3)	In process	In process	6/8 = 75%
<b>Teekpeh</b> (Control)	YES (1)	Boundaries agreed, but MOU unsigned (1)	Central Morweh, Dorbor, Zialue, Sawpue, Jowein	3rd draft (3)	In process	In process	5/8 = 63%
<b>Sawpue</b> (Control)	YES (1)	Boundaries agreed, but MOU unsigned (1)	Central Morweh, Duah, Jowein, Teekpeh	1st draft (1)	In process	In process	3/8 = 38%
<b>Hwolorzohn</b> (Control)	YES (1)	1 border yet unharmonized	Kebbeh, Toboe, Banama, Bowein	1st draft (1)	In process	In process	2/8 = 25%
<b>Bowein</b> (Control)	YES (1)	2 borders yet unharmonized	Hwolorzohn, Banama	1st draft (1)	In process	In process	2/8 = 25%

## Correlation between the level of legal assistance provided and communities' effectiveness in overcoming obstacles

As described above, SDI observed that a variety of factors appeared to weigh more heavily on the study communities' capacity to complete the project activities than the degree of legal services provided. These factors included:

- The strength and unity of community leaders;
- The presence or absence of elite interference or influence;
- The degree and kind of threat to community lands;
- The degree of internal community cohesion and cooperation;
- The presence or absence of an intractable boundary dispute.

To assess the impact of these obstacles and determine if there was a positive correlation between the level of legal assistance provided and communities' effectiveness in overcoming these obstacles, a series of cross-national statistical tests were conducted.<sup>124</sup>

Contradictory to the field teams' observations, the statistical analysis found that while many of these factors do impact a community's ability to successfully complete the land documentation activities, they appear to have less influence on the community's outcome than the degree of legal services provided. This suggests that the negative impact of such obstacles can be offset or even overcome by the appropriate provision of legal services.

Statistical analyses also examined whether there was a correlation between the level of assistance provided and communities' effectiveness in overcoming intra-community obstacles (the joint effect of each of these obstacles/factors in combination with level of legal service support provided). The results of these analyses illustrate a very unexpected finding: when faced with an intra-community obstacle that impedes progress, the statistical significance of the impact of providing full legal service support was negated. In other words, **in the presence of intra-community obstacles, a full-service community's ability to progress successfully through the community land documentation process is no different than that of a control group community.**

The cross-national statistical analysis clearly shows that in any given community that faces a variety of intra-community obstacles, the communities in the education-only and paralegal groups had more success in overcoming these problems than the communities in the control group and the full-service group.

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<sup>124</sup> See Appendix A for the full statistical analysis.

These findings appear to indicate that **outside professionals may either inadequately address, fail to perceive, or accidentally exacerbate intra-community tensions.** Alternatively, these findings suggest the disempowering effect of receiving full legal services help versus the legal empowerment effects of supporting a community to perform much of the work on its own, under the guidance of trained, supervised community paralegals.

### **Correlation between the level of legal assistance provided and community participation rates**

According to cross-national statistical analyses, the three treatments had a statistically significant, positive impact on survey respondents' *frequency of meeting attendance* during the intervention as compared to meeting attendance in the year before the intervention's inception. The three treatments also appear to have significantly increased community attendance rates at project-related meetings for the duration of the intervention, as compared to the control group's rates of attendance. Furthermore, the treatments had a statistically significant impact on the frequency of survey respondents' reported rates of *verbal participation* during project-related meetings, as compared to the control group.

However, the cross-national statistical analysis did not find any significant difference in either attendance or participation rates between the three treatment groups; the impact was only relative to the control group.<sup>125</sup> Cross-nationally, respondents from all three treatment groups also reported similar rates of feeling that their opinions were "heard and valued" during community decisions.<sup>126</sup>

Liberia's data supports these analyses: the participation rates of all three treatment groups were similar but significantly higher than the control group, indicating that the treatments made a strong impact on both meeting attendance and verbal participation. Notably, higher levels of legal support did not appear to correlate with higher attendance and verbal participation rates – simply engaging the community in the project and holding monthly legal education and capacity-building meetings appears to have been enough to stimulate high levels of participation in documentation activities across all treatment groups.

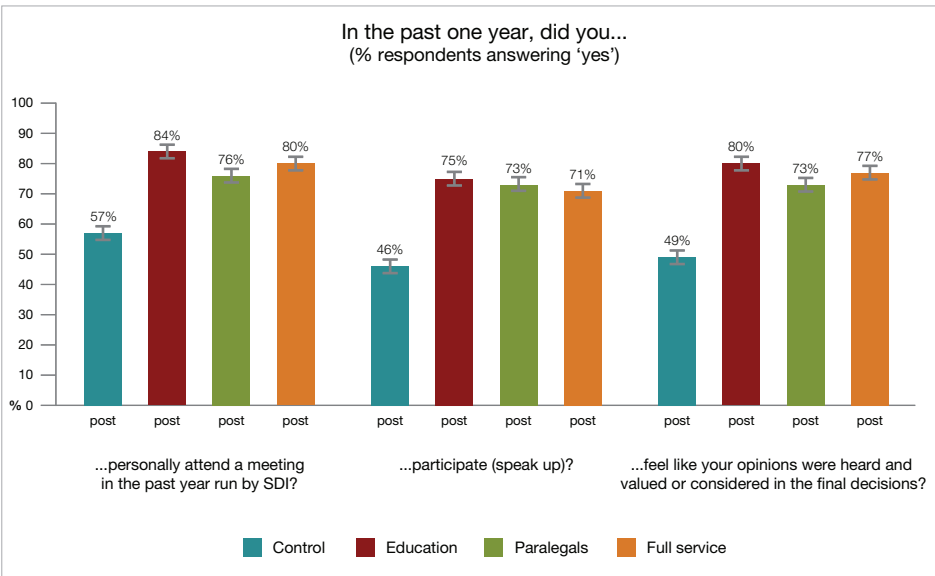
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**125** See Appendix A for a full description of the statistical analyses.

**126** One hypothesis may be that once a community embraces the project, monthly legal education and capacity-building visits by a field team may be enough to stimulate community participation and involvement. The members of the paralegal and education-only communities may have attended community-run/paralegal-run meetings because they were also attending the meetings called by the field teams, and therefore understood that "homework" assignments had been given and needed to be completed before the field teams' re-appearance the following month.



**Figure 8: Community participation by treatment group in Liberia**



The Liberian respondents' reported rates of meeting attendance are astoundingly high;<sup>127</sup> across the three treatment groups, an average of 80% of survey respondents reported participating in a meeting run by SDI.<sup>128</sup> Moreover, across treatment groups, of those who reported attending meetings, an average of 73% reported speaking up. Of those treatment group respondents who reported speaking up, an average of 77% of treatment group respondents reported that they felt that their opinions were respected or considered in community decisions.<sup>129</sup>

**127** While the control groups' rates of attendance and verbal participation are markedly lower, even these rates are high in comparison to the Mozambican communities' participation rates: in Mozambique, an average of 39% of treatment group respondents reported attending project related meetings, and only an average of 10% of post-service survey respondents reported speaking up.

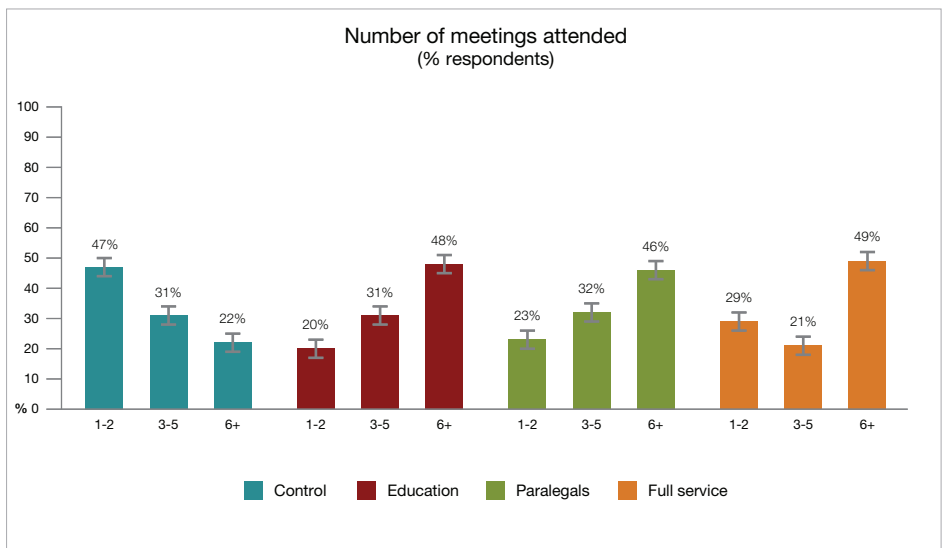
**128** It is interesting to note that a full 57% of control community respondents reported attending a project-related meeting; this response may be reflective of the MOU-signing ceremonies, which called all neighboring clans to the ceremony for witnessing and verification. It may also reflect control group community members' participation in project-related meetings that they held on their own as they completed the project activities.

**129** While the second and third questions were not asked to the full respondent pool (but only to those reported attending and speaking in meetings), these percentages do reflect the percentage of participants answering "yes" within the full respondent pool.

Strikingly, the cross-national data also indicate a very high level of community member commitment to the process: more than a third of the survey respondents in all treatment groups who reported attending a project meeting reported attending six or more project-related meetings. The Liberian data is again similar in this respect: almost half of all treatment group respondents who reported attending meetings claimed they were present at 6 or more project related meetings; **an average of 76% of treatment group respondents reported attending three or more meetings.**

Such participation is no small commitment: when asked what was the “hardest” part of the project, a women’s focus group took the opportunity to complain about the frequency of community meetings. The women described how “The process was hard for us. Every day meeting, every day meeting. But it is a good thing [for us] to own our land – we all agreed to that.”

**Figure 9: Number of meetings attended by treatment group in Liberia**



The Liberian data also indicate that a higher percentage of paralegal treatment group respondents who were not able to attend meetings at least knew about their community's land documentation work than in the other treatment groups. A full 87% of paralegal group community members who reported not attending any project meetings stated that they were aware of the project's work in their community. In comparison, the level of awareness of their community's land documentation activities among those who did not attend meetings in the full-service groups was lower than that in the control group: 67% of the full-service group respondents as compared to 70% of control group respondents described hearing about the project's work in their community despite not having attended a meeting.

These results are likely due to the presence of the community animators/paralegals who had greater capacity to mobilize their communities and disseminate project information than the SDI team. The animators were able to do this every day and at all times as they moved about their communities, for example, educating people about the work and mobilizing them to attend meetings while at church, when socializing with their neighbors, at markets or in drinking spots—opportunities that SDI's field team simply did not have.

## Main findings

**1.** Cross nationally, the field teams' observations and the statistical analyses show that well-trained and supervised paralegals proved to be the most effective and efficient method of supporting community land documentation efforts; paralegals proved to have a significant, positive impact on communities' capacity to complete the land documentation activities. Paralegal assistance appears to:

- Help communities address intra-community obstacles that outside technicians or lawyers cannot recognize or resolve (cross-national statistical analyses show that the communities in the education-only and paralegal groups had more success in overcoming intra-community obstacles than the communities in the control group and the full-service group)
- Increase attendance at community meetings;
- Foster empowerment and create a sense of community ownership over the community land documentation work by allowing the process to be more internally driven;
- Strengthen both their own community's capacity as well as the capacity of neighboring communities by being available locally on a daily basis for help and support.

However, it is important to note that community-based paralegals often have very low initial capacity and need frequent training, supervision and support by a legal and technical team.

**2.** While motivated communities can perform much of this work on their own, they need targeted legal and technical assistance to successfully complete community land documentation efforts. Given clear direction and the promise of land documentation, communities can and will do much of the land documentation work on their own. However, the field team's experiences indicate that legal and technical professionals must actively provide the following support:

- Introducing the land documentation process and providing periodic legal education and capacity-building training;
- Providing mediation and conflict-resolution support during any particularly contentious land conflicts or boundary disputes that communities are unable to resolve on their own;

- Providing legal support and technical assistance during the completion of the community's second and third drafts of their by-laws, particularly to ensure compliance with national law;
- Implementing a women's empowerment/participation strategy and convening special women-only meetings to ensure women's full participation in documentation activities; and
- Providing assistance to communities to follow all of the administrative components of the community land documentation process, including liaising with government agencies, contracting professional land surveyors, compiling all necessary evidentiary proof of community land claims, and completing all the relevant application forms.

A legal and technical team must also closely supervise each community paralegal's efforts, not only to ensure that the paralegal's work product is of high quality, but also to step in to provide additional support when required. The direct involvement of a legal team may also be necessary to demonstrate to all stakeholders (government officials, investors, local elites, etc.) that the community's efforts are being supported by lawyers who have the capacity to take legal action, if necessary.

**3. A paralegal-driven process may be less costly — and more scale-able — than the full-service approach, as the paralegal model allows a few professionals to supervise multiple community-based paralegals. A feasible, low-cost strategy for wide-scale land documentation efforts may entail civil society or government agencies working concurrently with a manageable number of communities led by paralegals.**

## 5. Protection for the rights of women and other vulnerable groups



## 5. Protection for the rights of women and other vulnerable groups

Community land documentation processes afford important opportunities to address intra-community discrimination and injustice and craft local mechanisms to safeguard vulnerable groups' land rights.

Growing land scarcity and increasing competition for land have been shown to exacerbate local power asymmetries and affect a breakdown in the customary rules that equitably govern land holdings and the sustainable use of common resources in rural communities.<sup>130</sup> Research has found that as land becomes scarce, ideas of “belonging” and social ties are redefined: fearing loss of land, customary leaders and families shift from more flexible, negotiable systems of land holding to more rigid, discriminatory interpretations of land rights. In the process, despite the strength and negotiability of kinship-based land claims, customary protections for women's land rights may be disregarded or “forgotten,” while the land rights of less powerful family members become more tenuous. In some contexts, families are reinterpreting and “rediscovering” customary rules that function to weaken women's land tenure security.<sup>131</sup> In practice, this puts those with weaker land claims – including women, orphans, pastoralists, and other vulnerable groups – at the greatest risk of losing their land.

Under community land documentation schemes, land management and administration are necessarily devolved to communities themselves. Yet, if specific mechanisms are not put into place to ensure against intra-community injustice and discrimination, there is a heightened risk that women and other vulnerable groups may lose land to land-grabbing relatives, in boundary disputes with elites community members, and other situations characterized by power asymmetries.

As such, the Community Land Titling Initiative sought to address the issue of how best to facilitate the protection of women's and other vulnerable groups' land rights in the context of community land and natural resource management. Within this query, the Initiative investigated the following subsidiary questions:

<sup>130</sup> See generally Cotula (2009), Peters (2004); Whitehead and Tsikata (2003), Woodhouse. (2003).

<sup>131</sup> See Mathieu et al., (2003), Peters (2004); Giovarelli (2006); Peters (2004); Quan (2007); Yngstrom (2002); Cotula and Toulmin (2007); Whitehead and Tsikata (2003); McAuslan (2000); Adoko (2000).

- Is there a correlation between the level of assistance provided and meaningful participation by vulnerable groups in terms of: participation in community meetings; the drafting, finalization and adoption of community by-laws; and the drafting, finalization, and adoption of land and natural resource management plans?
- Is there a correlation between the level of assistance provided and whether communities adopted safeguards aimed at protecting the land rights of women and other vulnerable groups?

The following section details the field teams' efforts to foster women's active participation in the community land documentation process and the relative success of their efforts according to the level of legal services treatment provided. The section then describes the various impacts of the by-laws drafting process on women's and other vulnerable groups' rights. It concludes that **the process of drafting and revising community rules for land and natural resource management may open up an authentic space for women and other vulnerable groups to question rules that disadvantage them and advocate for rules that strengthen their land rights and tenure security.** However, to achieve such positive outcomes, legal and technical facilitators must actively foster women's active participation in project activities.

### **Women's participation in community land documentation activities**

Throughout the documentation process, SDI worked both to teach communities about women's land rights under Liberian law and to ensure the participation of women and other marginalized groups in all community land documentation activities. To achieve this, SDI adopted the following strategies:

- Suggesting that each paralegal treatment community elect one male and one female paralegal;<sup>132</sup>
- Suggesting women's inclusion on the interim coordinating committees;
- Urging communities to include the voices and interests of women, youth, and strangers in all activities throughout the project;
- Scheduling SDI-run community land documentation meetings in places and at times that women could more easily attend;

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**132** Unfortunately, only one of the ten paralegals selected was a woman; the communities explained that among their residents, most women were not literate and therefore not suited for the position.



- Requesting that paralegal and education-only treatment communities organize and schedule all of their meetings at times and locations that accommodated working hours and allowed for full participation of all community members;
- Instructing paralegals to mobilize women and other vulnerable groups to attend their meetings, among other efforts.<sup>133</sup>

These strategies appear to have had some effect: cross-national statistical analysis found that during the duration of the intervention, women's participation rates in all three treatment groups were significantly higher than women's participation in the control group. However, the analysis also found that paralegal treatment was the only treatment to significantly increase women's participation rates as compared to their participation the year before the project. **The paralegal treatment achieved slightly higher rates of attendance and verbal participation than all other treatments during the intervention.** The cross-national analysis also reveals that the paralegal treatment had a slightly higher impact on the number of project meetings each female respondent attended: 56% of women respondents in the paralegal group communities reported attending three or more meetings, in comparison to 47% of full service women respondents and 46% of education-only women respondents. Across all three analyses, the paralegal treatment proved to be the most robust.<sup>134</sup>

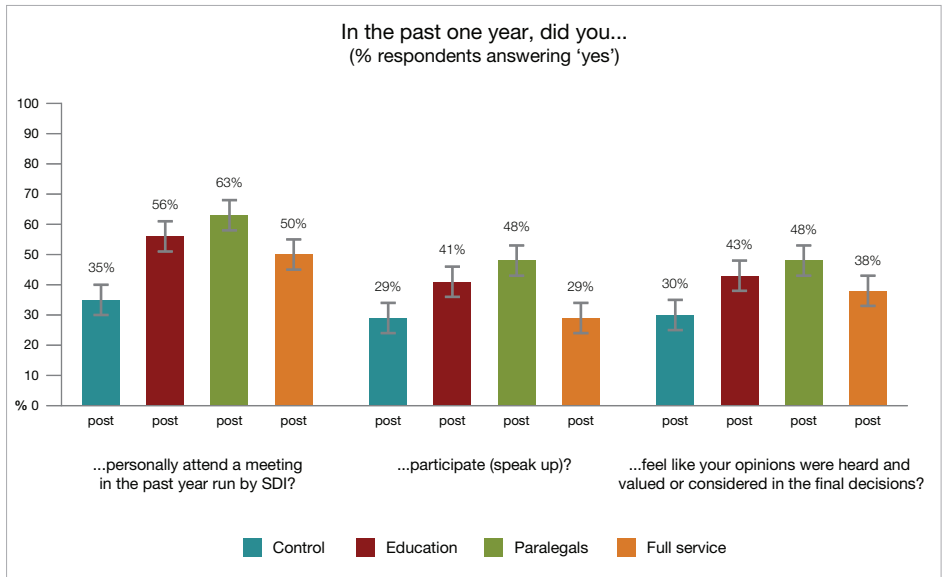
The Liberia data align with the cross-national analysis: in Liberia, women's attendance and verbal participation were highest in the paralegal treatment group (63% and 48%, respectively), with the education-only treatment group following closely (56% and 41%, respectively). Interestingly, women's verbal participation rates in the Liberian full-service treatment group were similar to that of the control group.

Notably, the Liberian women's responses illustrate that only a third to a half of the women who attended meetings spoke up to raise their ideas and opinions, indicating that more effort must be made in this regard. However, of those women who did speak up, the data indicate that all or almost all of them reported feeling that their input was acknowledged and valued by their communities.

<sup>133</sup> Although not undertaken by SDI, in Uganda the project made great gains in women's involvement by holding special "women's conferences," or women-only meetings whose purpose was to support women to identify issues that affect their land and natural resources rights and empower them to address these issues during community land documentation meetings.

<sup>134</sup> The paralegals' success in increasing women's participation in project activities was likely due to their constant presence in their communities, their greater knowledge of women's schedules, and their ability to mobilize their communities on a daily or weekly basis.

**Figure 10: Women's reported attendance and participation in project meetings in Liberia**



## Impacts of the community land documentation activities on women's rights

Analysis of the study communities' protection of vulnerable groups' rights leads to the conclusion that, if well-facilitated, the process of drafting community by-laws may open up an authentic space for women to question rules that disadvantage them and advocate for rules that strengthen their land rights and tenure security. Indeed, the by-laws drafting process proved to be the centerpiece of SDI's efforts to facilitate communities to create local mechanisms to protect and support the land claims of women, youth, and strangers. Because it allowed the space and time for communities to publicly reflect on and discuss their existing rules (and the underlying reasons for these rules), the by-laws drafting process created the opportunity for these groups to actively question discriminatory norms and practices. In most communities, the resulting challenges to inequitable customary rules led to the strengthening of women's and strangers' land rights, at least as recorded in the second and third drafts of their by-laws.

Specifically, SDI noted two important impacts of the active involvement of women in the by-laws drafting debates. First, **community perceptions of women's right to participate in discussions on land and natural resources (procedural rights) began to change.** Second, **women and other vulnerable groups successfully impacted the content of their community's rules (substantive rights).** These findings are detailed below.

### **Impacts on women's procedural rights**

SDI observed that while Liberian women tended to remain silent throughout the boundary harmonization activities,<sup>135</sup> women became quite vocal during the "shouting out" of communities' existing rules and ensuing debates and discussions.

Women's active participation in the by-laws drafting discussions appears to have shifted community perceptions of women's "role" or "place" in land governance. Both women's and men's focus groups reported that prior to the project, it was not considered appropriate for women to take part in discussions about "land business." Indeed, at the start of the project, community meetings were limited to a few male elders. Positively, SDI observed that **community meeting dynamics shifted significantly over the course of the project as women and youth became increasingly engaged.** Such observations were substantiated by post-project focus groups, who explained that as a direct result of the project activities, women now took part in community decision-making about land and natural resource management.

Describing this trend, a female Town Chief explained, "Men look at things differently than before. First women were not allowed to talk in land business; now we are invited to all the meetings!" Similarly, a women's focus group described, "Before, women were not allowed to discuss certain things, like land matters. But now, women are taking part ... before, only the elders made decisions for us, but now, the youths and women are involved." Other women's focus groups explained, "Now we can talk all together about women's rights and how women can own property;" "We talked, and they listened to us;" "Our opinions were respected;" and "Yes, we the women were talking about our rights!" In another focus group of men, the men reported that women "are now considered as part of the decision-making committee."

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<sup>135</sup> Not only in Liberia, but across all three study nations, women generally remained quiet throughout the boundary harmonization efforts. This was very likely due to the widespread perception that, in the context of a patrilocal social structure, boundary negotiations – and boundary conflicts – are "men's business."

Notably, in one focus group, a woman reported that she would accept any decisions made by the community elders, even if such decision disadvantaged her. In response, another woman argued with her, saying that she would challenge any law that infringed on her rights. She encouraged the first women by explaining, "Things have improved. Women are now respected and can talk in meetings. You see: we are now talking about land issues!"

SDI observed that such changes occurred within the context of persistent demands from women and youth. In one community, for example, a woman expressed her disappointment that the town hosting the meeting did not have a woman representative present. Remarkably, this observation prompted the town elders to dispatch a team tasked with mobilizing town women to attend the meeting.



Community member signing MOU attesting to the harmonized boundaries of her community's land.

Yet focus groups also reported that the situation was nuanced. A female Town Chief expressed frustration that women were not assertive enough during meetings and added, “Women don’t like to attend meetings.” However, it may be that non-attendance was less a matter of choice and more a matter of having to fulfill gender-based obligations. Some women reported that they missed many meetings because they were busy working; other women reported that even though they attended meetings, they felt “shy to speak” because “land is not thought of as ‘women’s business.’” Moreover, some women’s focus groups reported that they felt either actively excluded or that no authentic space was made for them to truly participate in discussions, describing how, “Yes; we talked, but there were more men than women, and the men say more things than the women” and “Sometimes people argue and it is hard for women to talk.”

Moreover, both men’s and women’s focus groups were candid in their description of how “men still make the decisions” and “men are the leaders.” For example, in one community, the women explained that although they “agreed that under the law, men and women are the same, men still decide things in the community; they are the head of the family.” Such statements indicate the need for further technical and legal support to help women substantiate the *de jure* gains made in the by-laws drafting process.

### **Impacts on women’s and other vulnerable groups’ substantive rights**

In Liberia, the by-laws and natural resource management plan discussions very clearly prompted substantive changes in women’s and other vulnerable groups’ rights.<sup>136</sup> To assess treatment group impact on protections for vulnerable groups, a statistical analysis of the number of provisions in communities’ by-laws and natural resource management plans that could be interpreted as strengthening the land rights of women, strangers and other vulnerable groups was undertaken. Cross-nationally by treatment group in Uganda and Liberia,<sup>137</sup> analysis of the communities’ by-laws shows that:

**136** It is important to note that in the study communities, not all women were treated the same. Focus groups stated that “women from another town” or “stranger women” (i.e., women who married into the area but were born in another location) still did not get the same treatment with respect to land rights and inheritance of land as women who were born in that town. One group explained, “Native women are shown favoritism; stranger women are always considered as strangers in the community.” In particular, the issue of divorce was discussed in many communities. People reported that, in most cases of divorce, stranger women are expected to return to their families, forsaking the land they claimed under marriage with their husband. However, SDI also observed that widows were generally allowed to stay on their lands after their husbands passed away: communities reported that a widow may stay if she “choose[s] to stay in her husband’s house.”

**137** Because the Mozambican communities did not progress farther than brainstorming a list of their current community rules, they did not establish any intra-community mechanisms to ensure that women’s land rights are safeguarded. See the full international report for discussion of this trend, available at: <http://www.namati.org/work/community-land-protection/phase-one-findings-and-reports/>

### Inclusion of rules in community by-laws that serve to strengthen the land and natural resource rights of women and other vulnerable groups

- The control group included an average of 0.8 provisions.
- The education-only group included an average of 4 provisions.
- The paralegal group included an average of 5.5 provisions.
- The full-service group included an average of 2.8 provisions.

Cross-nationally, while all treatment groups were found to have a statistically significant, positive effect, the paralegal treatment ensured the strongest performance in this realm.

In Liberia, in the 14 communities that completed a second draft of their by-laws, the by-laws included an average of 2.9 provisions protecting the rights of women, children, and strangers. Examples of such provisions include:

- “If any citizen from our town go out and marry different woman or man and come home, and they have children and properties and our brother/sister dies, that property is belonging to the woman and her children of the man and his children;”
- “If there is a property for a dead man, the widow is to take that property, except [if] there is an agreement between the widow and her husband’s family;”
- “A married man is not allowed to beat his wife in the bush or on the farm. Penalty is LR \$600;”
- “No raping is allowed; anyone found raping will be turned over to the authority (police);”
- “No one is allowed to beat his/her friend child/children. Anyone who beats his/her friend child/children and causes body harm will pay not less than LR \$1000 to treat the child/children and continue to pay money until the child/children get better.”

Interestingly, the most prevalent new rule concerning women in almost every community’s by-laws did not concern land, but rather forbid domestic violence against women. The inclusion of these provisions in almost every community’s by-laws – above and beyond the number of provisions establishing women’s land rights – indicates that, given the chance to advocate for their rights, land

ownership was not the issue at the forefront of women's minds. Rather, women appeared to be more concerned with the abolition of domestic violence.<sup>138</sup>

In addition to detailing new rules proscribing domestic violence, both men's and women's post-service focus groups in all treatment communities described that now "Women are allowed to own land." Focus groups explained how, in their by-laws, "Women are ... allowed to own land just like men. They can inherit land just like men;" "Yes, now women can own property. Also, if your husband dies you get part of his property; that's what the law now says;" "Talking about the law has made women to have greater protection in our town;" and "Because of SDI's teachings, women are now people. The law says we can own land too."

In one community, the men's focus group explained, "Women can do the same things men can do. Women can own property now, do business, farm, and even do mining business." These gains clearly came after intense discussion: one women's focus group described, "Yes, some people thought women should not have property, but we argued for women." Focus group responses indicate that such rule changes were a result of both SDI's legal training as well as community debate concerning local norms and practices.<sup>139</sup>

Some focus groups' analysis of women's new land rights paint a nuanced picture of these as-yet *de jure* changes. In one community, when his focus group answered that women now had the same land rights and access as men, one man in the group disagreed, arguing, "Women and men don't have the same land rights. In practice, the land belongs to the men. We need to start changing that." Such discussions illustrate the as-yet still largely theoretical nature of the new rights that the communities included in their by-laws. However, this man's assessment that "we need to start changing that" may indicate some degree of positive conceptual change.

Finally, pre- and post-service survey respondents were asked who is considered responsible for helping to protect widows' land claims. Across all treatment groups, a significantly higher percentage of respondents placed the responsibility for protecting widows' land claims on their local leaders (both customary and state – the town chiefs, clan chiefs, and paramount chiefs) as compared to all other groups.<sup>140</sup>

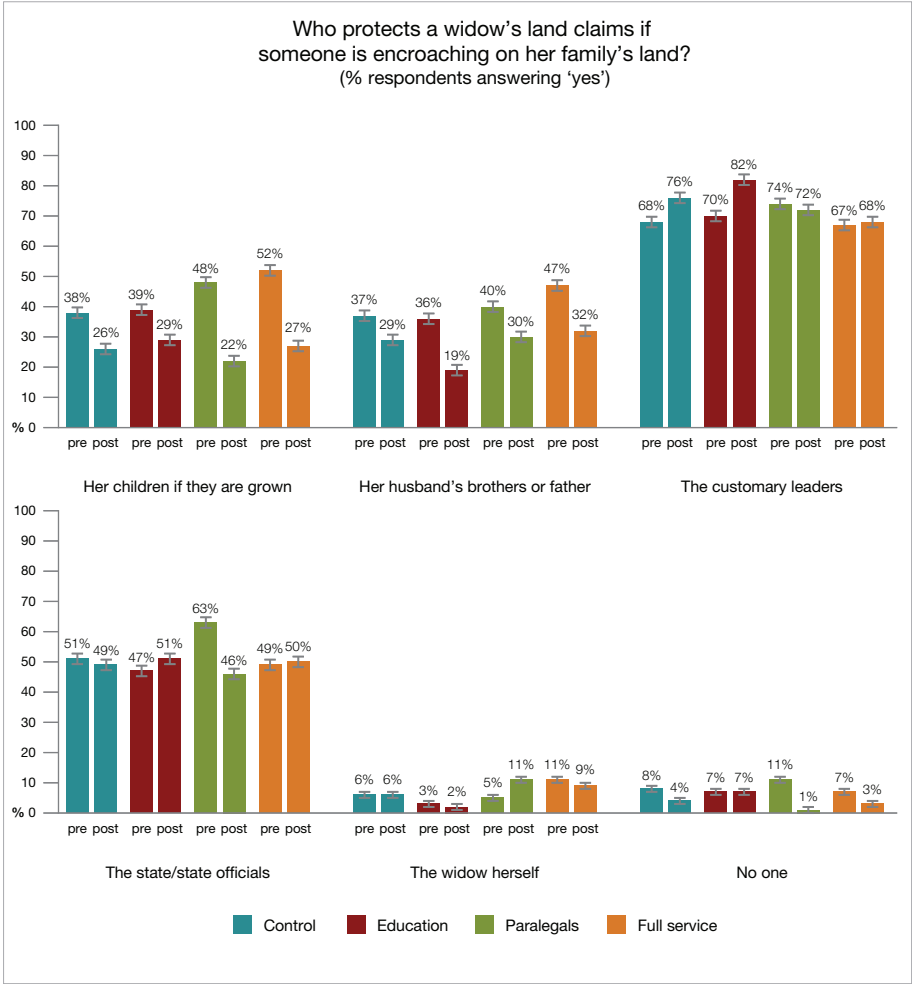
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**138** The results of this initiative might be investigated to determine if similar exercises could be replicated specifically to address gender-based violence.

**139** Interestingly, while facilitating full-service communities' discussions, SDI observed that the by-laws drafting process often leveraged women's existing knowledge of their rights according to Liberian law. In particular, women's rights under the Devolution of Estates and Establish Rights of Inheritance for Spouses of Both Statutory and Customary Marriages Act 2003 were leveraged, which clearly sets out that women's inheritance rights under common law marriages also apply to customary marriages. Similarly, SDI occasionally observed various community arguing, "That is against women's rights!" or "That is against human rights!"

**140** It is interesting to note that significantly fewer post-service respondents placed the responsibility of protecting widows' land rights on the widows' in-laws and children; perhaps the legal education provided helped to shift this responsibility from the family to the local leadership. This may not be a positive outcome: it is arguable that both family members and local leaders should be seen as responsible for protecting women's land rights.

Figure 11: Liberian data: Who protects a widow's land claims?





These data illustrate the importance of working with customary leaders to support their role as protectors of women's land rights. **In rural areas where access to the formal justice system is difficult, rather than marginalizing customary leaders as the central figures in a discriminatory legal paradigm, women's rights advocates should leverage customary leaders' role as protectors of women's and other vulnerable groups' land rights.** Efforts should be made to support customary leaders' fulfillment of this responsibility; they should be trained and cultivated as allies in the defense of women's land rights. Such efforts may lead to authentic improvements in the protection and enforcement of women's land rights at the local level. Positively, post-service focus groups held with community leaders indicate that customary leaders are open to learning more about national laws and shifting communities' practices to align with the laws, including those that protect women's land tenure security.

### Changes to “strangers” rights

The by-laws drafting process also appears to have impacted ideas of strangers' rights in the study communities. In Rivercess, most communities have very strong rules about belonging and exclusion. In local terms, a “stranger” is a person not born into the community where he or she is currently living. Traditionally, strangers cannot plant “life trees” and are not considered owners of the land. Communities justify restricting strangers' land use rights on the grounds that strangers are either merely passing through and therefore have no investment in or responsibility to the community, or that strangers are not known well enough to be trusted. However, SDI observed that communities' conceptions of “who is a stranger” were usually vague and often defined on a case-by-case basis, with each community deciding for itself who was a stranger, whether he or she could own land, and on what terms.

When introducing the process of writing down community by-laws, SDI stressed that communities should not write laws that contradict the Liberian Constitution or discriminate against any group's rights. To this end, SDI made a particular effort to provoke debate about strangers and to guide the conversation toward themes of inclusion, belonging, and equality. Rich discussions resulted from SDI's prompting. For example, in one community, when people argued that strangers could not own land, other community members questioned, “What if they are living here for ten years? Fifteen

**141** “Life trees” are resource-bearing trees such as rubber, orange, and mango, which under custom establish the planter's ownership claim to the land.

years? Twenty years?” The question then became “Who is a stranger?” In another community, a woman who was a teacher and came from another clan asked, “We who are strangers but who built our houses here, are married here, got children here – are we to be part of the process of making these rules?” The community thought about it and said, “Yes, why not?”

As a result of such discussions, communities made robust changes to their community rules. For example, one community included a rule in their by-laws that, “A stranger who lives in a town for twenty (20) years is considered a citizen. During death his children and wife/family will be consider[ed] citizens, therefore they can own land and property.”

To verify these observations, SDI questioned post-service focus groups about local concepts of inclusion and exclusion, asking, “Who is included in local understandings of land ownership in your community? Who is excluded?” Focus groups in a number of communities explained that they had indeed changed their rules about strangers during the process of writing their by-laws, and that their definition of “stranger” had now shifted from someone from outside the community to someone who is from another country. One focus group participant explained, “Everyone in the community is included; no more “stranger business” as long as you are a Liberian and decided to live among us. You have to follow the community rules before you are considered a part of the community. After that, you have the same access rights as everyone else.”

While analysis of the communities’ by-laws and the field teams’ observations indicate positive trends, long-term research and monitoring are necessary to fully comprehend the project’s impacts on women’s, strangers’ and other vulnerable groups’ land rights. The study communities’ implementation and enforcement of such provisions will be the true test of genuine impact.

To fortify the gains made, women, strangers, and members of other vulnerable groups must actively flex their new procedural rights and continue to attend and participate in community meetings concerning management of land and natural resources. The women themselves are acutely aware of this: one women’s focus group said, “We don’t know if people will follow the laws; we want to see the laws working. Also, women need to start going to meetings. I think if women start going to meetings, it will be good for us.” Further legal and technical support will also be necessary to ensure continued enforcement of women’s and other vulnerable groups’ procedural and substantive rights.

## Main findings

1. If well-facilitated, the process of drafting and revising community rules for land and natural resource management may open up an authentic space for women and other vulnerable groups to question rules that disadvantage them and advocate for rules that strengthen their land rights and tenure security.
2. Legal and technical facilitators may need to take special actions to ensure women's active participation in project activities, including:
  - Carrying out a gender analysis and crafting strategies to proactively address gender inequities that have the potential to negatively impact community land documentation;
  - Planning community land documentation meetings to take place at convenient times and locations, after women have completed their house and farm work; and
  - Convening special women-only meetings to identify issues that affect women's rights and participation, and empowering women to address these issues during community land documentation efforts.
3. Paralegal support may be the "minimum" level of external intervention necessary to ensure women's robust participation; the data appear to indicate that the education-only and full-service treatments were generally less successful at promoting and ensuring women's participation in community land documentation activities.
4. The active involvement of women and other vulnerable groups in the by-laws drafting debates appears to have strengthened women's procedural and substantive rights in their community.
  - Procedurally, community members' perceptions that land is "men's business" shifted as a result of the process, women's opinions appear to have been taken seriously during discussions, and many communities' by-laws include provisions that women and youth must have elected representatives on governing bodies responsible for community land and natural resource management.
  - Substantively, communities adopted provisions to strengthen and protect women's land rights and to align community rules with national laws.

- Surprisingly, in many communities women leveraged the by-laws drafting process to call for strict prohibitions against domestic violence.
- 5. Custom does not necessarily undermine or weaken women's land rights. A well-facilitated process of reviewing and amending custom to align with national laws opened a space of dialogue in which it was possible to strengthen women's existing land rights within customary legal constructs. To this end, customary leaders may be important allies in the enforcement of women's land rights, as the data indicate that communities consider customary leaders primarily responsible for the protection of women's and widows' land rights. Customary leaders have indicated that they are open to shifting local practices to align with national laws.

## 6. Findings and recommendations



Community leaders at a SDI training in Rivercess.

## 6. Findings and recommendations

In the context of the Liberian government's continued granting of vast land concessions to investors for large-scale agricultural enterprise and forest and mineral extraction, rural communities have a strong desire to seek formal documentation for their customary land claims. Among the communities participating in this study, this desire was so pronounced that, even when provided very little external support, community members persevered through difficult and time-intensive land documentation activities on their own, oftentimes holding hours of community meetings each week to accomplish the necessary tasks.<sup>142</sup> The study communities' ambitions are not unique; a process through which communities can pursue documentation for their land rights is necessary, and will become increasingly necessary as growing land scarcity contributes to the prevalence of land conflicts throughout Liberia.

The cross-national data illustrate that community land delimitation activities may present a rare opportunity to create positive intra-community change that extends beyond documenting and registering the boundaries of community land. If done well, community land delimitation efforts that include extensive, participatory discussions of all customary rules for local land governance and resource management may help to:

- Resolve long-standing land disputes and reduce future land conflict;
- Improve governance and establish local mechanisms to enhance the downward accountability of community leaders;
- Encourage transparency and equality in rule enforcement;
- Stimulate communities to conserve and sustainably manage the use of natural resources;
- Align community norms and practices with national law; and
- Strengthen the rights of women, strangers, and other vulnerable groups.

The central finding is therefore that the community delimitation process should be a tripartite endeavor, consisting of **(1) the technical task of mapping, documenting and protecting community lands, (2) the peace-building task of land conflict resolution, and (3) the governance task of strengthening local land and natural resource management and promoting equity.**

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<sup>142</sup> Indeed, even the control communities successfully completed an average of 45% of the community land documentation process; they accomplished this by secretly sending emissaries to listen in on the full-service and paralegal communities' meetings, approaching neighboring paralegals for advice, and otherwise going to great lengths to get necessary procedural information.

This section summarizes the study's main findings and sets out recommendations for policy and implementation. The policy section addresses the framework of national legislation and regulations, and may be most useful for Liberian policy makers and those involved in advocacy. The implementation section includes practical recommendations for state or civil society agencies working to facilitate community land documentation efforts in the field.

It is important to reiterate that the following conclusions are necessarily preliminary. Due to the limited study period and the various administrative obstacles described above, none of the study communities have yet been issued deeds for their land. Further fieldwork and community support is therefore warranted. Additional investigation is also necessary to determine the long-term social and economic impacts of documenting community land rights.<sup>143</sup> Moreover, continued engagement is required to understand how to best support community efforts to safeguard harmonized boundaries and implement newly adopted by-laws, and to discern what additional assistance is necessary to ensure that documented community land claims are truly protected over the long-term.

## Findings and recommendations for policy makers

### 1. Make community land documentation and protection a priority.

In the current context of Liberia's issuance of large-scale land concessions for palm oil, logging, and mining investments, existing community land claims must be actively protected. **By continuing to allocate land concessions while failing to take concrete steps to protect community land claims, the government is increasing land tenure insecurity in rural areas throughout Liberia.** The potential negative impacts of the concessions may include food insecurity, environmental degradation, increased competition for land, and an associated increase in land conflict, which may have more wide-ranging destabilizing effects.

**Once Liberia's new land policy is enacted, communities' customary land claims should be prioritized for protection.** The Liberian government must craft a policy and pass laws that support the efficient, just, and equitable documentation of customary land claims, at a pace designed to document large numbers of communities across Liberia in a relatively short time period. The communities themselves urgently desire to document their customary

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<sup>143</sup> To undertake these activities, Namati and SDI will join together under the aegis of Namati's Community Land Protection Program. See <http://namati.org/work/community-land-protection/> and the afterword, below.

land claims. Liberian policymakers should anticipate an immediate high demand, and establish proper protocols and systems to ensure that the government can review and process all applications at an appropriate pace.

**A policy focus on documenting family and individual lands will be expensive, time-consuming and leave rural communities vulnerable as a group.** Critically, family and individual land titling efforts fail to protect the common and reserve areas upon which communities depend. Yet, these common and reserve areas are often the first lands governments allocate to investors, elites, and state development projects. In contrast, community land documentation has the potential to safeguard an entire community's land at once.

**Furthermore, registering community land as the “meta-unit” may be the least costly – and most scale-able – means of protecting rural households’ land claims.** The research found that even when providing full legal services, community land documentation efforts cost only a few thousand dollars per community. In Liberia, a rough estimate of the costs (not including GPS costs) came out to \$7,700 USD per community. These figures include community meeting costs, staff salaries, petrol, office rent, office supplies, per diems for government technicians, and all other community land documentation-related costs. While cost estimates for individual titling vary widely according to national legal framework and economic context, one global analysis found first-time household land registration costs to occasionally exceed \$100 USD per parcel, with average costs between \$20 and \$60 USD per parcel.<sup>144</sup>

**For a hypothetical community of 500 families and large common areas, registering the community as a whole would cost less than half of efforts to register all individual or family lands.**

Once the community as a whole has been documented and registered, the focus may turn to intra-community documentation of family and individual lands. This process may thereafter go more smoothly, as community members will already have learned and practiced strategies for land conflict resolution and boundary harmonization.

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**144** Tony Burns, *Land Administration Reform: Indicators of Success and Future Challenges, Agriculture and Rural Development Discussion Paper 37* The International Bank for Reconstruction and Development/The World Bank. 2007.



## 2. Make all community land documentation processes local, accessible, and inexpensive, so as to allow them to be truly “usable and used” by rural communities.

To facilitate community land documentation efforts, the administrative procedures necessary to document customary land claims should be accessible, streamlined, practical, and easily navigated by rural communities. To this end, laws and regulations should:

- **Administer and process community land documentation applications at the county level, rather than in the national capital.** Whenever possible, government land administrators should travel to communities to provide support and assistance, process application documents, and verify details.
- **Permit the use of GPS technology.** The high costs of hiring a licensed land surveyor essentially prohibit poor rural villages from seeking formal documentation of their land claims. Moreover, the degree of technical specificity required for a formal survey (measurements accurate to the centimeter) is unnecessary when documenting community boundaries. Regulations should eliminate the requirement of a technical land survey and instead allow for the use of Global Positioning System (GPS) technology to record the dimensions of community lands.
- **Impose only reasonable procedural burdens, which take into account the income, capacity, language, and literacy restrictions of rural community applicants.** Policy makers might:
  - » Widen the definition of proof to include customary evidence of land claims;<sup>145</sup>
  - » Mandate that state officials support communities to fill in all required forms and otherwise address any procedural obstacles related to language and literacy; and
  - » Eliminate all but the most nominal application fees, including fees related to land surveys, GPS procedures, and the creation of technical maps. The community land documentation process should be free or extremely low cost.

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<sup>145</sup> See, e.g., J. Unruh, ‘Land Tenure and the “Evidence Landscape” (2006) 96(4) *Developing Countries’ Annals of the Association of American Geographers* 754–772.

### **3. Make improved local land governance a central objective of community land documentation processes.**

Community land documentation process should not only aim to formally register community land claims, but also to stimulate improved intra-community land and natural resource governance. To this end, legislators and policy makers should structure community land documentation procedures to include community-wide, democratic, and fully participatory discussions concerning how to best manage community lands and natural resources.

Such processes are critical; while documentation of community land rights provides protection against land usurpation by outsiders, documents alone can do little to protect against intra-community threats to common lands. Nor can formal recognition ensure that communities protect, conserve, and steward their resources for community development. **To permit a community to apply for land documentation without implementing systems for transparent, just and equitable administration of that land is an invitation for mismanagement, corruption and local elite capture.**

Members of all study communities reported that the pilot land documentation process provided the opportunity to publicly discuss and evaluate community rules and norms for the first time in living memory. Throughout the exercise, community members had the opportunity to argue against rules they felt to be arbitrary and discriminatory, and to advocate for the inclusion of rules that would protect their interests. As a result, the process appears to have made four significant shifts in various facets of local governance. The findings indicate that the process:

- Enabled community members to directly participate in governance decisions previously made solely by customary and state authorities;
- Created the opportunity for community members to institute new mechanisms to hold local leaders downwardly accountable;
- Allowed communities to establish consistent norms and institute clear, publicly known penalties for infractions.
- Helped to align local custom and practice with national law.

To leverage the land documentation process to improve community land governance, policy makers and legislators should:

- **Mandate procedures through which communities must examine and amend existing community rules, norms and practices.** As in the pilot process set out in the MOU with the Land Commission, communities

seeking to document their lands should discuss community norms and practices and formally adopt a set of by-laws.<sup>146</sup>

- **Before approving a community's land documentation application, government officials should complete a mandatory check that the community's rules comply with national law.** Where differences between customary norms and national legislation arise, facilitating civil society agencies should conduct additional awareness-raising and legal training activities that promote community understanding of the discrepancies. Community members may then be supported to complete another round of discussions to alter their rules as necessary. Once the community formally adopts its agreed rules, community members (and the state) can hold local leaders accountable to fair rule enforcement.
- **Make the by-laws drafting process a parallel component of the land documentation process, allowing the land documentation application to go forward – thus protecting the lands in question within the national registry – with established mechanisms to ensure that the applicant community's by-laws are completed within a reasonable period.** The by-laws drafting process requires significant time and facilitation support. If by-laws drafting is a prerequisite for filing community land documentation applications, it could stifle local enthusiasm and result in poorly drafted by-laws that do not reflect full community participation. Alternatively, the process may leave community lands unprotected as communities take the time to fully discuss their rules for land and natural resources administration and management. Allowing applications to be submitted as the by-laws are being developed can help to avoid these potential pitfalls.
- **Mandate the creation of elected intra-community governance structures.** To ensure downward accountability and a community check on the powers of local authorities, land documentation processes should include the creation of an elected group of men and women who determine land matters in concert with the wider community.<sup>147</sup> Communities may compose these governing councils of both existing local leaders (and/or members of pre-existing land governance bodies) as well as representatives of vulnerable groups elected through transparent and participatory

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**146** Importantly, law should ensure that communities adopt by-laws by a process other than simple majority vote. Allowing an absolute majority to vote to adopt community by-laws has the potential to marginalize members of minority or more vulnerable groups. Although consensus is ideal, a super-majority vote system may be most feasible.

**147** Communities' creation of new bodies to manage and administrate community lands and natural resources is key for two central reasons: first, to ensure that the leadership includes women, youth, and other groups previously marginalized from community leadership positions; and second, to ensure that the governing body complies with the new by-laws. Relatedly, the creation of a new governing body by election signals an immediate enactment and enforcement of the community by-laws.

processes. This composition may help to ensure that the governing bodies are both respected and adequately representative of the diversity of stakeholder interests. **To create checks and balances against intra-community discrimination and elite capture, communities should provide for universal suffrage and regular all-community meetings in their by-laws.**

- **Vest the rights to the land in the community, and allow for the community name to be on the title, deed, or final community land registration document.** Governments should issue all deed or title documents in the name of the community, and assign the actual rights to the land to the community as a whole. Allowing a few individuals' names to appear on the land registration document may more easily facilitate corrupt land and natural resource management or illegal sale of community land and resources.<sup>148</sup> To effectuate this, the land documentation process should include the creation of a trust, association or corporate body in whose name all community documents may be registered. The elected community land management body should have explicit responsibility to manage community land according to the fiduciary duties that a trustee owes trust beneficiaries or a corporate board owes stakeholders. All land registration forms and other implementation materials should be designed to accommodate community land documentation.

#### **4. Ensure that new land policies and legislation explicitly call for the creation of local mechanisms that protect women's and other vulnerable groups' land rights.**

It is not enough to simply declare that women and other vulnerable groups have land rights; **the law and its accompanying regulations should mandate express protections to ensure that rights of women and other vulnerable groups are implemented and enforced at the local, regional, and national level.** Such interventions might include:

- Establishing a process by which women and other vulnerable groups can take action to ensure that intra-community rules for land and natural resources governance enshrine and protect their rights;
- Ensuring that all formal or informal family land documentation application forms include spaces for the names of both the husband and the wife or wives;

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**148** Furthermore, governing officers are elected, non-permanent managers who may no longer be in office after the second election cycle. As such, putting their names (or any other individual names) on the final document will mean that the document will become inaccurate and require a change of title the moment new officers are elected or the named individuals pass away. Any process that necessitates frequent change of title procedures will add administrative hurdles, make the community land documentation process more difficult, or weaken the accuracy and strength of the final community land registration document.

- Including provisions in national legislation that safeguard women's land rights (for example, requiring that the written consent of all adult family members living on the land be obtained before land can be sold or mortgaged);<sup>149</sup>
- Establishing that any community land and natural resource administration and management body include female representatives who represent women's interests;
- Training local leaders to play a more active role in protecting the land claims of women and other vulnerable groups; and
- Creating local, accessible, and culturally acceptable mediation/arbitration mechanisms (composed of both customary and state leaders and elected women representatives) to resolve cases concerning the violation of women and other vulnerable groups' land rights, among other protections.

## **5. Establish support, facilitation, and oversight roles for government officials both during and after the community land documentation process.**

Local and regional government officials have an important role to play as supporters of community land and natural resource management. When legal frameworks devolve control over land and natural resource management to rural communities, governments should empower those district and regional officials previously in charge of local land administration to take on the role of supporters, trainers, and advisors. To this end:

- Local and regional land officials should actively provide support to communities throughout community land documentation efforts. With proper training and funding, officials can:
  - » Provide legal education to improve communities' awareness of their land rights and develop community capacity to complete relevant administrative and judicial procedures;
  - » Provide conflict resolution support during boundary harmonization;
  - » Witness MOU-signing ceremonies documenting harmonized boundaries;
  - » Provide support during by-laws drafting processes;
  - » Verify that community by-laws align with national law and uphold constitutional guarantees;

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**149** This is the law in Uganda. *Uganda Land Act 1998*, section 39.

- » Supervise all GPS, surveying, and boundary demarcation activities; and
- » Be available to answer community land documentation-related questions and provide technical support on an as-needed basis, among other activities.

This assistance should be request-based, rather than mandatory, as requiring state oversight will likely stall or impede community progress.

- Local and regional land officials should provide long-term support for community land and natural resource administration and management after the community land documentation process is complete. Communities will likely require a range of on-going government support after obtaining documentation. Such assistance might include:
  - » **Providing technical support for intra-community land and natural resource administration and management.** To help communities sustainably and equitably manage their land and natural resources, government officials may provide technical support, land dispute resolution assistance, and capacity-building trainings for elected governing councils and community leaders, among other help.
  - » **Protecting community lands from encroachment by elites and local power holders.** Necessary enforcement support will likely concern both 1) addressing bad faith efforts to appropriate community lands and 2) penalizing illegal resource extraction. In such situations, communities should be able to seek recourse from the police and through the national court system, as theft and corruption are criminal acts under national law. In the event that the “land grabber” is a government official or has ties to powerful local government figures, the central state may need to step in to enforce the community’s property rights.
  - » **Acting as a check against abuse of power by community leaders and elected governing bodies.** Communities may need support addressing corruption, mismanagement, and unjust actions taken by elected local officials. Upon a community’s request, state officials should monitor and supervise community land administration and management bodies to ensure that the elected officers are fulfilling their fiduciary duties and acting in accordance with constitutional principles.

- » **Enforcing women's and other vulnerable groups' land rights, as set out in the national constitution and the community by-laws.** Such enforcement support may include training customary leaders in relevant national law, working alongside customary leaders to jointly address rights violations, and making justice systems and formal rights protections more accessible to rural women and other vulnerable groups.
- » **Enforcing contracted agreements with investors.** State officials should actively support communities' interests during negotiations with outside investors. State officials should also supervise and enforce the fulfillment of all benefit-sharing and/or rental agreements that communities have with investors. An impartial or independent ombudsman may best undertake these roles. Government officials or an appointed ombudsman could:
  - » Provide free legal representation for communities during negotiations concerning land-sharing agreements with investors;
  - » Create regulatory mechanisms to hold investors accountable for delivering agreed-upon compensation to communities. To this end, all community-investor agreements should be written down and considered formal contracts enforceable under national contract law;
  - » Create expedited, easy-to-navigate complaint procedures and appeal processes that communities can pursue, should investors fail to deliver the agreed benefits or rental payments; and
  - » Establish penalties for investors who fail to fulfill their contractual obligations under community-investor agreements.

Such government assistance should be made readily available and accessible via mobile clinics and other means of bringing state support directly to rural communities. These efforts should include both the executive branch of government (including ministry officials, technicians, and police), as well as the judicial branch. Judges and magistrates should actively create legal precedent that enforces the strength and sanctity of customary community land rights.

- To carry out these roles, state administrators may require training on relevant land legislation and related procedures. They should also be sensitized to the needs of rural communities and encouraged to see their role as “solution-providers” and defenders of community rights. Generating such changes in institutional culture is complex and may require both

oversight and the provision of incentives. As such, these measures should be undertaken in combination with wider government efforts to increase state support for community land documentation efforts, including:

- » Allocating state resources to ensure that communities receive government assistance in applying for community land documentation; to this end, regional land officials should be adequately paid for their work and equipped with vehicles and other necessary technical supplies;
- » Creating mechanisms to ensure downward and upward accountability for both state and customary land administrators;
- » Changing incentives for local and regional land administrators to ensure both political will and capacity to help communities to document, protect, and develop their land; and
- » Assisting rural communities to access the technical, agricultural, and financial supports required to successfully leverage land and natural resource rights for community development.

## **6. Assess the feasibility of all proposed processes for formalizing customary land claims before enactment.**

Policy proposals fashioned on best practices from other national contexts should be extensively tested and adapted to the unique situation of Liberia. Implementation difficulties and institutional challenges should be addressed and resolved before the adoption of a law. In this process of adopting legislation, lawmakers should proactively anticipate and address implementation obstacles stemming from lack of political will, low capacity of county and local officials, and resource constraints.



## Findings and recommendations for implementation and community facilitation

### 1. Let communities drive the land documentation process, supported by trained and supervised paralegals.

Giving a community the direct responsibility to complete land documentation work – with guidance from legal and technical professionals and under the leadership of trained community paralegals – appears to be an empowering model for providing legal support during community land documentation.

Statistical analysis of the treatment groups' progress found that the full-service treatment group communities performed more poorly than both the education-only and paralegal treatment group communities across a range of indicators. This finding indicates that leaving communities with the responsibility of completing most project activities on their own motivated them to take the work more seriously, integrate and internalize the legal education and capacity-building training provided more thoroughly, address intra-community obstacles more proactively, and claim greater “ownership” over the community land documentation process than when a legal and technical team completed this work for the community. To support community-driven processes, facilitating agencies should:

- **Let communities define themselves.** Defining a “community” is a complex political process with associated socio-cultural and geo-spatial implications at the local level. It is counterproductive and ill-advised for legislation and/or government agents to define what a community is or should be and impose this structure on existing groups. As such, communities should be supported to define themselves after extensive, highly participatory discussions. Land documentation processes should include a phase that ensures that community members carefully negotiate and determine the spatial/social unit of the “community.” In the event of a disagreement over community definition, state and customary leaders may jointly arbitrate the issue.
- **Let the community choose how it wants to document its lands.** Facilitators should present communities with various options (formal legal documentation, informal map-making and boundary tree planting, etc.) and then leave communities to choose the course of action that they consider best. Guided by community decisions, NGOs might then provide the education and capacity-building support necessary to help communities actualize their land protection choices.

- **Involve all local leaders.** To ensure a fully inclusive process, facilitators should:
  - » **Provide special capacity-building training to community leaders.** SDI found that communities' capacity to successfully complete land documentation processes was directly related to leaders' integrity, management abilities, commitment to the project, and mobilization skills.
  - » **Proactively support the involvement of customary leaders.** Customary leaders' involvement in the community land documentation process is crucial, particularly during activities that involve recounting the history of the community, identifying the boundaries of community land, and identifying all sacred or cultural sites to ensure their protection and preservation.
  - » **Address intra-community power struggles and build inclusive, cooperative processes.** Cooperation between local government leaders and customary leaders is critical to the success of community land documentation activities. Yet SDI observed that the community land documentation activities created conflicts of power, authority, and jurisdiction between leaders. Efforts should be made to proactively address potential power struggles between community leaders and to ensure cooperation and coordination between and within all local power structures, both customary and state.
  - » **Foster regional-level support for the community land documentation work.** Facilitating agencies should encourage communities to invite regional officials to support their land documentation efforts. SDI observed that strong, unified regional leadership (both customary and state) ensured community confidence in the community land documentation process and furthered progress. Such leaders are particularly helpful in the event of intractable land and boundary disputes.
- **Help communities create balanced, inclusive Interim Coordinating Committees.** A serious drawback of working with existing community leadership structures is that they are often not representative of minority towns/minority stakeholders and are likely be composed entirely of male elders. The field teams found that coordinating committees work best when they include both existing leaders as well as a diverse group of new elected members that represent all stakeholder groups. It may be wise to support each community to create an elected Interim Coordinating Committee that is diverse and includes strong, competent representatives of all towns and interest groups, including elders, youth, women, members of groups that practice a range of livelihoods, and all ethnic/tribal minority groups. These individuals may then be given the responsibility for:

- » Mobilizing members of their stakeholder group to attend community land documentation meetings and take part in all related activities;
- » Seeking out the viewpoints of members of these groups and representing their interests during land documentation meetings; and
- » Reporting back to members of their stakeholder group on the content of all meeting discussions and community progress through the land documentation process.

Facilitators should work with these groups to ensure that the existing leaders do not dominate or control all community land documentation activities and decision-making.

- **Encourage full community participation in all community land documentation activities, taking care to include all stakeholders.** To this end, facilitators should:
  - » **Enter communities with complete transparency, calling for full community participation.** At the inception of all community land documentation work, the entire community must be convened to identify community leaders to work with, elect a diverse Interim Coordinating Committee, draw maps, take an inventory of ongoing land conflicts (internal and external), and gather all other necessary information pertinent to community land documentation. Information should be solicited publicly and cross-checked by all stakeholders, including neighboring communities. Discrepancies should be ironed out publicly and transparently resolved.
  - » **Ensure full community participation during meetings.** Attendance at meetings does not always lead to verbal participation, particularly when intra-community power and authority imbalances privilege the opinions and concerns of some groups over others. Facilitators must proactively take measures to ensure that women, youth, and other vulnerable groups feel comfortable speaking up during community land documentation activities. Facilitators should convene women, youth, and elders in separate groups in advance of these meetings to help them to articulate their interests. Other measures may include breaking community meetings into smaller identity-based groups or giving vocal or domineering community leaders the role of moderator to ensure that they speak less while still feeling integrally involved in the process.

- **Leave communities to do much of the community land documentation work on their own, according to local knowledge and skills.** Each community will have its own timing needs based on its particular circumstances. To support communities' individual processes, facilitating agencies should:
  - » **Introduce each community land documentation activity, build the capacity of the community to complete it, and then leave the community to do the work, guided by community paralegals.** NGOs supporting this work should make communities and their leaders responsible for requesting legal and technical support on an as-needed basis. Placing the responsibility on the communities to actively seek support will also help to avoid failed meetings and wasted resources.
  - » **Create workbooks detailing all the community land documentation steps.** The workbooks could include space for communities to take meeting minutes, draw maps, record drafts of community rules/norms, record debates, and keep all of their work in one place. Such workbooks can provide templates and examples of what the various products might look like, suggest advice for overcoming obstacles, and provide a guide for peaceful mediation. After filling out these books, communities may invite civil society and government technicians to review these workbooks and help the communities to improve their drafts until they reach the standards necessary for processing a community land documentation application.
- **Train selected community members as “land paralegals” who can support their communities throughout community land documentation processes.** Well-trained and supervised paralegals proved to be the most effective and efficient method of supporting community land documentation efforts. Paralegals proved to have a significant, positive impact on communities' capacity to complete the land documentation activities. Paralegal assistance appears to:
  - » Help communities address intra-community obstacles that outside technicians or lawyers cannot recognize or resolve;
  - » Increase community participation;
  - » Foster empowerment and create a sense of community ownership over the community land documentation work by allowing the process to be more internally-driven; and
  - » Strengthen both their own community's capacity as well as the capacity of neighboring communities by being available locally on a daily basis.

Once the community land documentation activities are complete, communities may continue to benefit from having two trained paralegals in their community. These paralegals may be leveraged to link their community to legal and technical support services in any forthcoming land and natural resource–related conflicts or negotiations with government and investors.

However, it is important to note that community-based paralegals often have very low initial capacity and need frequent training, supervision, and support by a legal and technical support team.

## **2. Provide targeted legal and technical assistance to communities to ensure that they complete community land documentation efforts successfully.**

While motivated communities can perform much of this work on their own, communities need targeted legal and technical assistance to successfully complete community land documentation efforts. SDI observed that communities are able to elect and form coordinating committees, harmonize boundaries with their neighbors, resolve some land conflicts, draw participatory maps, complete simple zoning plans, and compile the first drafts of their community rules/by-laws with minimal technical assistance. However, communities struggled to complete some aspects of the community land documentation process. SDI's observations – and the communities' experiences – indicate that for community land documentation processes to progress smoothly, lawyers and technicians must:

- **Rigorously train communities on the full arc of the land documentation process and provide periodic legal education and capacity-building training** concerning the community's legal rights to their land, the legal process to formally document these rights, and how to successfully complete the necessary procedures;
- **Provide mediation and conflict-resolution support during significant, particularly contentious land conflicts** that communities are unable to resolve on their own;
- **Provide legal support and technical assistance during the completion of the community's second and third drafts of their by-laws;**
- **Implement a women's empowerment/participation strategy** to ensure women's full participation in all community land documentation activities; and

- **Support communities during all administrative processes**, including contracting and liaising with government agencies, working with land surveyors/GPS technicians, and completing and filing of application forms and related documents.<sup>150</sup>

In addition, it is critical that a professional team closely supervise each community's efforts, not only to ensure that community land documentation activities are progressing smoothly and without conflict, but also to step in when necessary and demonstrate to all stakeholders (government officials, investors, local elites) that the community's efforts are supported by a team of lawyers who have the capacity to take legal action, as necessary.

### **3. Recognize that boundary harmonization and demarcation processes are conflict resolution exercises and conduct them accordingly.**

Community land documentation is not only a registration and demarcation exercise; it is as much, if not more, a conflict resolution exercise, and facilitating agencies should treat the process as such. The boundary harmonization process was by far the most challenging component of the community land documentation process for all communities: it not only unearthed every latent, unresolved land conflict, but also created new boundary disputes that flared up in response to the impending documentation efforts. **Boundary harmonization was the beginning of both serious internal and external conflicts, even in communities that previously reported that they had no boundary disputes and generally peaceful relations both internally and with their neighbors.**

While the potential for conflict was significant, **communities' desire to obtain documentation for their lands created a strong impetus for the peaceful resolution of boundary disputes.** Compelled by the goal of documenting their land claims, many of the study communities worked to negotiate compromises and resolve land disputes that had endured for years. Positively, the resolution of long-standing land conflicts appeared to have an overall constructive impact on land tenure security and intra-community conflicts.

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**150** Of note is that in Uganda and Mozambique, the study communities needed support during those steps of the process that involved interaction with government agencies or administrative procedures. In Mozambique, communities required assistance to contact relevant government agencies to schedule the GPS survey of their lands and compile their final application files. In Uganda, communities needed help contracting a licensed surveyor and completing all application forms. It is therefore likely that in Liberia communities will require similar support during interactions with government officials and when filling out necessary forms.

Facilitating agencies should proactively prepare for land conflict resolution to be a central component of the community land documentation work, and should craft trainings designed to support open, non-violent boundary negotiation. Such efforts have the potential to not only resolve intra and inter-community land disputes, but also to serve as a model for the resolution of household-level land disputes. When facilitating boundary harmonization efforts, state and civil society agencies should ensure that communities:

- **Map publicly and comprehensively.** Map-making is not a neutral activity. It exposes all previous encroachments into or bad faith appropriation of community lands and identifies all of the community's natural resources and their locations. It therefore should be undertaken very carefully. SDI's experiences suggest that map-making should only occur once communities trust the facilitators. The entire community should be convened for all mapping-related activities until all boundaries are harmonized, all land conflicts are resolved, and all boundary trees planted or markers placed. NGO facilitators should be ready to address conflicts that arise as a result of the mapping activities. When mapping, women and men should draw maps in gender-based groups to ensure that all voices are heard, and communities should publicly discuss the maps to ensure that they are fair and accurate.
- **Ensure that all relevant groups' ownership, use, and access rights to the land being documented are protected.** Before beginning work with a community, it is necessary to carefully assess exactly which groups have ownership rights to a given piece of land and which groups have use and access rights. Communities should acknowledge and preserve any existing reciprocal land use sharing agreements with neighbors; formal procedures should be instituted to protect these shared or overlapping use and access rights. Strategies for protection might entail including land sharing provisions in community by-laws or drafting inter-community MOUs to record such agreements for posterity. Government officials processing community land documentation applications should also verify that all neighboring communities' rights of use and access have been properly protected. Officials may perform this check through discussions with local officials who have intimate knowledge of local communities' overlapping ownership, use, and access rights or by calling all neighboring villages to an open hearing. Such efforts are particularly important in regions where farmer communities overlap with pastoralist or hunter-gatherer communities.

- **Provide extensive conflict resolution and mediation training before a community begins boundary harmonization efforts.** Facilitators should train and support communities to employ a range of compromise strategies and mediation/dispute resolution tactics, such as agreeing to share the land as a common area and documenting it as such, dividing the land down the middle evenly, or allowing disputed regions or households to choose – either as a group or individually – where they feel they most belong. Facilitating agencies should stand ready to support the resolution of particularly intractable land conflicts and to call in local government officials, should their involvement in conflict resolution be necessary.
- **Allow communities as much time as they need to arrive at authentic boundary agreements.** SDI observed that some communities hastily agreed to their borders in order to successfully complete the project within the given time period. In some of these cases, communities did not truly resolve underlying boundary conflicts. As a result, some conflicts flared up again, even after the MOU-signing ceremonies. Such instances indicate the importance of carrying out the boundary harmonization activities slowly and not rushing to agreements that may later be contested.
- **Document each harmonized boundary in a formal MOU.** The boundary demarcation exercises point to the importance of documenting every boundary agreement not only with trees or GPS coordinates but also with formal MOUs. Before the boundaries of a community are demarcated, the community should hold a large, formal ceremony in which neighboring communities (including families neighboring the boundary lines) come together, critically assess the agreed boundaries, and formally agree to and witness these boundaries. The MOUs should ensure that all preexisting reciprocal land use and sharing agreements, as well as rights of way, are protected. Relevant local and regional officials, as well as representatives of youth, women's, and other groups, should read and publicly sign these boundary harmonization MOUs. Communities can then refer to these agreements during future boundary conflicts.
- **Provide ongoing state support for boundary enforcement.** Even after communities harmonize boundaries and sign MOUs, they will still need government support for the protection of community lands. As land scarcity continues to rise, encroachments may become increasingly prevalent. In these situations, government actors can help communities to deal justly with encroachers and maintain the community lands as documented.



#### **4. Leverage the community land documentation process to support communities to improve intra-community governance.**

A highly participatory land documentation process has the potential to galvanize communities to amend local rules to improve intra-community governance, foster participatory rulemaking, and establish accountability mechanisms for local leaders. To achieve such outcomes, civil society and government facilitators should:

- **Begin the process of drafting community by-laws at the lowest level of intra-community governance**, then merge these rules into a set of community by-laws through rigorous debate and discussion. Such a two-tiered process may help to ensure a transparent and participatory process and create multiple opportunities for community members to reflect publicly on existing or proposed rules.
- **Ensure full community participation in the by-laws and management plan drafting process.** Civil society and government facilitators should ensure that all social groups are included in the by-laws-writing process. One way to achieve full inclusion is to convene women, youth, and elders in separate groups to prepare them in advance for these meetings and help them to articulate their interests.
- **Handle the transition from oral to written rules delicately.** The process of writing down previously unwritten rules and practices may change them. Any land or natural resources uses, claims, or practices that are not included in the by-laws may be, by omission, negated, lost or inadvertently prohibited. As such, the discussion of existing rules must be deftly handled to ensure that the transition from oral to written does not undermine more inclusionary practices. To this end, facilitators should keep the process very flexible at the beginning, allowing communities to capture all norms and practices, even those that are so taken for granted that they do not seem like “rules.” Drawing a resource map listing all community natural resources or a diagram of the community leadership structure may facilitate brainstorming and help create an outline of what the by-laws should address.
- **Allow communities to merge their by-laws and land and natural resource management plans into one document.** The field teams observed that the majority of community rules concerned land and natural resource management; it was a false distinction to ask communities to divide their by-laws from their natural resource management plans. One document with loosely defined sections would simplify the process and make it easier for communities to convert their existing community rules into a formal legal document.

- **Allow communities to base the form and content of their rules on existing custom, norms, and practices.** Facilitating civil society and state agencies should not edit or revise a community's rules to reflect their own prejudices and legal sensibilities; each community should be allowed to include whatever content it feels is necessary for its equitable and efficient functioning. Facilitators should only encourage communities to modify customs and practices when necessary to ensure that the rules:
  - » Do not contravene the Liberian Constitution and relevant national law;
  - » Establish inclusive substantive and procedural rights for all community members, including women and members of vulnerable groups;
  - » Protect existing use rights and rights of way of other groups like pastoralists and hunter-gatherers;
  - » Include provisions to ensure that leaders are held downwardly-accountable to their community, and manage land and natural resources equitably and justly;
  - » Include provisions that particularly important and weighty decisions, such as whether to cede land to an investor, should be made by supermajority vote, rather than by local leaders; and
  - » Have been approved by all households in the community by consensus or super-majority vote.
- **Ensure that the by-laws include provisions for annual review and amendment.** To avoid the potential calcification of customary rules that writing them down might imply, facilitators should support communities to establish a yearly review of the community's by-laws. The by-laws should set out clear amendment procedures and the requirement that rules be changed only after consensus or super-majority vote.

In the event of future bad-faith appropriation of community lands and resources, **community by-laws may also be considered important legal proof of a community's land claims.**

**Community land documentation processes should conclude with the election of a diverse and representative governing body.** Facilitating NGOs or government agencies may need to monitor the election of these bodies to ensure that the elections were participatory, transparent and fair, and that the positions were not captured by elites. **Communities might also create parallel "watchdog" groups to monitor the elected council's decisions and actions.**

## **5. Leverage community land documentation efforts to foster sustainable natural resource management and conservation.**

SDI observed that the process of discussing and amending their rules fostered two main shifts in community members' ideas about natural resource management. First, **communities' rules reflect a clear and renewed concern with conservation and the sustainable use of natural resources.** During the by-laws drafting process, communities crafted new rules to conserve their resources and "remembered" and reinforced old rules that promote sustainable natural resources use.

Second, **communities created rules that more closely control and monitor non-residents' use of community lands and natural resources.** These rules generally do not fully impede "outsiders" use of community natural resources, but rather ensure that the community can control, monitor, and tax these activities for community profit and development. Communities' land and natural resource management plans indicate that communities may be open to outside investment if:

- The community itself is involved in discussing and negotiating all aspects of the investment project;
- Restrictions are put into place to ensure community health and environmental and cultural protections;
- Benefits/fair compensation accrue to the community; and
- A signed contract, enforceable in a jurisdiction with strong rule of law, ensures that all community benefits will be delivered.

**To support community-led conservation, stewardship and sustainable management of natural resources both during and after the community land documentation process, facilitating civil society and state agencies should:**

- Train communities on a wide range of sustainable natural resource management techniques;
- Foster local "remembering" and reinstitution of customary natural resource management practices;
- Facilitate discussions concerning under what terms and conditions the community would share its land and natural resources with outside investors;
- Support community negotiations with investors, providing counsel throughout all community-investor interactions (as described above);

- Help communities to monitor and control use of their natural resources by community members, neighbors, and local investors alike;
- Support communities to enforce their rules against poaching, illegal logging, and other unsanctioned extraction efforts and request police support for such enforcement; and
- Help communities to responsibly, transparently, and equitably manage any benefits accrued as a result of community-investor partnerships or outsiders' use of community land and natural resources, among other supports.

## **6. Leverage the community land documentation process to strengthen women's and other vulnerable groups' land rights and support communities to establish mechanisms for their enforcement.**

Women's active involvement in the by-laws drafting debates appears to have strengthened women's procedural and substantive rights. Procedurally, the process appears to have shifted community members' perceptions that land is "men's business." As a result, women's opinions were taken seriously during discussions and many communities' by-laws include provisions that women and youth must have elected representatives on the permanent governing bodies responsible for community land and natural resource management. Substantively, the process provided an opportunity for women and other vulnerable groups to ensure the inclusion of stronger protections for their land and inheritance rights. These efforts resulted in the strengthening and/or actualization of existing women's rights as well as the alignment of local rules with national laws that protect women's land rights.

To ensure that the community land documentation processes establish intra-community mechanisms that effectively protect and enforce women's land rights, civil society and government facilitators should:

- **Carry out a gender analysis** and craft strategies to proactively address gender inequities that have the potential to negatively impact community land documentation activities;
- **Plan community land documentation meetings to take place at convenient times and locations**, after women have completed their house and farm work;
- **Convene special women-only meetings** to help women identify and advocate for their interests in the broader community meetings;
- **Support communities to elect a governing council that includes female representatives**;

- **Provide paralegal support;** the data indicates that paralegal support may be the “lowest” degree of external intervention necessary to ensure women’s robust participation in community land documentation activities; and
- **Recognize that custom need not contradict national laws on women’s rights;** in rural contexts where customary leaders are often the central arbiters of justice, their role as protectors and enforcers of women’s land rights is critical. To ensure increased protections for women’s land rights, facilitators may need to:
  - » Teach men and customary leaders about national laws that guarantee women’s rights;
  - » Support communities and leaders to remember customary rules that served to protect women’s and other vulnerable groups’ rights; and
  - » Help men and community leaders to reinvigorate customs that emphasize men’s and leaders’ role in protecting the rights of women and other vulnerable groups.<sup>151</sup>

Such efforts to create intra-community mechanisms to protect and enforce women’s and other vulnerable groups’ land claims will become increasingly necessary as land grows in value and becomes more scarce, and as intra-community competition for land exacerbates discrimination and disenfranchisement of vulnerable groups.

## **7. Recognize that community land documentation may not be appropriate for all communities without pre-intervention support**

While every study community faced obstacles, some communities overcame obstacles more effectively than others. **The research suggests that a highly dysfunctional community may not be able to successfully complete the complex process of documenting community lands.** SDI’s observations illustrate that communities that struggle with elite sabotage, intractable boundary disputes, internal discord or weak pre-project cohesion, and weak leadership or power struggles between leaders may not be able to successfully progress through community land documentation processes, irrespective of how much support they are offered. In such situations, the process may become a pawn in intra-community conflicts of power. Similarly, peri-urban communities and communities with little or no internal cohesion or a highly transient population may not be appropriate for community land documentation initiatives.

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<sup>151</sup> Focus groups held with community leaders indicate that they are open to learning more about national laws that protect women’s rights and shifting their practices to align with such laws.

Should a dysfunctional community initiate but be unable to complete the land documentation process, the effort may invigorate tensions and exacerbate conflict, leaving the community in a worse situation than before the intervention began. As such:

- Civil society and government advocates preparing to begin land documentation activities in a community should **first assess the community's internal dynamics and existing conflicts and then work to address and resolve these underlying conflicts before the community land documentation process**. Civil society and government agencies may need to provide supplemental conflict resolution training and community-building and leadership-enhancement activities.
- **Facilitators should prioritize communities facing external threats to their land**. The field teams' experiences illustrate that communities facing external threats to their land will work with focus and determination to complete the community land documentation activities, even when provided minimal legal support.
- **Civil society and government facilitators should provide supplemental support to communities facing intra-community threats such as sabotage from local or Monrovia-based elites**. In instances where elites obstruct community progress, seed conflict, or otherwise create obstacles to community land documentation, legal advocates must proactively address intra-community disparities of power and influence. In such instances, despite internal conflict, these communities should not be rejected as appropriate candidates for community land documentation support. Rather, civil society and government advocates should first address and resolve the underlying intra-conflict at issue, then begin the community land documentation process.

In conclusion, the data illustrate that well-facilitated community land documentation exercises may result in important impacts that go beyond increased land tenure security. The communities' desire for documentation and protection for their land claims appear to be prompting them to undertake authentic discussions and make real changes that have the potential to promote good governance and downward accountability of leaders, strengthen women's rights, proactively resolve land conflicts, align local rules with national law, and promote conservation and sustainable natural resources practices.

As one community member in Liberia explained:

*I don't care what anyone says, this project is the best thing to happen in our history. Imagine: now we know our borders; we know our resources; we know our rules, and they are written down for everyone to see and know; people are attending clan meetings; and our clan feels stronger together. This has never happened before! Now it is easy for us to organize and ask the government or [foreign investors] for things we want or refuse things we don't want in our community.*

While many challenges remain and further investigation is necessary, efforts to implement community land documentation legislation have brought a deeper understanding of how to best support communities to protect their customary land rights, as well as how governments may best approach the development of sound legal and regulatory community land protection frameworks. Once a community has successfully documented its land claims, the hope is that it may then work hand-in-hand with government agencies and local organizations to leverage its lands for locally-driven development, prosperity, and human flourishing.



## Afterword: The community land protection program

Namati, a new international organization dedicated to expanding the field of legal empowerment, is partnering with the Sustainable Development Institute (SDI), the Land and Equity Movement in Uganda (LEMU), and Centro Terra Viva (CTV) to launch its global Community Land Protection Program.

The Community Land Protection Program's goal is to proactively strengthen communities' ability to protect, enforce, and defend their customary land rights. The program endeavors to promote genuine legal protections for customary land tenure and the recognition of customary land rights as legally enforceable ownership claims. In the coming years, Namati and its partners will work to:

### 1. Expand and scale-up the model

- Scale-up community land protection activities throughout Liberia, Uganda, and Mozambique, both through continued support to the Phase I study communities as well as through expansion into other rural communities throughout these nations.
- Expand and strengthen the network of civil society actors protecting community land rights globally, working to transfer “lessons learned” during Phase I to other NGOs and communities across the world, with the goal of documenting and protecting as many community lands as possible.

### 2. Impact policy

- Impact national land policy and practice in Liberia, Uganda, and Mozambique, with the goal of promoting improvements that facilitate communities' successful completion of community land documentation processes.
- Advocate for other nations to establish community land documentation processes, and in those nations whose legislative frameworks already provide for such processes, advocate for widespread implementation of such legislation.
- Promote a model of community land protection that emphasizes intra-community governance, accountability, conflict resolution, conservation, equity, and justice as important goals of community land protection processes, on par with securing land rights documentation.



### 3. Ensure equity and justice in community-investor relations

- Support just, equitable and empowered community-investor partnerships, ensuring that communities are properly prepared and have legal representation during all negotiations with investors and state actors concerning the use of community lands and natural resources.

### 4. Investigate impacts

- Investigate the long-term impacts of community land documentation efforts and monitor what long-term support communities require to successfully implement and enforce their by-laws and leverage their land for endogenously-driven local development.

### 5. Influence global dialogue

- Impact the global dialogue on community land and natural resource rights, promoting community land protection as a critical, high profile issue and expanding the audience of actors invested in protecting community land claims.

The hope is that through our combined efforts, we can support vibrant community empowerment; authentic community sovereignty and authority over lands and natural resources; good community governance; enforceable investor-community partnerships that result in tangible land and natural resources benefits for communities; and stewardship of the earth so that community lands and resources are managed sustainably, in trust for future generations.

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## Appendix A

### Statistical analysis of impact of service provision<sup>152</sup>

Tai Young-Taft, PhD

July 2011

#### 1. What type and level of support do communities require to successfully complete community land titling processes?

- a) Is there a correlation between the level of assistance provided and the relative success achieved?
- b) Is there a correlation between the level of assistance provided and communities' effectiveness in overcoming obstacles faced in process of following their nation's land documentation procedures?

##### 1a. Analysis of treatment effect on stage attained in the titling process

Statistical analysis of all study communities across Mozambique, Liberia, and Uganda suggests that, when measured against the control groups' progress, the level of service had a significant impact on the stage attained in the land documentation process.

Because our study is set up to consider the average "African community," that is, as represented by Uganda, Mozambique, and Liberia, we consider relationships between explanatory variables and stage attained in the land titling process over all communities in each of the three countries. The reason for this is both so we may make general statements regarding the larger aggregate that Uganda, Mozambique, and Liberia represent and also because we only have about 15 control communities and 15 communities from each treatment level blocked across countries. In this regard, we consider four major stages in the land completion process, which all communities in all countries must complete before they are to get their titles, namely:

- Creation and election of a coordinating or interim committee,
- Boundary harmonization,
- Establishing formal rules for community land administration, and
- Establishing a land and natural resource management plan.

<sup>152</sup> One component of the variation in the data that should be pointed out is that survey respondent selection was carried out under different regimes in each country, and so our presumption that they are the same is not represented in the data. That said, systematic correlation across a variety of similar tests may suggest some robustness in terms of our simplifying assumptions' ability to represent genuine correlations from the signal.

We construct a composite index from these four stages by assigning a value of 1/4 to the completion of each stage. There is no order in completion of stages, and all stages must be completed to obtain a title, so this is a plausible measure.

Of the four treatment groups, the 16 communities in the control group who finished the program had an average of 18.75% of stages completed in March, 2011 when measured in this manner. The education only group of 14 communities had an average of half of the stages completed by the same time, and the paralegal group of 15 communities had an average of 58.33%. Very interestingly, the group with the most extensive treatment, the full legal aid group of 17 communities that was assigned lawyers to work with them over the period, only completed an average of 33.82% of the steps. This may be due to the fact that community members believed the lawyer would undertake the steps for them and so were not motivated to undertake the intensive community centered work themselves, though we add none of the communities ultimately obtained a community land title – perhaps as our window of analysis is too short for its observation – and it may be that complete legal assistance is required to ultimately formalize the process.

We performed standard bivariate hypothesis tests testing the statistical significance that treatment groups differed in outcome from the control group, and found all such tests had very high significance, with, as expected, positive coefficients. Additionally, the test between the control group and the education only group produced an adjusted R-squared of .62, the test between the control group and the paralegal group produced an adjusted R-squared of .68, and the test between the control group and the full service group produced an adjusted R-squared of .38.

Additionally, we found such tests indicated very high statistical significance in differences between treatment groups, and the test of the education only group relative to the full service group produced an adjusted R-square of .43, the test of the paralegal group relative to the full service group produced an R-squared of .56, and the of the test education only group relative to the paralegal group produced an adjusted R-squared of about .77.

### **1b. Analysis of service provision and important conditioning variables'/obstacles' joint effect on stage attained in land titling process**

We then turned to address the question of whether there is a correlation between the level of assistance provided and communities' effectiveness in overcoming obstacles faced in the process of following the mandated legal procedures. Observation and analysis of the obstacles confronted by

communities' in their efforts to follow their nation's community land documentation procedures led to the conclusion that a variety of factors weighed more heavily on communities' capacity to complete the project activities than the level of legal services provided. Specifically, the most prevalent obstacles or difficulties encountered were:

- The strength/unity or weakness/disunity of community leaders;
- The presence or absence of elite interference or influence;
- The degree and kind of threat to its lands a community is facing;
- The degree of internal community cohesion and cooperation; and
- The presence or absence of an intractable boundary dispute.

The joint effect of each of these factors and the level of legal service support provided are analyzed in turn below.

**a) The strength and unity/weakness and disunity of community leaders**

It was observed that the strength and cohesion of community leadership before the inception of the project impacted the community's capacity to successfully work through the project activities. To consider this hypothesis statistically, we create a composite index of leader aptitude of nation-state and customary leaders as follows. For elected governmental officials, if respondents responded positively to each of the following questions:

- » How well are local government officials protecting community land rights?
- » How well are local government officials helping individual families protect their land rights?
- » How well are local government officials protecting the rights of widows and children?
- » How well are local government officials making sure the people benefit from resources extracted from the area?
- » How well are local government officials making sure that the people are consulted when the government sends investors to the area?
- » How well are local government officials hearing land cases and resolving them?
- » How well are local government officials making sure that local people prosper and develop, bring development opportunities to the area?

they would receive a point, and the results were summed and divided by the number of questions to provide an index from 0 to 1. Community members were asked the first six questions from above regarding customary leaders, and the results were dealt with analogously.

We then tested the hypothesis that these indices of strength of community leadership lead to positive progress in the community land titling process, as measured in our progress index above, while including treatment level relative to the control group effects over the three countries in our sample. In particular, as above, we measured a particular treatment effect relative to the control group with a '1', where the control group was assigned a '0'. The coefficients we report below can therefore be interpreted as the average difference relative to the intercept and other conditioning variable effect of the treatment on the population (that is, relative to the control). As we have a small sample of communities, our study does not support extensive consideration of inclusion of many controls in addition to the treatment due to a small number of degrees of freedom. That said, considering the joint effect of two variables is an interesting exercise given this framework, and may not use up too many degrees of freedom relative to the sample size.

Effects from the education only group controlling for our index relative to state officials resulted in a hypothesis test significant at the 6% level, with a statistically significant positive coefficient of .23 associated with the treatment and a positive insignificant coefficient associated with the governmental leader competency index, whose positive effect was washed out by the standard error.

With regards to the paralegal group, we found significant results with a highly significant coefficient of .29 associated with the treatment effect, and highly non-significant local state leader competency effect, with modest negative effect with less than half of the magnitude of the standard error.

Considering both effects in the context of the full service group negated the significance of the treatment only regression.

Customary leader regressions produced a regression significant at the 10% level with a significant positive coefficient of .23 associated with the education only treatment and no significant effect associated with the customary leadership index, while the paralegal regression in this context produced a significant regression with a highly significant treatment effect associated with a .30 coefficient and an insignificant customary leadership



index. Finally, the full service regression produced a significant regression, but with the treatment effect only significant at the 12% level, and an insignificant customary leadership index.

A further factor to note is that community leaders must not only be strong and well respected, but there must be relatively good cooperation between the various leaders in the community. This is necessary because, in the event that one or two more influential community leaders express a lack of support for land documentation efforts, at least part of the community will disengage, even if other influential leaders are supporting and encouraging their community to do the work.

In order to consider this we considered the interaction effect between the local state leadership and customary leadership indices. In the context of the education only treatment, the regression was significant at the 7% level with a significant effect associated with the treatment group with an estimated coefficient of .23, and an insignificant effect associated with the interaction term. In the context of paralegal treatment this produced a significant regression with a highly significant treatment effect and .30 estimated treatment coefficient and insignificant interaction effect, and in the context of full treatment this produced an insignificant regression.

With regard to existence of power struggles between leaders, our education only regression set produce highly significant results with similarly significant results relative to the treatment specific effect, accompanied with an estimated coefficient of .38, and no significance suggested relative to the count of elite attempts at power influencing. With regards to the paralegal regression, we attained high significance for the joint effect of treatment and count of elite attempt at influence, accompanied by a highly significant effect from the treatment – associated with an estimated coefficient of .48 – and counter-intuitively positive effect of .22, significant at the 10% level.

**b) The presence or absence of elite interference or influence**

Count of elites trying to influence decisions produced significant results with regards to the education only group relative to the control group, with significant results associated with the treatment effect, with an estimated coefficient of .37, and no significance associated with the count of elites trying to influence decisions. The paralegal regression produced highly significant results with a highly significant treatment coefficient associated with a .42 estimated coefficient and insignificant effect relative to the count of elites attempting to influence decision making. Finally, the full

service group did not produce a statistically significant effect, while controlling for count of elite interference.

- c) **The degree and kind of threat to its lands a community is facing**  
**External Threats.** Observations in the field also suggest when a community has in the past faced or is currently facing an *external* threat to its land claims, the community fully embraces the project and works diligently to complete all processes necessary to procure documentation of its land claims. These external threats are perceived as so great that it is “worth it” to risk trusting an outside NGO for support protecting their communal lands. The existence of external threat regression produced highly significant results for the education only case with a highly significant coefficient of .32 associated with the treatment and an insignificant effect associated with number of external threats recorded, similarly significant results for the paralegal treatment, with a highly significant coefficient of .40 associated with the treatment, and an insignificant effect associated with the count of external threats recorded, and no significance associated with the full service regression.

Internal threats. It was observed on the ground that because communities are so afraid of losing land to outside investors and government agencies, when the threats faced by a community are only internal (coming from community members) the community will reject the project, preferring to remain with the internal threats rather than risk trusting outsiders, even an NGO providing legal support to help protect community land. Likewise, communities that had a high degree of internal friction and division were not able to complete the project activities.

The internal threat regression resulted in a highly significant result for the education only treatment along with a highly significant .26 coefficient associated with the treatment effect, and a quite modest negative coefficient associated with the internal threat, significant at the 10% level, a highly significant result for the paralegal group, associated with a highly significant .38 coefficient associated with the treatment and an insignificant internal threat coefficient, and the full service regression resulted in a significant effect, associated with an insignificant treatment effect, and a significant and quite modest negative internal threat effect.

Relatedly, it was observed the presence of a feared or influential elite who opposes the project often has the power to either ensure community rejection of the project, stall or halt project activities for months at a time, or to completely sabotage the project’s success from within.

**d) The degree of internal community cohesion and cooperation**

It was similarly observed that the failure of communities to unite around the work was a key factor in whether they stayed in the project or rejected it/withdrew from it. It is important to note that this lack of unity was not caused by the project, but was inherent in pre-existing community dynamics. It was observed in the field that communities that had a high degree of internal friction and division were not able to complete the project activities.

In assessing the validity of this hypothesis we consider positive responses to the statement, “Working together as a community is empowering; we get things done better and faster as a group.”

Using share of positive response (agreement versus disagreement) to the above question as a measure of community cohesion we attained statistically significant results at the 10% level for the education only treatment accompanied by significant results associated with a .24 estimated coefficient for the treatment group and insignificance of community cohesion, highly significant results associated with the paralegal regression, accompanied by highly significant results pertaining to treatment effect with a .30 estimated coefficient, and insignificant effects from this measure of community cohesion, and finally insignificant effects associated with the full service regression.

Additionally, we consider community member participation as measured by positive response to one or more of the following classifications:

- » Has attended a community meeting in the past year,
- » Has combined with others to raise an issue to a community leader in the past year,
- » Has contributed to community development projects in the past year,
- » Has contributed to environmental protection and prevention of forest fires,
- » Has contributed to surveillance and monitoring of hunting and forest exploitation within the community.

We then took the share of respondents who responded positively to at least one of these criteria to be the community’s average response, and consider how it predicted level of attainment in the titling process. Using this measure of community cohesion we find concordant results, namely with results significant at the 10% level, significant treatment effects of education only, with an associated .23 slope coefficient, and insignificant

effect of community participation. Likewise, the paralegal assistance regression produced significant results with significant treatment effects associated with a .27 estimated coefficient, and insignificant community cohesion effects. Full legal service was not statistically significant.

**e) The presence or absence of an intractable boundary dispute**

Finally, with regards to presence of an unresolved boundary dispute, the education only regression produced highly significant results with highly significant results associated with the positive .27 coefficient pertaining to the treatment effect slope term, and meaningful -.16 coefficient associated with the boundary dispute term, significant at the 6% level. The paralegal regression produced highly significant results with highly significant results associated with the .38 coefficient representing the slope parameter associated with the treatment effect, and an insignificant boundary dispute effect, with the full service regression also being highly significant, this time with a highly significant negative coefficient of -.30 associated with the boundary dispute effect and a .16 coefficient associated with the treatment effect, at the 10% level.

In sum, our treatments remain highly significant while controlling for a wide array of controls thought to be pertinent during the field review in the context of two independent variable regressions with regards to education only and paralegal treatments, though less so with regards to the full service treatments, even with our relatively small dataset. Secondary effects thought to be important during the experiment did not tend to hold up to these tests. In particular, the only secondary effects that retained significance were (1) existence of internal threats, which were significant in the education only (at the 10% level) and full service regressions, though in both instances with very small coefficients, (2) count of elite attempt at influence in the context of paralegal treatments, with a strong counterintuitive positive coefficient of .22, significant at the 10% level (perhaps indicating a positive motivating effect of count of elite attempt at influence in the context of paralegal treatment), and (3) presence of an unresolved boundary, which had a negative coefficient of -.16 associated with it in the education only regression, significant at the 6% level, and a highly significant coefficient of -.30 associated with the full service regression.

## 2. How to best facilitate the protection of the land rights of women and vulnerable groups in the context of decentralized land management and administration?

- a) Is there a correlation between the level of assistance provided and meaningful participation by vulnerable groups in terms of: community meetings; the drafting, finalization, and adoption of community by-laws; and the drafting, finalization, and adoption of land and natural resource management plans?
- b) Is there a correlation between the level of assistance provided and whether communities adopted safeguards aimed at protecting the land rights of woman and vulnerable groups?

To explore these questions, we first looked at the extent of community participation overall. We then looked specifically at women's participation in the community land titling activities. Finally we investigated the impacts of the project work on women's land rights in the study communities. For this set of data, we looked at individual respondent's answers in the pre- and post-service survey, as a whole and also per community. Statistical analysis found that the project had a statistically significant impact on both community-wide meeting attendance and verbal participation rates across treatment groups. Looking at the women's data only we found that paralegal treatment was the only treatment to significantly increase women's participation rates as compared to their participation the year before the project, but that for the year of the project only, all women's participation rates in all three treatment groups' was significantly higher than women's participation in the control group. Furthermore, the data show that the intervention improved women's and men's awareness of widows land rights. Finally, we found that the project had a statistically significant impact on changes in the treatment groups' community rules concerning women's and other vulnerable groups' rights to their land. These findings are detailed below.

### 2a. Women's meeting attendance and voicing of opinion in community meetings

The data also suggests the level of support impacts community participation in the project activities. Post-service survey respondents throughout the study communities responded that treatment level was positively associated with higher rate of individual meeting attendance in the preceding 12 months. In this context, we exploit the individual survey level nature of the data and conduct an individual survey respondent bivariate hypothesis test considering significance of difference between treatment class and control (1) relative to the continental sample of all three countries and (2) relative to individual countries.

Relative to the Africa case, the education only treatment was different from the control group with very high significance and a positive coefficient, the paralegal treatment was different from the control group with similarly highly significant results and positive coefficient, and finally the full service treatment was also statistically different from the control group with a positive estimated coefficient, also highly significant.

Bivariate hypotheses tests in the case of Uganda suggested the education only group was highly statistically significantly different from the control group, the paralegal group was highly statistically significantly different from the control group, and the full legal services group was highly statistically significantly different from the control group, all with the expected positive sign.

Relative to Liberia, concordant hypothesis tests suggest a positive effect of education only treatment on share of survey respondents having attended a meeting in the past year, paralegal treatments were positively correlated with having attended a meeting in the past year relative to the control treatment, and finally full service treatments were likewise positively and significantly correlated to meeting attendance in the past year, all with high significance.

Finally, relative to Mozambique, we find essentially the same thing, with education only differing positively from control, paralegal differing positively from control, and full service differing positively from control, all again with high significance.

The data also show interesting patterns in percentage of people who spoke up during meetings. In this context, all results were positive with high statistical significance.

We are also interested in the effect of treatment on women's attendance of community meetings. When specifying bivariate hypotheses tests relative to control groups, we only found the paralegal treatment to have increased the average share of female respondents who answered, "Yes, often," or "Yes, several times," as opposed to "Yes, once or twice," or "No," significantly, relative to the question, "Have you attended a community meeting in the past year?" by community, and relative to the control group the paralegal group had on average a 16% increase in share of community that responded as above. Arguably, this could have been due to an increase in specifically project related meetings, and to such an extent we also consider how treatment relative to control predicts total share of people having attended a community in the past year using the post-service survey, independent of the previous year, and we find very high significance for all three treatment groups, with significant coefficients predicting share attending meetings in the previous year, with education only retaining a .63 estimated coefficient, paralegals a .65 percent coefficient, and full service a .71 estimated coefficient.

If we instead consider effects of treatments on average share of women who have voiced their opinions in community meetings, we find insignificance for all of our bivariate hypotheses tests for effect from treatments relative to this dependent variable.

## **2b. Impact on women's land tenure security**

Next, we considered women's responses to questions regarding their confidence in their ability to maintain current rights to shared common areas, and measured the change in their perceptions from the year before the start of the project to the year during which the project was undertaken.

If we consider the effect of the treatments on changes in female responses relative to confidence regarding their ability to maintain current rights to shared common areas from the year prior to the initiation of the project relative to the year during which the project was undertaken, as averaged across the community, we find that only the full service regression is significant at the 10% level, with treatment inducing a counterintuitive negative -.08 effect on the average variable response, 'Very confident' or 'Somewhat confident,' relative to 'Very unsure' or 'Somewhat unsure.'

If we look at change of share of women who gained land by community, we find the only treatment that had a significant effect was the education only group, which had a positive effect of .08, significant at the 10% level.

Likewise, the education only treatment was the only group to show statistically significant effects on change in share of women who lost land, producing a -.06 coefficient. If we then ask women how many different types of people protect women's land claims, relative to the possible responses

- Her children if they are grown,
- Her husband's brothers or father,
- The state/state officials,
- The traditional leaders,
- The widow herself,
- The customary leaders,
- Other,

and measure if respondents could name 0, 1, or 2 different types, we found treatment class could not predict change in this variable relative to the year

prior to the treatment and the year during the treatment in bivariate hypothesis tests.

If we consider change in share of correct female responses to a set of 5 questions pertaining to local (national) land rights over the year prior to the experiment and the year of the experiment itself, we find that education only and full service treatments have counter-intuitively negative significant coefficients of -.08 and -.07 respectively.

If we see how treatment effects predict positive change in responses to the question, “A woman has a right to retain control over the land she lives on after her husband dies?” relative to the year prior to the onset of the experiment and the year in which the experiment was being conducted, with possible responses being “Yes” or “No”, we obtain significance for the education only group with a positive coefficient of .09 and significance at the 10% level for the paralegal group with an estimated coefficient of .07.

If we instead focus on male response to the question in the above manner, we only get significance for the education only group at the 10% level with an estimated coefficient of .09.

If we see how treatment effects predict positive change in responses to the question, “A woman has a right to make decisions about the use of her household’s land after her husband dies?” relative to the year prior to the onset of the experiment and the year in which the experiment was being conducted, with possible responses being “Yes” or “No”, we only obtain significance for the education only group with a positive coefficient of .16.

If we instead focus on male response to the question in the above manner, we only get significance for the education only group with an estimated coefficient of .14.

Finally, we turn to considering the effect of treatment group on the number of provisions in communities’ by-laws/constitutions and land and natural resource management plans that could be interpreted as strengthening vulnerable groups’ land rights in the community. In this analysis, we find that all treatment classes had a statistically significant, positive effect. To conduct this analysis, we took all the provisions counted as strengthening women and other vulnerable groups’ rights, and then divided this number by the number of communities that completed a second or third draft of these documents. The average number of provisions per by-laws/constitution was found to be 3.19. Compared across treatment groups, the education-only groups had, on average, 4 more provisions than the control groups, the paralegals had 5.5 more provisions than the control, and the full service had 2.83 provisions. Statistical analysis of these results concluded that they are statistically significant.



## Appendix B

### Brief summaries of the study communities' experiences

#### Progress of full-service treatment communities

**Khanwhere** Khanwhere was characterized by well-organized towns, general internal community cohesion (both inter- and intra-town cohesion), and good cooperation between community leaders. The community's motivation was driven by its close proximity to the concession area of the Liberia Agriculture Company (LAC), a private investment entity. Khanwhere feared that the company would expand its holdings into its area. Despite this perceived threat, the community struggled to harmonize one of its boundaries, largely due to the obstinance of its neighbor, Gbarsaw. The clan also struggled to overcome its geography: a large river divides the clan, limiting interaction between towns, which made full participation difficult.

**Gbarsaw:** Overall, Gbarsaw was the least successful community in the study. Throughout the project, the clan struggled to organize successful meetings. Despite receiving full legal support, Gbarsaw was one of the few communities that failed to harmonize its borders and did not progress further than a first draft of by-laws. Neighboring clans reported that they tried to schedule boundary harmonization meetings with Gbarsaw, but Gbarsaw did not always attend. Gbarsaw's relative stagnation may be ascribed to intra-community distrust and division related to past efforts to seek land documentation. Community members reported that three years prior to the project, elites with connections to Monrovia had "taxed" community members to raise funds in order "to run after the community land." Nothing appeared to come from community members' contributions. One woman lamented that, to date, "No one [has said] anything about the money we collected or the work [we did]." As a result, SDI's efforts were met with distrust. The clan's efforts were further frustrated by interference from Monrovia-based elites. An elder threatened "big trouble" against anyone who attempted to negotiate community boundaries without first consulting leaders in Monrovia. Moreover, these elites took over the boundary negotiations with two of its neighbors, Goenotarr and Wheasaye, marginalizing local leaders' roles and entrenching the conflicts. The elite's keen interference was linked to local perceptions that the clan's land is rich with unexplored mineral deposits. Finally, SDI observed very poor internal clan cohesion; each town repeatedly asked for its own land documentation process.

**Goenotarr:** Goenotarr failed to fully harmonize its boundaries (partly due to Gbarsaw) and completed only the second draft of its by-laws. Goenotarr did

not complete the land and natural resource management plan, and as such, did elect a Governing Council. Despite early progress, a crack in community cohesion stalled documentation efforts. Furthermore, although the community's meetings were relatively well attended, the traditional leaders dominated meetings nonetheless. Part of their efforts to control every aspect of the project appeared to be driven by the leaders' individual and family land claims, some of which crossed over clan boundaries. Furthermore, it appeared as though the leaders' domination of project activities and bad faith boundary negotiations left most women and youth apathetic towards the project. The lack of community cohesion was compounded by a high number of transient youth from throughout the region living in Goenotarr, drawn by alluvial (gold and diamond) mining opportunities.

**Boettarr:** Boettarr was strongly influenced by its customary leaders, who at first had reservations about the project, which appeared to stem from a lack of understanding of the project's goals. Furthermore, there were several reported deeds in Boettarr, allegedly owned by towns and prominent citizens. These deeds reportedly ranged from 400 to 1,000 acres. As a result of the confusion surrounding the deeds, interest in the project was initially low and meetings were poorly attended. Gradually, however, community leaders became extremely supportive of the project, resulting in full community participation in the project activities. Boettarr was thereafter able to successfully complete the process and transparently elect a community-endorsed Governing Council. Certain factors contributed to Boettarr's eventual success: first, the Interim Committee leader was very hardworking and effective; second, the community was able to easily harmonize its three borders due to its 'sisterhood' with its neighbor Goenotarr, and to the hard work of its two neighbors, both of which were paralegal communities (Jowein and Central Morweh); third, the towns in Boettarr were located in close proximity to one another, facilitating meeting attendance at clan-wide meetings. Interestingly, the chairman of Boettarr's Interim Committee spent a great deal of time attending the meetings of the neighboring paralegal treatment group communities, trying to benefit from the teachings and strategies used by their animators, then taking those communities' lessons and ideas home to discuss with his own community.

**Zialue:** Community leaders and members in Zialue were highly receptive to the project. Meetings were generally well attended, and the relationship between the community and its committee members was positive. The Interim Committee relayed to SDI that they felt very "support[ed] by our leaders... they have been really helping us." As a result, Zialue was able to complete all the activities through transparent Governing Council elections. Zialue's success

may have been linked to the community's sense of urgency: the community felt threatened by encroachment from neighbors from across the county line between Rivercess and Grand Gedah County. This sense of threat was likely one of the community's major motivations for the project.

However, Zialue struggled for most of the project: despite having only two boundaries in need of harmonization, Zialue was one of the last communities to harmonize borders and organize a MOU-signing ceremony. One reason for this slow pace was its location: Zialue is located at the far end of the county and spent most of its efforts towards harmonizing its county-line boundary. Despite SDI's clear message that the county-line boundary was non-negotiable, this boundary became a preoccupation for the community. On one occasion, the community dispatched a team to Monrovia to express their frustration to government representatives. A second reason for Zialue's boundary harmonization difficulties was linked to community members' perception that a mountain located on their border with Teekpa is rich with unexplored mineral deposits. The community appeared to view any attempt to divide the land without knowledge of the location of these mineral resources as potentially disadvantageous to the community. Finally, Zialue's towns were distant from each other, a factor that made the many full-clan meetings difficult to convene. However, in the last few months of the project, community members very openly agreed to focus on "getting a paper for our traditional land and put our differences behind us." Thereafter, cooperation between the community and its Interim Committee and SDI's full support allowed Zialue to progress successfully through the various steps.

### **Progress of paralegal treatment communities**

**Central Morweh:** Central Morweh successfully fulfilled all steps of the project, including completing a third draft of its by-laws and electing a Governing Council. Part of the community's success may be attributed to its youth, who were very active, organized, highly literate, and had an excellent working relationship with their elders. The community consistently attended scheduled meetings, all of which were characterized by good participation by all stakeholders and identity groups. SDI observed that the youth's presence and outspokenness encouraged women and strangers to communicate and participate during community meetings. For example, upon finding out that a border was not being harmonized because a few individuals (whose cash crops had been planted across the agreed old boundary) were stalling the negotiations in order to protect their crops, some community members became upset and challenged the Interim Committee, demanding

transparency and calling for all decisions to be made by the whole community in general meetings. Central Morweh was also characterized by: leaders' and elites' relatively high level of understanding of and dedication to the project; good intra-clan organization; a unified power dynamic both between community leaders and between all community stakeholders; and a well-organized, competent Interim Committee.

**Jowein:** Like Central Morweh, Jowein has a strong youth culture, high capacity and skills, and some previous experience in development projects. Notably, Jowein had to remove and replace its Interim Committee Chairman on account of his having purposefully stalled the community's progress to protect a personal land claim that he believed the project would dispute. His bad faith efforts were a source of conflict in Jowein for most of the project until the community took action to challenge his leadership. Once Jowein installed a new Interim Committee Chairman, the community moved rapidly through the land documentation process: in only a few months, the community harmonized all its borders, signed its MOU, and successfully completed a third draft of its by-laws. Led by the animators, Jowein's youth participation also proved to be instrumental in educating the community about land rights and guiding the community through the documentation steps.

**Toboe:** Toboe struggled to harmonize its borders, partly due to its composition (in the rainy season, Toboe is isolated due to floods, essentially becoming an island) and spatial isolation from the other study communities and partly due to recent state-mandated changes. Not even the Clan Chief was clear about which towns fell within Toboe, as some non-island towns' allegiances were recently re-characterized by state administrators. Indeed, many of the towns in the region could not say what clan they were part of. Additionally, Toboe is characterized by very small towns (the largest have only ten or 11 households), which are mostly surrounded by water. Furthermore, the community faced intra-community conflicts, a high degree of distrust and misinformation, and poor relations between the Interim Committee and the animators on the one hand, and the community and its elders on the other. Among all of the study's community animators, Toboe's animators had the lowest capacity. Yet, due to these animators' hard work and determination, Toboe did manage to successfully harmonize all its borders, host a MOU-signing ceremony, and complete a second draft of its by-laws.

**Duah:** Duah faced very few obstacles during the project. Meetings in Duah were attended by a relatively high percentage of the clan's members and characterized by high participation by women, youth, and elders. Under its animators' strong leadership, Duah also completed the third draft of its by-laws,

finished a land and natural resource management plan, and elected a Governing Council. However, Duah struggled to resolve at least two post-MOU-signing border disputes, both of which it addressed by referencing the MOU and calling upon witnesses that had attended the MoU-signing ceremony. These disputes largely reflected the fact the Duah exchanged three of its boundary towns with its neighbors, leaving some areas vaguely defined.

**Bars:** Ingeniously, Bars' community animators deliberately rotated the clan's meetings between towns, and in doing so successfully maximized participation, increased awareness and ultimately created a community-wide sense of ownership over the process. Furthermore, Bars had only two boundaries to negotiate and was thus the first community to fully harmonize its borders and sign its MOU, which was done in a festival-like signing ceremony with over 200 witnesses. Bars was also aided in its efforts by strong motivation: it felt a high degree of threat to its lands as a result of various concession areas. Moreover, at the inception of the project, Bars was engaged in a protracted land dispute between an elite community member and two towns in the clan. (The individual was claiming 3,500 acres of land as his private, deeded land, leading to a protracted legal case between the individual and the two towns surrounding the claim area and costing the community "a lot of money in lawyer, [transportation], and communication fees... we don't know how much we [have] spent".) Yet as a result of its strong community animators and its dedication to the project activities, Bars was able to complete a third draft of its by-laws and elect its governing council. However, this election was later challenged and overturned when it was discovered that the town that hosted the elections was overly represented during the election process and thus had more than its fair share of council representatives. The Governing Council was disbanded and another election scheduled.

### **Progress of the education-only treatment communities**

**Dorbor:** Dorbor's leaders were among one of the most cohesive leadership groups in the study communities. The community – and the Interim Committee – also had the full support of local elites, including the Paramount Chief and Clan Chief. Because of the chiefs' support and strong leadership, Dorbor was able to complete most of the project activities with relative ease. After negotiating two particularly entrenched boundary disputes with its neighbors (Gbarsaw and Jowein), Dorbor successfully harmonized its remaining boundaries, held an MOU-signing ceremony, completed two drafts of its by-laws and finalized its land and natural resource management plan. However, while Dorbor's meetings appeared to be fully participatory, some decisions seemed to

have been made by a few dominant individuals; Dorbor's governing council was selected by a handful of individuals from one specific town. However, when the wider community challenged the council election process it was overturned and a new, more representative election was scheduled.

**Zarque:** Zarque is located between three paralegal treatment group communities, which helped it to benefit from the community animator's knowledge. SDI observed members of Zarque's Interim Committee and few of its elders attending several of Bars' and Duah's community meetings. SDI also noted that the committee chairman of Zarque visited the community animators of Duah, Central Morweh, and Bars on a number of occasions to seek guidance and information. Zarque also reported learning useful conflict resolution techniques from its neighbors' animators. Furthermore, the leaders and elites of Zarque were receptive of the project and highly supportive of the Interim Committee. As a result, Zarque successfully harmonized its borders, hosted an MOU-signing ceremony, and completed the second draft of its by-laws. It also completed a first draft of its land and natural resource management plan and elected a governing council. Zarque's Interim Committee had one of the most literate, competent chairmen in the study (having a post-high school education). While this helped the community to be successful in its efforts, Zarque tended to be highly dependent on this chairman, creating weakness in its leadership structure. Zarque recently faced challenges to its negotiated boundaries: some community members were unhappy with what they felt were unfair or rushed compromises. Positively, these conflicts were addressed by referencing the signed MOUs.

**Wheasaye:** Wheasaye's experience illustrates the challenges of community land documentation in peri-urban communities or communities without strong internal cohesion. There are over 20 towns in Wheasaye, with a distance of seven hours walking between many of them. As a result, Wheasaye struggled to organize even one successful meeting. In fact, meetings in this clan were dominated by new members who usually claimed, "This is the first time I have heard about this [project]." While such claims are questionable, as SDI introduced the project in each of Wheasaye's towns, these individuals' statements exhibit the clan's lack of cohesion and the poor information flow between towns. Wheasaye also suffered from weak cooperation between leaders and intra-clan boundary disputes. Furthermore, the biggest town in the clan and the second largest urban area in Rivercess County, Yarpah Town,<sup>153</sup> failed to engage with the project. Frustrated, the Chairman of the Interim

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**153** Yarpah Town is a transient community; most residents are business people who come from somewhere else and thus do not feel a part of the greater clan of Wheasaye.

Committee eventually resigned, and no replacement was made. As a result, the clan abandoned the project without completing most of the steps. However, individual towns that were interested in the project took the opportunity to work on harmonizing their town borders.

**Kebbeh:** Kebbeh is sparsely populated; its largest town, Ghorzohn, has roughly 40 households and the next largest town has three households. Kebbah's small population helped the community to unite, making most of the project steps relatively easy to accomplish. Focus group participants expressed how, as a result of the project meetings, "People were coming from far places to take part, and [this] made our community feel like one again." By the project's end, Kebbeh had successfully harmonized its borders, hosted a MOU-signing ceremony, completed a second draft of its by-laws, and elected its Governing Council. However, as a result of the extremely small populations of the other towns, Ghorzohn residents tended to dominate the process.

**Dowein:** Dowein was mostly controlled by interest groups from one of its towns, Nezuine. Elites in Nezuine were initially reluctant to accept the project, arguing that they already had a deed for their town land and therefore their participation in the project was not necessary. An elder said, "This is for our neighbors; we already have our paper." According to him, the deed belonged to the whole clan, but was held in trust by Nezuine. This issue proved to be a major distraction for Dowein; most community meetings were dominated by discussions addressing the legitimacy of Nezuine's deed claim. (Notably, some of the elders in charge of the deed were based in Monrovia, only periodically visiting the community.) Gradually, the authenticity of this deed became a major source of confusion. Clan members began to challenge the elders and elites from Monrovia to present the deed. Finally, when an incomplete, unofficial document indicating 2,000 acres was presented as the deed, community members became angry with the individuals that had been impeding the land documentation process on account of the deed's alleged existence. An elder in the group asked, "How much is 2,000 acres? We don't even know. Is it enough? We thought we had more than that!" Eventually, the clan rejected this document and Dowein's Interim Committee members were challenged to double their efforts. Thus followed a unanimous clan decision for the community to fully complete all steps of the project. Interestingly, in less than two months after this discussion, Dowein harmonized all their boundaries, hosted a successful MOU-signing ceremony, and completed a third draft of their community by-laws.

## Progress of the control group

**Siahn:** Siahn had motivated, well-organized, and highly competent leaders who were able to work together to mobilize the community. Even during the pre-service survey, SDI noted that there was evidence of a strong sense of cohesion between elders, women, and youth in Siahn. Siahn's efforts were made easier due to the close proximity of its towns, which facilitated full participation in all project activities. Siahn was also motivated by a strong sense of threat to its lands from Dowein, one of its neighbors, stemming from a disagreement over a tree plantation established by the Oriental Timber Company (OTC) on land spanning both clans. The conflict was resolved when both clans agreed to equally divide the plantation. Moreover, under the Taylor regime, Siahn residents reportedly suffered under a concession company with abusive labor practices and unsustainable timber extraction methodologies, which strengthened their determination to gain rights to their lands. Siahn's Interim Committee members also had very strong leadership and management skills. As a result, committee members were able to draft their own documents, and dispatched literate individuals into all the clan's towns to help in the drafting of the town's by-laws. SDI also observed that some of these individuals made a point of discretely attending SDI's monthly meetings in neighboring clans.

**Sawpue:** Sawpue was able to glean a great deal of information from neighboring paralegal communities, Jowein and Central Morweh; two of Sawpue's three borders are with these communities. It is likely that the community animators helped Sawpue to harmonize its borders. Furthermore, individual leaders (particularly the young Interim Committee members) explained to SDI that they had strong ties and shared common activities and interests with their peers in Jowein and Central Morweh. Such interactions led to a sharing of skills and information between the three communities, making boundary negotiations relatively easy. However, Sawpue's Interim Committee was not able to organize a MOU-signing ceremony or to lead its community to through debates towards a second draft of its by-laws. The Committee's failure was likely due to the fact that Sawpue is a relatively new, sparsely-populated clan and does not yet have a strong sense of cohesion or internal organization.

**Bowein and Hwolorzohn:** These two clans were dominated by their highly motivated District Commissioner (DC) who, likely out of a desire to be helpful and provide support, directed the majority of efforts in both communities. The DC spearheaded most of the land documentation work, including organizing meetings and facilitating border harmonization discussions. However, as a result of the DC's well-meaning interventions, no strong community-based structures were ever created in either Bowein or Hwolorzohn, and neither community



progressed through the land documentation process. In those instances where the DC could not be present to lead the communities' efforts, activities did not progress. An inter-clan boundary dispute between the clans further exacerbated their stagnation. The DC tended to focus his efforts on trying to resolve this dispute, at the exclusion of other project activities. Unfortunately, the boundary dispute escalated and was referred to the offices of the County Superintendent and the civil authority. When the Superintendent, a native of Bowein, found in Bowein's favor, Hwolorzohn denounced the verdict. The clans are currently re-engaging in customary dispute resolution methods.<sup>154</sup>

Compounding these difficulties was the fact that the DC held almost all of the project meetings in Bowein, forcing the people of Hwolorzohn to walk extremely long distances to attend the meetings. To ensure representation at these meetings, Hwolorzohn clan elders sent the more able-bodied youth to these meetings, who, while capable of walking long distances, did not have sufficient authority to resolve the border dispute with Bowein. Due to the DC's leadership, the combination of both clans into one process, and the lack of any parallel intra-clan meetings alongside the joint meetings called by the DC, community members in these clans reported to SDI that they did not feel that the project was a community initiative, but rather a forum organized by the DC to reconcile the two clans' boundary conflict.

**Teekpa:** Teekpa is located at the far end of the county, and therefore benefitted very little from information and capacity leakage from nearby study communities. Teekpa's progress was further hindered by its spacious distribution of towns, which negatively impacted community cooperation. Moreover, one of its towns was claiming to have formal documentation for over 250,000 acres of land, which was physically impossible. Based on its claims, this town interfered in Teekpa's efforts to harmonize its boundaries and called on elites in Monrovia to help it prove its case. These elites, motivated by the perception that the clan likely had undiscovered valuable resources within the mountain shared with Zialue, further obstructed the community's progress. Interestingly, in the final months of the project, the Paramount Chief and other local leaders strongly pushed for Teekpa to harmonize its boundaries, directly challenging the elites from Monrovia. As a result of the Paramount Chief's strong leadership, by the final months of the project the community was able to harmonize its boundaries and complete a third draft of its by-laws. In the process, the clan was able to address their internal differences, arrive at compromises, and promise that all towns' legitimate land claims would remain.

<sup>154</sup> It is worth noting that the Superintendent initially refused to participate in this dispute. He was approached on several occasions, mainly by Bowein, to participate in the discussion. According to the DC, he advised both clans to find a traditional method of conflict resolution; however, they insisted that he intervene.

## Appendix C

### Community by-laws examples<sup>155</sup>

#### Wheasaye Clan's 1st draft by-laws

1. A town is a place where people respect each other and live together. Anyone who will disrespect other person he/she will be taken to the town chief to explain why.
2. The town has a builder/owner, therefore anyone who lives in the town and wants to build should ask for a spot from the owner.
3. All the people in the town have their individual right to own property. No other individual interferes into other person things such as stealing, if you are caught and found guilty, you will pay LR\$500 to the town.
4. The local town chief is a person selected by the town people or appointed, therefore, all the powers of the town have been invested in him, so he must be respected.
5. The town chief has the right to call a town meeting when he finds it necessary or unnecessary (a) the town chief have to attend all meetings when he is inform of them (b) all town chief are to be in chair for six years (c) according to article 4 which stated the town chief must be respected. Also the town chief should respect the town people.
6. The people of the town have the right to respect one another to show love as one people.
7. No gossiping/propaganda is allowed in the town, anyone found guilty in the act will pay LR\$250 to the town.
8. Mischief is not allowed. To insult anyone in the town by any man, anyone caught and found guilty will pay LR\$250.
9. No one is allowed to curse anyone in the town by any man, anyone caught will pay LR\$300.
10. There should not be any abusing words in the town. Anyone caught and found guilty will pay LR\$100.

<sup>155</sup> Please note that the following by-laws have not been edited for grammar or content.

11. No sexual contact should be between a married man and a woman, no one is also allowed to introduce more than one person as a partner to their family, if that person or persons are found guilty both parties will pay LR\$1000.
12. No one is allowed to fight in the town, if found doing so will pay LR\$500 each.
13. No stranger is allowed to stay in the town within three days without been presented to the town chief.
14. No one is allowed to used chemicals in our waters (creek, river), to dig [for] fish or hoe [in]side the water; anyone found doing so will pay LR\$500 to the town.
15. Anyone refusing to attend meetings either by designation/representation will pay LR\$100 to the town.
16. Anyone wishing to build a house in the town should ask the town chief/owner to show them a place or spot to build (a) no married man is allowed to live in the town [for] a year without building a house; [if no house is built] the elders of the town will demand the host of said person to give [his own] house to the person and rebuild another house for himself.
17. No one is allowed to take any member of the town to law suit/court.
18. Stealing is not allowed in our towns, if you are caught stealing, you will pay the amount of LR\$500.
19. No man is allowed to beat his wife on the farm, if found you will pay LR\$500.
20. Strangers are not allowed to take the canoe from the crossing point without permission from the town chief, if found you will pay LR\$750.
21. Washing at the drinking water side is not allowed, if found you will pay LR\$300.
22. All strangers who want to engage in farming, hunting, mining activities and sewing of planks are to be done, in consultation with the town authority.
23. Strangers entering our forest for any reason, have to do it in consultation with the town authority.
24. Members of the town have to sleep with the bereave family until that body is buried, people refusing will pay LR\$100.

25. Any dead news in the town has to be communicated to the town chief as soon as possible.
26. Any dead body that is placed in a casket in the town, the family will pay the sum of LR\$500, one chicken, one gallon of liquor and 25 cups of clean rice to the town people.
27. When the dead body is not in casket, the family will pay the sum of LR\$400, one chicken, one gallon of liquor and 25 cups of clean rice.
28. Whenever a town crier is given announcement everybody should stop what they are doing (tape, talking and radio) and paid attention, so that they will understand what the announcement is all about.
29. Those the announcement are directed to, should addressed themselves to the announcement, failure on your part, will pay LR\$100.
30. No one is allowed to keep a sick person on the farm until the person get worse, if the town boys have to bring that person to town the family will pay LR\$250 and one gallon of liquor to the town before they can bring that person in the town. If the person died, the family will pay LR\$500 with one gallon of liquor to the town before they can go for the dead body.
31. If a company wants to take over individual plantation, that company will have to give the individual the value of the plantation.
32. No one is allowed to make farm in the devil bush, thatch bush and the high forest.
33. Any resources taken from the town should be an agreement between the citizen and the person/company/ Government.
34. No one should carry slippers or wash clothes within the fence area of the pump, failure will pay LR\$100.
35. No disturbance/noise in the night and before 7:00 am, failure will pay LR\$25.
36. Any able man who refuses to brush community road will pay LR\$250.
37. Anyone who cuts building materials and did not use them, that person will pay LR\$1500.
38. If palm nuts are harvested and not used, when spoiled the person responsible will pay LR\$500.

39. Every man is to participate in community work, failure will pay LR\$250.
40. With the approval of the town chief, no messenger should be given the opportunity to arrest anybody.
41. Before taking someone to court, you should first carry the person to the town chief, [if you] fail [to do this] you will pay LR\$300.
42. No one is allowed to sell house thatch or sticks to outsider, violators will pay LR\$250.
43. No one is allowed to cut down palm trees, failure will pay LR\$250.
44. Anyone coming to town work after 8:30 am will pay a late fee of LR\$25.

### **Central Morweh's land and natural resource management plan**

#### **Owning land and accessing land in Central Morweh clan**

- a) Every citizen residing in Central Morweh clan shall have the right to own three acres of residential land and thirteen (13) acres of farm land;
- b) To be a real owner of land in Central Morweh clan, you should go through the process established in law to buy, survey the land and acquiring deed or title from the clan governance.
- c) Every non – profitable organization shall have the right to own land in Central Morweh clan; if said organization leave, their property or properties belong to the clan.
- d) Any company wishing to operate within Central Morweh clan, should meet the land management committee
- e) Any person or group of people from another clan wishing to fishing on our territorial water should give 10% of the fish collected. If violated, that person or group shall pay LR\$3,000 to the council.

#### **Non – renewable resources**

- a) Any company mining gold in the clan should pay 25% per gram to the council.
- b) Any individual or individuals mining gold in the clan should pay 10% per gram to the council.

- c) Any company wishing to mine diamond should pay 40% per 100 points
- d) Any company mining iron ore in the clan that company shall deposit 30% per ton to the council
- e) If any company mining oil in the clan, the company should deposit 30% to the council per ton

### **Sawing**

- a) Any organization wishing to do pit sawing shall pay 15% of each 100 pieces
- b) Any individuals found doing pit sawing without the council concern, that person shall pay US\$50
- c) Any individual doing pit sawing in the clan shall pay 10% on each hundred pieces

### **Round poles**

- a) Any person, group of people wishing to do round poles business, shall pay 10% on each 100 pieces
- b) Every individual wanting to build a house are to cut round poles free of charge, but if he/ she damages the round poles, shall pay LR\$50 for each pole

### **Rattan**

- a) Any individual or organization wishing to do rattan business shall pay the followings:
  - » Six (6) tires truck, shall pay US\$50
  - » Eighteen (18) tires truck, shall pay US\$250
  - » Pick up load, shall pay US\$15 or LR\$500 per year
- b) Any community member wanting to do business such as: [make] chairs, baskets, fenders, shall pay a registration fee of LR\$500 per year.

### **Animals**

- a) Every individual is allowed to lack 50 traps in the bush for local animals.
- b) No one is allowed to hunt and kill wide animals in the clan

### **Palm trees**

- a) Nobody is allowed to cut down palm tree that is not in the farm. Anyone found cutting palm tree down that is not found in a farm is to pay LR\$500 as fine to the council.
- b) Any community member wishing to do palm wine business should register the amount of LR\$500 per annual

### **Forest law**

- a) Thirty percent (30%) of the forest is agreed upon to be reserved
- b) The forest is to be reserved for thirty (30) years
- c) No one person, family, or organization is allowed to sell any portion of land within Central Morweh clan without the concern of the council. Anyone found in violation of selling a piece of land without the concern council, shall pay the amount of US\$200.
- d) If someone moves into our community after the land management plan and bylaw are adopted, that person may get land through these means:
  - » Build a house in the quarter of their host,
  - » Participate in and contribute to community development activities and agree to abide by the clan rules
- e) No one is allowed to make forest farm within the period of fifteen (15) years. If anyone is caught making forest farm, he/she shall pay LR\$3,500 as fine to the council
- f) Any company wishing to operate in the clan for any purpose, that company should employ 75% of the residence.
- g) Company wishing to operate in the clan shall allot the personnel manager position to the clan

### **Water**

- a) No one is allowed to put chemical into any of our water for any purpose. Violators shall pay the fine of LR\$1,500.
- b) No one is allowed to toilet into any of the water constantly – creeks are not latrines. Anyone found using the creek as a latrine, shall pay the amount of LR\$300 as fine.

- c) If any of our neighboring clan is mining up our territorial water, which causing water pollution, that clan shall give to the affected clan 10% of any agreement reached.
- d) Any organization such as NGO, Company wishing to mine sand from any of our water, shall pay 20% per ton to the council.
- e) If a community is undertaking a project that require sand, that community should pay 5% per ton to the council.
- f) No one is allowed to do any fishing activities such as; hook laying, net fishing on the Duah creek for two (2) years.
- g) Anyone found doing any fishing activities on the reserved creek (Duah Creek) is to be fine 500LD to the council.

Four years from the date this management plan is adopted, any individual or group of people wishing to lay hook or net fishing should register to the council for LD\$500 per year

#### **Tree (round logs)**

- a) Any company doing logging in the clan shall pay 30% per cube to the Council.

#### **Allocation of benefits**

- a) Twenty (20%) percent of all funds received should be given to the clan headquarter for identified and approved projects.
- b) Ten (10%) percent of all funds received shall be given to each of the town for identified and approved project.

#### **Duah Clan's land and natural resource management plan**

1. Any sawyer sawing planks in our clan shall give the amount of seven thousand Liberian dollars (LR\$7,000) for every five hundred pieces of planks/a load of planks.
2. Anyone who want to plant a cash crops in a town shall go 35 feet away from the town before planting, to avoid the destruction of your crops during the construction of additional houses within the town
3. All crops should be planted 800 ft away from the clan headquarters.



4. Anyone who wants to mine sand in the Duah creek will pay LR\$500 for pick up load.
5. All cemeteries are to be 350 ft away from the town.
6. Any company wanting to operate in our reserve forest will built a clinic at the Nagbo Town junction.
7. The clan market should be built at Dorzohn at the Goah Town junction.
8. The clan school is to be built in clan headquarters (Goah Town).
9. The clan sport ground and the children play ground will be built in Funny Town.
10. The chieftdom compound is to be built in Nagbo Town.
11. A motor road should be constructed to link Tiah Town to Zoewulum Town.

### **Boehtarr Clan's governing council rules**

#### **Election criteria**

1. These chairpersons should be of good behavior, married, he/she should be a Liberian, who has lived in the community for over a period of five years, he/she should not be denied because of his/her ethnic background, education or association
2. The leader should be elected for a period of six years.
3. Community members have the right to tell the leaders what to do and what not to do.

#### **Impeachment**

1. The community is to advise leaders if they are doing wrong for about two to three times. Failure on the part of the leader(s) [to correct these mistakes gives] the [community] the right to call for re-election in a general meeting.
2. If he/she receives a 2/3 majority vote of the community to remove him/her from office, that leader can be removed from office.
3. The leader that is impeached has the right to contest in the election for the same position. During the re-election the former leader should be represented at the ballot box, where the voting will take place.

4. Any leader failing to attend leadership meetings will pay LR\$50 and a community/town failing to attend a general meeting should pay LR\$100.

### **Jowein Clain's by-laws**

1. All citizen of this town are equal before the by-laws and constitution of this town.
2. No one is allowed to use abusive words that have greater impact on male and female, failure will pay 10 cups of rice and 1 chicken to the town/250LD.
3. Stranger is not allowed to cut palm in our community palm bush, until he/they meet with community and must pay the amount 2 tin of oil as rent for the community land used.
4. Any community member, who will receive stranger, should report the stranger to the community leaders through the town chief within two days.
5. All youth above 18yrs, who are not in school, should brush and tie bridges along all major roads linking the town, youth who will refuse will pay a bucket of rice, 1 beer bottle of palm oil, 1 leg of meat and 1 beer bottle of strong drink.
6. Every woman is to take part in the cleaning of the waterside road.
7. Any stranger who wants to build a house in our town should give a token to the community through the town chief as spot identification fees.
8. Every household head must construct a latrine and a bathroom.
9. No community member is allow to plant coffee, cocoa, rubber within the perimeter of 5 miles as of the date of this by-laws and constitution. Anyone who defies this rule leads the community with no alternative but to a permit the community to give the spot to someone who wants to construct.
10. No one is log to raise domestic animals in our town.
11. No one is allowed to fight in the bush or beat his wife in the bush, failure will pay 500LD.

12. No stranger is allowed to get in our bush to dig gold without consulting the community leaders. He/she has to pay certain amount of money to community before he/she starts work.
13. Every able man is allowed to clean our cemetery once a year, with the supervision of the town chief.
14. No one is allowed to throw chemical/public into our waters.
15. All town disputes are to be reported to the town chief first before taken to government, refusal will pay 150LD.
16. Anyone who does not want to live in this town again, the town will take back any life tree you plant and your house, only your house will be left for you.
17. No is allow to disturb publicly in the morning while people are still in bed, up to 7am.
18. No one is allow to wash, pupu, wash clothes, wear slippers and fishing at the upper part of our drinking water. If caught will pay 150 LD.
19. No one is allow to cut palm tree to make palm wine, except old palm trees that cannot produce any longer.
20. No one should gossip against anyone.
21. All community members are to attend all call meetings.
22. No one is allow to make forest farm that will destroy our logs and other trees that are important to us.
23. No stranger is allow to hunt in our bush without permission from the town chief.
24. No one is allow to beat on anyone's child without any good reason.
25. No pit sawer should be allow to enter our forest for sewing without the concern of the citizen.
26. No one is allow to do any harmful thing of fight in the town, if caught you will pay 500LD to the town.
27. Children less than 10 years are not allow to swim in the river alone, babies are not allow to the waterside and children are not allow to go to the pump, if caught parents will pay 250 LD.

28. Anyone caught cutting palm and allowing it to spoil in the bush will pay 1 tin of palm oil.
29. No one is allow to cut house sticks and allow it to spoil in the bush and any house built without completion and the sticks spoil the person will pay 1500LD.
30. Any hunter killing big animal, one quarter of that meat should be given to the town.
31. Strangers coming to dig gold and to cut palm to make oil, should give some of the palm oil and gold to the town.
32. Every able man of the town should build a house in the town.
33. Anyone not attending meeting whenever the town chief or the elder call meeting will pay fine of 25 LD, except there is a excuse of death or sickness.
34. No town citizen is allowed to make noise from 12 am to 7 am. Anyone caught doing so, he/she will pay the amount of 250 - 500 LD. Only in the case of emergency or danger.
35. Everybody from this town have equal right to live in any town in Liberia and participate in the development of Lakpsee. He/she should live by the town law. Anyone who refuses to participate in any development, he/she should leave the town.
36. If anyone died in this town, all citizen should sleep under the body kitchen, anyone refusing to sleep under the body kitchen, he/she should pay the amount of 10 cups of clean rice.
37. If any man form our town go out and married different woman or man and come home, and they have children and properties and our brother/sister died that properties is belonging to the woman and her children of the man and his children.
38. If a citizen go out and married a woman/man, and they do not have a child, and the man die, the property they have, part of it goes to the woman and the family.
39. All elders are to attend community and development meetings, if he refuses twice that elder will be talking back to the labour force again.

“ I don't care what anyone says, this project is the best thing to happen in our history. Imagine: now we know our borders; we know our resources; we know our rules, and they are written down for everyone to see and know; people are attending clan meetings; and our clan feels stronger together. This has never happened before! Now it is easy for us to organize and ask the government or [foreign investors] for things we want or refuse things we don't want in our community. ”

Community members greet the SDI field team upon their arrival for the community's MOU-signing ceremony.

