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LAND POLICY AND INSTITUTIONAL SUPPORT (LPIS) PROJECT

CUSTOMARY LAND TENURE IN LIBERIA: FINDINGS AND
IMPLICATIONS DRAWN FROM II CASE STUDIES



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AND IMPLICATIONS DRAWN FROM 11 CASE
STUDIES

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ACRONYMS AND ABBREVIATIONS

CDC	Community Development Council
CFMC	Community Forest Management Committee
ERU	Emergency Response Unit
FDA	Forest Development Authority
FEWS NET	Famine Early Warning Systems Network
FFI	Fauna and Flora International
GOL	Government of Liberia
IDP	Internally Displaced Person
LD	Liberian Dollar
LISGIS	Liberia Institute of Statistics & Geo-information Services
LPIS	Liberia Land Policy and Institutional Support Project
LR	Livelihood Region
MCC	Millennium Challenge Corporation
MODEL	Movement for Democracy in Liberia
NRC	Norwegian Refugee Council
NTFP	Non-Timber Forest Products
OTC	Oriental Timber Company
REDD	Reducing Emissions from Deforestation and Degradation
RRA	Rapid Rural Appraisal
RTC	Railroad Timber Company
SCNL	Sinoe Conservation of Nature in Liberia
SRC	Sinoe Rubber Corporation
SSI	Semi-structured Interview
UNMIL	United Nations Mission in Liberia
USAID	United States Agency for International Development
USD	United States Dollars

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EXECUTIVE SUMMARY

This report synthesizes the findings from field research on land and natural resource tenure in 11 administrative clan units (henceforth referred to as ‘clans’) in Liberia, including Ding, Dobli, Gbanshay, Little Kola, Mana, Motor Road, Saykleken, Tengia, Upper Workor, Ylan, and the community of Nitrian. The report presents an analysis of critical implications of the findings of the study and provides recommendations for addressing sources of tenure insecurity faced by rural communities in Liberia. The research was carried out under the auspices of the Liberian Land Commission and was undertaken with the primary purpose of improving the Commission’s understanding of customary tenure in rural Liberia. The information and analyses are intended to enable the Land Commission to develop sound law and policy that will strengthen the land tenure security of rural communities in Liberia. This report was written as part of the Land Policy and Institutional Support (LPIS) Project, supported by the United States Agency for International Development (USAID) and the Millennium Challenge Corporation (MCC). The customary tenure studies were coordinated by Landesa and Tetra Tech ARD.

The research informing this report was gathered using Rapid Rural Appraisal (RRA) methods. The research team consisted of two technical leads and a researcher from Landesa, and seven Liberian researchers. The team was composed of men and women representing different professional backgrounds, regional origins, ethnicities, and ages in order to capitalize on a diversity of skills, experiences, and insights to improve the quality of the research. In each study area, the research team spent five days engaging in a series of research exercises with clan members.

LAND USES AND LIVELIHOODS

The landscape and natural resources in the studied clans are characterized by hilly terrain supporting upland and lowland cultivation areas. Although the extent of primary forest has diminished over time, secondary forest or “bush,” which is converted to agricultural land after a period of fallow, is extensive. A few clans such as Motor Road, Ding, Saykleken, and Nitrian manage community forests, which have been set aside for specific purposes ranging from conservation to commercial timber extraction. All clans depend on land and natural resources for their livelihoods, primarily through agriculture, but also through harvesting forest products, water collection, fishing, hunting, and mining.

In all 11 clans, land is primarily used for farming and settlement. Rice, cassava, and vegetables are the primary crops people rely on to meet their food needs. Collection of timber and non-timber forest products (NTFPs) and hunting are undertaken in bush and forested areas where people also utilize creeks and streams for fishing and collecting water for domestic uses. In some clans, we encountered palm, rubber, cocoa, and coffee plantations; swampy lowlands cultivated in rice; and mineral rich areas utilized by artisanal gold and diamond miners. Although land set aside for permanent tree cropping was increasing in some clans, in others, the cultivation of tree crops was constrained by a lack of inputs, low prices, and poor access to markets. Rivers and creeks are plentiful in most clans, and two clans also border the Atlantic Ocean.

Settlement areas differed by clan. For example, while settlements in some clans were highly populated and densely packed, in others, settlement areas had low populations with houses set far apart from one another. In some clans, we saw a few homes constructed with mud bricks and having zinc roofs – a sign of relative wealth. In most cases, however, the homes had earthen walls and thatch roofs.

Farming was universally described as the most important livelihood activity in the studied clans with the exception of Mana Clan. In all the clans, farming is utilized predominantly for subsistence purposes.

However, several of the clans, especially those located near major towns and cities, sell a significant proportion of what is produced in markets.

Farming requires phases of intensive labor and is structured around the rainy and dry seasons. Primary farming activities include clearing, burning, planting, weeding, chasing away birds, harvesting, and building storage granaries. With some slight variation by clan, the dry season lasts roughly from November to April, while the rainy season runs from May to October. The sizes of farms vary both within and between clans, ranging from roughly one to four acres. The distances from settlements to farms vary from 30 minutes to two hours on foot. In each of the 11 clans, farmers practice shifting cultivation or rotational bush-fallowing systems for upland rice fields. In some clans, the fallow period is as short as one to five years while in others it is as long as 15 to 20 years. Clan members attributed shorter fallow cycles to increasing populations and the growth of tree crop cultivation.

Upland rice was consistently reported to be the most important crop due to its significance as a staple food, followed by cassava. In all the clans, rice is commonly intercropped with vegetables and tubers, including cassava, okra, corn, cucumber, bitterball, pepper, eddoes, potatoes, eggplant, pumpkin, ground peas (i.e., peanuts), yams, and beans. Less commonly, farmers intercrop upland rice with rubber tree saplings.

Swamp rice farming is particularly prevalent in those clans where government and NGO interventions introduced technologies and materials, such as Tengia and Upper Workor, both in Lofa County. Yet swamp rice – whether involving the traditional or improved method – is not pervasive everywhere. In Motor Road, farmers do not practice it, while in Ylan Clan, swamp rice production has decreased because of increased pest infestations. Many clans expressed a strong interest in swamp rice farming because of its higher yields and the fact that one does not need to clear or burn the area to plant it. Moreover, swamps can be planted and harvested for multiple seasons before needing to be fallowed.

While vegetables are most often intercropped with rice and cassava, some farmers keep separate vegetable gardens. Many women reported selling vegetables in local markets for cash. Women are the primary cultivators of vegetable gardens in most clans, though in Ylan, men reported that they have separate gardens and produce more vegetables than women.

In addition to food crops, residents of the studied clans also plant “life trees” to varying degrees. Life trees bear products of economic value, endure over the span of a typical human life (or longer), and typically allow the planter to assert a permanent claim to the land on which they are planted. In several of the clans that we visited, life trees are an important source of cash earnings. Rubber cultivation in particular appears to be increasing in some clans as a result of the growing proliferation of rubber buyers and high market prices. Rubber, palm, cocoa, and coffee play an important role in rural livelihoods, as do coconut, orange, kola, and mango trees. The type of life trees differed depending on the geographic location of the studied clan and seemed most prevalent in clans located in Bong, Lofa, and Nimba counties.

Husbands, wives, and children farm together, with certain activities primarily assigned to women and others mainly to men. However, the division of labor is not always strict, and we frequently heard cases in which men participated in tasks traditionally assigned to women and vice-versa. In general, men bear primary responsibility for the cultivation of life trees, though women often participate in their cultivation and maintenance and, less commonly, plant their own trees. Whereas men are often the primary sellers of tree products, women are the main sellers of vegetables and other produce. The extent to which women and men share earnings from sales is highly varied among the clans and even among households within a clan.

The importance of livestock as a source of livelihood varied among the clans. In some clans, people reported that their livestock had been decimated during the war; often herds had not been replenished. Fowl, including chickens, ducks, and guinea fowl, and small ruminants are common, while cattle are not. Livestock are both sold and consumed.

Some clans have primary forests and all have secondary forests (i.e., bush). In all studied clans, residents harvest NTFPs from the forests. Residents of these clans also catch fish from creeks and hunt and trap wild

game for both sale and consumption. Residents usually hunt deer, groundhogs, and other rodents using traps, guns, and hunting dogs. More exotic animals are also hunted in some clans.

Artisanal gold and diamond mining is a major source of livelihood in Mana, and is done to a much lesser extent in Ding and Dobli Clans. Gold is mined on hillsides, in swamps, and on the banks of rivers. Gold mining is said to provide steadier income than diamond mining, largely because gold is more commonly found and the value of diamonds varies widely. Mining tasks are also divided by gender. Men typically dig while women sift and wash the gravel. Women also cook for men who are digging. Men commonly sell the minerals.

In several of the studied clans, clan members engage in other livelihood activities in combination with seasonal cropping and tree cultivation. In the clans we visited, we encountered charcoal producers, pit-sawyers, providers of transportation and cell phone services, shop or kiosk keepers, pastors, healthcare workers, teachers, carpenters, video club owners, and government employees. In Motor Road, however, non-farming livelihood activities are limited to teaching and government employment.

RIGHTS AND RULES GOVERNING LAND USE

In each of the 11 studied clans, customary rules governing access and rights to land and natural resources prevail. These rules vary based on the tribal ethnicity and lineage systems that dominate in each clan. Customary tenure systems – though based in tradition and extending back to forefathers who first settled the land – are dynamic and evolve over time in response to interventions and new realities, whether physical, economic, political, or social. Though we encountered many differences in the customary rules of the 11 clans, we also encountered many commonalities. Among the clans, there is a high degree of variance in terms of the presence of statutory forms of tenure, including deeds, Tribal Certificates (TCs), concessions, and government holdings. Where statutory forms of tenure are present, we found that they have influenced the nature of customary tenure – sometimes marginally, in other cases radically.

In each of the studied clans, access to land for farming and housing is governed by a set of rules shared by one or more lineages that settled in the area and first cleared the land. Claims to land are highly nested, typically ranging from claims held by the lineage-based chieftaincy or clan to claims held by towns, extended families, and households and individuals. At the household level, claims can be temporary, as with seasonal upland rice and vegetable crops, or they can be permanent as with tree crops and house plots.

The rights embodied in nested claims are different. At the higher levels, claims embody more governance rights, including the right to establish customary rules to govern access to and use of land and natural resources and the right to exclude those who are not citizens of the lineage. At the lowest levels, claims represent use rights and a narrower set of governance rights over discrete areas of land. Among the studied clans, the primary basis for accessing land for farming, housing, and harvesting natural resources tends to be through larger claims held by families, quarters, or towns – the unit we refer to as the “core tenure unit.” Members of this unit have primary rights to land; that is, they do not have to borrow land.

Communities trace their rights to live, farm, and govern a particular area to the clearing of primary forest and settlement on the land by their forefathers. Once land is claimed by an extended family, individuals and households typically gain seasonal or permanent rights to shares of that land via the following means: 1) allocation by those administering rights in the extended family unit; 2) gifts of land from parents to children or from town citizens to strangers; 3) inheritance of land by children; 4) via marriage – including inheritance as a widow; 5) borrowing land; and 6) planting trees.

Rules for Accessing Land

Access to land for seasonal crops is typically via seasonal rights within the extended family unit. Seasonal farming rights tend to last one to two seasons, though in some clans the claim lasts three to four seasons.

In all 11 clans, the act of planting life trees vests exclusive, permanent, and more substantial control rights in the planter and the planter's immediate family. As such, the land also becomes unavailable for seasonal cropping and other uses by the extended family. Typically, only citizens of a particular town or other extended family unit are allowed to plant life trees on land belonging to that extended family, though in some of the studied clans outsiders who have been assimilated into a town or family are also permitted. Exclusive permanent rights are also accorded to land designated for house plots, which often include small areas of land for planting trees and small kitchen gardens in addition to a dwelling. Land that is not used for settlement or farming is typically held in common by the town or other extended family units, such that anyone who is a member of that unit has rights to access that land, though certain areas have restricted uses.

Individuals who are not members of the core tenure unit must borrow land belonging to that unit. Those who borrow land to farm rice, cassava, and vegetables typically have rights for one season, with some clans allowing borrowers to renegotiate for a second season. The short term is due to the fact that fragile tropical soils cannot support rice and cassava crops for longer than a single cropping season before the land needs to be fallowed. Most communities expect borrowers to pay for access with a small portion of harvested crop, such as one to two bags of seed rice. In some areas with more plentiful land, such as Nitrian, Motor Road, and Saykleken, borrowing is uncommon and borrowers are not required to compensate the lenders. It is a nearly universal rule that borrowers may not plant life trees on land they borrow, due to the permanent rights life trees confer.

Women's Rights to Land

Women access and gain rights to land through many of the same channels as men: inheritance and gifts from their natal families, borrowing, and, much less frequently, through planting life trees. However, a primary means by which women access land is through marriage, such that women's rights to land are substantially framed by customary marriage traditions. In all of the studied clans, the marriage system is predominantly patrilocal, whereby women relocate to the husbands' community upon marriage and therefore access land for housing and farming there. Prior to marriage, daughters, like sons, typically farm with their parents although there are some variations.

For land dedicated to seasonal farming, daughters usually acquire an entitlement to farm on their extended family land or the land of their town by virtue of being a member of that extended family. When it comes to individualized land (e.g., house plots, land planted in trees) or where rights are bestowed on immediate families, we found that in several clans daughters are increasingly inheriting or being given land by their parents. Daughters may either inherit land jointly with their brothers or receive a share of the land divided among the children. When land is divided, daughters tend to receive smaller portions than their brothers.

It is very uncommon for married women to administer and exercise control rights over land inherited from their parents, especially in the case of joint inheritance. This is primarily because customary rules stipulate that one can only manage the land of their own extended family and most women leave their natal communities when they marry. As a result, men are usually the ones to administer land on behalf of their families or extended families. The only exception that we found to this was in Doblí Clan where the oldest child will manage inherited land on behalf of his or her siblings, regardless of sex. Here, too, women frequently farm on land both in their natal community and their husband's community.

All clans reported that if the marriage breaks down, a woman has the right to return to her natal community and access land for subsistence farming there. In such cases, women will need to rely on their natal families to contribute and help mobilize labor required for subsistence farming. In Tengia, women reported that they must petition their brothers to be allocated a parcel. Unlike widows, a divorced woman cannot continue to access land in her husband's community. According to citizens of Doblí, this is also the case for divorced men when the couple has settled in the wife's community.

In the studied clans, it was reported that widows have the right to remain in their married community, including retaining the house plot and accessing land for farming. This generally includes rights to continue to

manage tree crops where these are present. A widow's rights are strengthened when she has children, who forge a widow's tie to her husband's lineage. Rights are more precarious in the absence of children and will often depend on a widow's rapport with her in-laws. Widows, like divorced women, also have the right to return to their natal communities or re-marry. In such cases, the widow will revoke her right to access land for seasonal cropping in her deceased husband's clan and to the proceeds from the tree crops she and her husband cultivated, as she will be expected to access land in her natal community or in the community of her new husband.

When women return to their natal communities and gain rights to land for housing and farming, their children cannot inherit those rights. Rather, children can only gain land rights in their father's community, affirming the general customary principle that land passes to children through the male line. In fact, women's ability to pass house plots inherited from their parents to their children has invoked resentment in Saykleken for the violation of this principle.

In most of the studied clans, we found that women exercise robust control rights over land they farmed with their husbands, including the rights to control the proceeds from the sale of seasonal crops. With the exception of Saykleken, no rules prevent women from planting life trees in the studied clans. However, fewer women plant tree crops on their own than men, and when they plant them with their spouses, they often have less decision-making authority over cultivation and less control over the proceeds from tree products than men.

Rights to Other Natural Resources

All of the clans that we visited have life trees, ranging from one or two individuals having parcels in Nitrian and Motor Road, to clans such as Ding and Dobli that reported that nearly every household in the clan has at least some land planted in life trees. Planting life trees confers permanent, exclusive, and heritable rights to those trees and their products, as well as to the land they are planted on. Typically, custom prohibits or highly restricts uprooting or cutting a life tree, reflecting the trees' importance in asserting permanent claims to land.

With the exception of Saykleken, women are allowed to plant and own life trees – and thereby establish a claim to the land they are planted on. However, married women often leave this task to their husbands or cultivate the trees with him. Because life trees are a chief source of cash income in many clans, persons who face restrictions on their ability to acquire land for planting life trees become excluded from this important cash earning opportunity.

In all of the studied clans, residents depend extensively on natural resources from uncultivated land referred to as “bush.” When such land has fallowed a number of years, it becomes rich in vegetation, often constituting secondary forest. Rights of access to bush vary by clan. In many clans, the right of unrestricted access to bush is limited to members of the same “core tenure unit” (commonly, members of an extended family or town unit, but sometimes comprising larger groupings), which is also the basis for acquiring primary rights to land for seasonal farming. Rules for accessing products in primary forests often mirror those for “high bush” (land that has been fallowed for a long time), provided that the forest is not protected or set aside for special purposes.

Access to bodies of water (primarily creeks and rivers) for fishing and domestic water use tends to be open to all members of a clan. Most clans permit anyone in the clan to access water bodies, though some restrict access by town. In Mana, access to creeks is restricted to citizens of a town; in Ding, river access is for all clan members but creek access is restricted to town citizens.

Compliance with Tenure Rules

With the exception of Little Kola, Motor Road, and Saykleken, the studied clans reported a significant problem of waning compliance with customary rules governing land and natural resource tenure. Even Motor

Road and Saykleken citizens acknowledged some decrease in compliance with traditional rules. The civil war and challenges arising from the youth¹ were repeatedly cited as major reasons for diminishing compliance. Other possible contributors to waning compliance with customary rules are the increased legitimacy ascribed to statutory evidence of tenure over customary evidence and the uncertain and diminishing role of cultural institutions.

Statutory Tenure: Tribal Certificates, Deeds, Concessions, and State Land Rights

With the exceptions of Saykleken and Tengia, the tenure systems of the nine other clans are influenced by the introduction of statutory tenure. We encountered four main statutory tenure forms in the studied clans: 1) Tribal Certificates (TCs), which legally authorize the holder to have a designated area of land surveyed; 2) deeds, which legally certify land rights; 3) rights granted to companies or organizations, including concessions, licenses, permits, and other contracts granting private companies and organizations rights to land and often certain natural resources associated with that land; and 4) government land, specifically referring to holdings designated for specific management or use by the Government of Liberia (GOL).

Statutory tenure claims can be broken down into two categories: claims by clan citizens and claims by outsiders and the government. In several of the studied areas, TCs and, in some cases, deeds, have been acquired to secure the claims of clan citizens to the land they have traditionally occupied. The level at which the claims have been made and the names believed to be recorded on the documents provide insight into local perceptions about who “owns” the land and who should be in charge of administering that land. Nitrian, Mana, and Doblí all claim to have communal deeds ranging from the clan level to the district or community level. In Ding and Little Kola, there are TCs for towns. However, in Ylan and Gbanshay, these forms of statutory documentation tend to be for land managed by individuals and their immediate families. There were no TCs or deeds reported in Motor Road and Saykleken – both clans located in the southeastern part of Liberia.

Our study also revealed that several of the clans have land that is claimed under one or more forms of statutory documentation issued to individuals or entities considered to be outsiders (i.e., not descended from the original settlers in the area or assimilated strangers). The most common documents are deeds, licenses, and concessions granted by the government. Claims are also asserted directly by the government, which are not necessarily documented in this manner.

GOVERNANCE AUTHORITIES FOR LAND AND NATURAL RESOURCES

In each of the 11 clans, governance over land and natural resources derives from both customary and statutory authorities.

Customary leaders derive their authority from and govern in accordance with customary rules. In the studied clans, these authorities included elders, chairmen, chairladies, Family Heads, and Quarter Chiefs. In some clans, Town Chiefs occupy a hybrid position between the customary and statutory realm. Despite growing demand for formal property rights, many communities still depend on these customary institutions for access to land and dispute resolution. In all 11 clans, customary authorities are active in land and natural resource governance and typically govern at the town level. Community members and local leaders reported that customary governance authorities tend to be more accessible and efficient than statutory authorities and that they provide free services. However, in some clans, these assertions were contradicted by other clan members who accused customary authorities of espousing outdated beliefs, of not representing all echelons of the community, and even of corruption.

¹ Typically referring to individuals between 18 and 35 years, though this varies somewhat by locality.

In the clans we visited, statutory authorities that deal with land issues include: Town Chiefs, General Town Chiefs, Clan Chiefs, Paramount Chiefs, District Commissioners and District Superintendents. Prior to 1901, statutory institutions did not play a role in land governance in the interior. Rather, in many clans, the elders, warrior-chiefs, or secret societies were the primary governance authorities. The introduction of statutory authorities created a new social structure whereby patrimonial warrior-chiefs and elders were replaced by a bureaucratic hierarchy of chiefs. While this system was imposed as a form of indirect government rule in the interior and to carry out functions on behalf of the government, these authorities also have a mandate to represent local people's interests to the government.

In some clans, the introduction of statutory authorities has co-opted or undermined the effectiveness and legitimacy of customary governance authorities in regards to local land and resource governance. This may partially explain tendencies toward non-compliance with customary rules governing land, though community members largely blame government imposed "human rights" policies and youth discord for weakening compliance.

Difficulty accessing authorities located outside of towns leads some clan members to prefer that local leaders – mainly Town Chiefs, Quarter Chiefs, and Town Elders – handle their land and natural resource matters. At times, though, people favor referring matters to District Commissioners, Land Commissioners, the District Superintendent, or the courts, especially when there is a perception that local authorities may be biased or lack enforcement power. Clan members reported that, prior to the war, customary institutions were effective in ensuring equitable allocation of land resources and in resolving disputes, but that today, elders and Town Chiefs lack government backing, leading clan members to look to statutory authorities that have enforcement power to protect their rights and advocate for them. However, statutory authorities and courts are seen by some as favoring the wealthy and powerful, who they see as able to use the formal system to their advantage.

Our findings show that women are increasingly occupying positions of authority in the studied clans. While men constitute the clear majority in positions of authority, we met women serving as elders, chairladies, Town Chiefs, Clan Chiefs, and Township Commissioners. Some community members attribute women's growing occupation of these positions to the introduction of principles of gender equity from external sources. At the same time, we found that women's decision-making power over land and natural resources appears to be particularly limited, as land is often still viewed as the domain of men and male decision-making. Despite the barriers, there is evidence that women command power in various ways. In all clans, we found that women play important roles such as managing granaries, controlling and marketing food crops, and managing the earnings from sale of crops.

In many clans, youth play a role in land and resource governance, though the level of involvement varies greatly across the different clans. In general, youth – especially male youth – are increasingly challenging statutory and customary governance institutions. In some clans, the youth are frequently at odds with the local authorities and feel that they are overlooked in decision-making about land issues.

In addition to customary and statutory authorities, we found that cultural societies, religious institutions, community-based organizations (CBOs), governmental agencies, NGOs, and international organizations sometimes play important roles in local governance, though their level of involvement in land governance varies greatly by clan. In two clans where the Norwegian Refugee Council (NRC) was active in resolving land disputes, certain community members expressed more faith in the capacity of the NRC to resolve land disputes fairly than in their statutory leaders. Unfortunately, there are no organizations to assist in promoting accountability or transparency within the authority structure.

Overall, our research reveals that in some areas, customary authorities still command considerable respect when it comes to land and natural resource matters, while in others, that respect has substantially dwindled. In places where respect for authorities has diminished, the war's legacy may be a contributing factor, having galvanized youth empowerment while also weakening traditional social and normative structures. Some of the people we interviewed suggested that the war transformed the landscape of authority. Many individuals were forced to flee and to forge new networks upon which they could rely. The youth also assumed positions of

power during the war, especially among warring factions. Today, many youth are not content to go back to the old ways of subservience to their elders and seek to have greater power in their communities. Youth are also gaining control over land at a younger age, are generally the most eager to invest in cash crops or alternative livelihoods, and, in many clans, are regarded as among the better off. As youth acquire more land and power, this could usher in further challenges to customary rules and governance structures.

DISPUTE

We encountered a diversity of disputes over land and natural resources in the studied clans. In many clans, these disputes were related to access to resources, encroachment, inheritance, and disputed boundaries. In other clans, disputes arose over outsiders' irregular acquisition of land. We also encountered a few instances of conflicts between tribes, conflicts with government agencies, and conflicts over mining areas.

Encroachment disputes were relatively common throughout the clans, taking the form of disputes between landowners and borrowers; between landowners; between towns; and between clans and other neighboring areas. Disputes between landowners and borrowers, which were reported to be common in Doblí, Gbanshay, and Tengia, stemmed from borrowers planting life trees on land designated for seasonal cropping. Disputes between towns arose over access to valuable resources, including land under fallow. Disputes between clans tended to stem from clan members encroaching on and claiming land across clan boundaries.

Disputes between clans and the GOL were reported to be uncommon in the studied clans, with the exception of Motor Road and Ding. Motor Road has an ongoing dispute with the Forest Development Authority (FDA) over three principal issues: 1) the extension of the Sapo National Park boundary, 2) the creation of a three kilometer buffer zone around the park potentially necessitating the relocation of the clan's community forest, and 3) the lack of a deed for the clan's community forest. Additionally, locals take issue with the rules restricting the hunting and trapping of endangered species and with the allegedly harsh measures to enforce those rules. In Ding, government acquisition of 10,000 acres to establish a military academy during the Tubman administration has fueled resentment in the clan.

Disputes over competing customary and statutory claims to land are increasing in some clans, including Ding, Doblí, Mana, and Ylan. In Mana, disputes between local communities and companies seeking land for mining or logging highlight the tensions between customary and statutory claims. These companies allegedly extract local resources, damage clan infrastructure, and renege on promises of service provisions and improvements to clan infrastructure. Disputes over competing customary and statutory claims also exist among clan citizens. In Doblí and Ylan, both outsiders and clan members attest to having deeds and TCs for huge parcels of land. However, some clan members contend that the documents are obtained irregularly, with fake signatures. In Ding, clan members assert that local government officials are complicit in irregular sales of "public land" to outsiders and also forge signatures.

Study participants universally reported that disputes over land and natural resources are increasing and will likely continue to increase into the future. In many of the studied clans, the growing number and severity of disputes appears to be associated with rising competition for land and other resources. Growing population density seems to be leading to increased demand for cultivable land as more and more people seek to make farms from a finite amount of land. Pressures are exacerbated by the shifting cultivation system and the need to adequately fallow land before it can be productively engaged. Also, the proximity of some clans to major urban areas has led wealthy, well-connected strangers to seek out land in those clans.

Nevertheless, in several clans, disputes were not violent or severe, and dispute resolution mechanisms appeared to be legitimate and effective. The clans with the least violence also tended to be further removed from urban centers and had not undergone a major shift to rubber cultivation.

DISPUTE RESOLUTION MECHANISMS

Dispute resolution mechanisms in the studied clans are a mix of local customary and statutory authorities, alternative dispute resolution mechanisms, courts, and traditional processes. Many disputes followed more than one of the processes available after initial attempts at resolution failed.

In all studied clans, the prescribed dispute resolution process follows a common hierarchy of local authorities. In this process, disputants first bring a case to clan-level statutory and customary authorities, namely the Quarter Chief or Town Chief, followed by the Zonal/General Town Chief (if the clan has such authorities), and then the Clan Chief. If the disputing parties agree with the ruling, the dispute is considered resolved. If either of the parties does not agree, the dispute goes to the next level of the hierarchy. If the dispute cannot be resolved within the clan, it is referred to the Paramount Chief, the District Commissioner, and, eventually, the Superintendent.

In the clans, elders are an important part of dispute resolution with many disputing parties consulting the elders before going to the Town Chief. In some clans, the elders told us that they are involved in every level of dispute resolution – even as high as the District Commissioner – and often serve as a jury.

Many respondents reported that, when resolving disputes, they follow the prescribed dispute resolution process, and that most disputes are resolved before reaching the Clan Chief. Sometimes, however, disputants vary from the prescribed course and bypass some authorities. The rationales for bypassing authorities included desires to take disputes to authorities that would provide the best resolution, feelings of trust or mistrust in certain authorities, and a preference to bring disputes to those with enforcement authority.

In many clans, dispute resolution appears to be undergoing a shift. The legitimacy of local dispute resolution authorities is increasingly being questioned, particularly among the youth. In some clans, local authorities appear to lack the capacity or jurisdiction to respond to the types of land and natural resources issues arising today. Further, many local authorities reported that they lack the powers needed to garner legitimacy and to enforce their rulings, including support to punish individuals who fail to comply with those rulings. With limited enforcement support granted to local authorities, rule breakers can act with impunity.

In some clans, local-level dispute resolution authorities are viewed as biased by some members of the community, especially the youth. This is symptomatic of the lack of necessary democratic structures to hold these authorities accountable, including regular elections. In such cases, high level statutory authorities like District Commissioners and Superintendents are increasingly seen as more legitimate than lower level authorities like Clan Chiefs and Paramount Chiefs. Nonetheless, we found cases where local level authorities, especially elders and Town Chiefs, were preferred by some clan members, resulting in competing systems of dispute resolution.

SOURCES OF TENURE SECURITY AND INSECURITY

In this research, we examined clan members' notions around land ownership and control, as well as their perceptions of their communities' security of tenure. Our findings indicate that while in some clans sources of tenure insecurity were widespread and severe, in others they were both minimal and manageable.

Our findings show that there are many sources of land tenure security in the clans, mainly:

- 1) Ancestral ties to the land;
- 2) Deeds, which are used as evidence of land ownership;
- 3) Tribal certificates (TCs), which under some customary tenure systems are viewed as legitimate evidence of primary rights to land; and,
- 4) In some clans, little competition for resources due to an abundance of land.

Yet, we also found several sources of land tenure insecurity. They included:

- 1) Improper transfers of land held under custom to elites, often improperly facilitated by local authorities;
- 2) Lack of appropriate documentation to prove and protect claims to land, often arising from the cost and complexity of pursuing formal documentation of rights;
- 3) Where deeds exist, distrust of or uncertainty about individuals and institutions in which rights are vested;
- 4) Lack of community consultation when granting land or other resources to outsiders, including private investors and government, sometimes coupled with negative experiences with companies or government agencies;
- 5) Government acquisitions of land claimed under customary tenure and the historical precedent of undocumented land belonging to the government;
- 6) The risk that the descendants of those who acquired deeds and TCs could assert individual claims to the land and remove it from the realm of customary tenure;
- 7) Unclear and contested land boundaries which are sometimes disregarded, especially by people planting life trees;
- 8) Risk that land borrowers will attempt to assert a permanent claim to land by planting life trees; and
- 9) Women's tenuous rights to land in their husband's community or lesser access and control rights over land as compared to men more generally.

The importance of documenting customary claims and clarifying statutory claims to land is starkly apparent when one looks at the main causes of tenure insecurity in the clans visited. In those clans experiencing increasing competition for land and mounting tenure insecurity, the demand for statutory forms of documentation to back up their claims to land is especially strong – particularly for documentation that would secure the rights of whole towns and extended families. This is viewed as the most effective means by which rural communities can protect their land from acquisitions that neglect to benefit them.

COMMUNITY RECOMMENDATIONS

In each of the 11 clans, clan members voiced their recommendations to the Land Commission. We commonly heard that government should survey and provide TCs or deeds for land claimed by families/towns/clans held under customary tenure; that all land transactions – including rentals and borrowing arrangements – should be documented and documents should be kept securely so as to prevent land conflicts; that customary rules for managing land and natural resources should be respected; and that government should prevent local government leaders from abusing their power and taking or selling land. Clan members also frequently provided recommendations for improving local livelihoods.

POLICY RECOMMENDATIONS

We drew from the research carried out in 11 clans to provide suggestions for actions the GOL can take to strengthen the tenure security of rural communities who rely primarily on custom to secure their rights to land and natural resources. These are structured around three principal objectives:

- 1) To provide legal recognition of customary land tenure and immediately protect rural communities from further challenges to their customary claims;
- 2) To develop an inclusive process for adjudicating and recording community-based tenure claims in a manner that reflects local norms and values and provides equitable access to land for rural populations; and,
- 3) To reform local land and natural governance structures so that they command social legitimacy and can be held accountable by their constituencies.

Recommended measures include the following:

Legal Reforms

- Continue the moratorium on public land sales.
- Institute more stringent enforcement of the moratorium and close loopholes that have allowed some individuals to bypass it.
- Instate a moratorium on the granting of concessions on a case-by-case basis until measures are in place to protect communities' land rights. The moratorium need not be placed over the whole country before any investment/concessions can take place, but rather could be prioritized on a case-by-case basis in each specific area where investments/concessions are planned.
- Consider a new Public Land Law that “defines public land and clearly distinguishes between public land and land held by local communities under customary land tenure” (Bruce and Kanneh, 2010).
- Consider a Community Rights Law that provides explicit recognition of customary land rights as perpetual, heritable rights subject to the same legal protections as rights granted in fee simple.
- Under Community Rights Law, define ‘*Community Land*’ as “land available for communities to exert perpetual, heritable rights to land via customary law, which is inalienable unless removed by a member of the claimant community via a prescribed process to convert it to fee simple tenure.”
- Consider applying *Community Land* to all land falling outside designated urban zones that are currently unencumbered by legitimately acquired fee simple deeds, government claims, or existing leaseholds or concessions.

Documentation of Community Rights

- The principal basis for documentation of customary tenure should be the unit within which primary rights to access land and natural resources are acquired and where the main locus of land and resource governance is housed – the “core tenure unit.” The documents should be those of localities, not individuals.
- Consider simpler approaches for recording the land rights of core tenure units based on low-cost demarcation methods along with a certificate that describes the rights granted to the community and a basic description of the physical boundaries and sketch map of the claimed area.
- If feasible, demarcation should involve a process whereby rights can be recorded on a cadaster so that a graphic composite of community claims is available and can be used to inform the actions of government and potential claimants, as well as evidence in case of disputes.
- Certificate could also include “encumbrances,” such as secondary rights granted to neighboring communities to harvest certain natural resources.
- Consider systematically recording *Community Land* rights throughout the country at minimal or no cost to those communities apart from their time to participate in the process.
- In recording *Community Land* rights, privilege oral testimony and other customary forms of evidence as proof of customary claims.
- Combine or follow up with the development of local “conventions” or by-laws for land and natural resource management to reinforce existing customary rules and build on those to improve land use practices.

Tribal Certificates and Deeds

- Where TCs have come to define the socially legitimate basis by which whole communities have sought to protect their land rights under custom, use areas under TCs to form the basis for systematic certification of community holdings.

- Where TCs have been used to exclude members of the community who historically had customary rights to access land in that domain, renegotiate claims to identify the most socially legitimate and equitable option for vesting rights, and document those new claims.
- Engage NGOs and individuals with deep experience in mediating land disputes to mediate negotiations around TCs.
- Clarify rights embodied by deeds for entire clans or districts, such that they uphold, or at least do not interfere with, the rights granted to core tenure units.
- Transfer deeds issued in the name of individuals to the name of the broader community claiming the rights. The names on the new deeds should be those of locality, not individuals.
- Institute a process whereby communities can challenge the validity of inauthentic deeds and/or deeds acquired through irregular means.
- Introduce a probate mechanism that would require heirs of deed holders to transfer land into their names. If they fail to do so, the land should revert to *Community Land* and be available for one or more communities to claim based on evidence of their customary rights.

Rights Vested in Holders of Communal Rights

- Vest inalienable group rights in communities, but provide for the ability of individuals and households to remove their claim from the broader community via a process sanctioned by the broader community, which would enable the person(s) to apply for fee simple tenure.
- Enable communities to govern land held under group tenure according to their customary rules.
- Support women's rights in their natal communities, such that their rights are equal to those of men.
- Support women's rights in their husband's communities, such that their rights are equal to those of men in those communities.
- Provide for governance and administration rights in the certification of communal land holdings.

Supporting Rural Investments

- Where appropriate, replace concessions with leaseholds issued by rural communities and facilitated by government.
- Support communities to negotiate fair leasing terms with investors seeking land in exchange for government receiving a fixed share of rents.
- Institute community awareness programs to educate communities about possible benefits and pitfalls of leases.
- Encourage high standards of transparency and robust accountability systems to mitigate incentives for collusion and corruption undertaken by investors and government authorities at the expense of communities.

Governance Authorities

- Grant recognition to governance authorities at the level of the core tenure unit; vest the rights and responsibilities to govern land and natural resources within that core tenure unit.
- Facilitate establishing new authorities (e.g., councils) for land and natural resources where communities deem this appropriate.
- Enable communities in collaboration with the government to determine the formats and by-laws for land and natural resource governance.
- Promote the integration of women and youth as governance authorities over land, such as through representative quotas, capacity building of women and youth leaders, and campaigns aimed at casting women and youth as competent leaders.

- Remove land and governance authority of Clan and Paramount Chiefs, except where they are deemed the appropriate authorities of core tenure units.

Dispute Resolution

- Vest governance authorities selected by core tenure units with the authority to resolve local land disputes.
- Strengthen the authority and legitimacy of the dispute resolution hierarchy to deal with land disputes between communities and outsiders.
- Reinforce the ability of administrative and judicial dispute resolution authorities to apply customary law, thereby bolstering their legitimacy.

Concessions and Protected Areas

- Renegotiate irregularly acquired concessions in the *Community Land* area.
- Mandate that, upon expiry of existing concessions, land be returned to *Community Land* to enable communities to exert community rights and have them documented.
- Promote co-management and co-governance arrangements between FDA and communities in protected areas.
- Require that new protected areas are negotiated with local communities before they are established, and that communities are properly compensated for any rights lost.

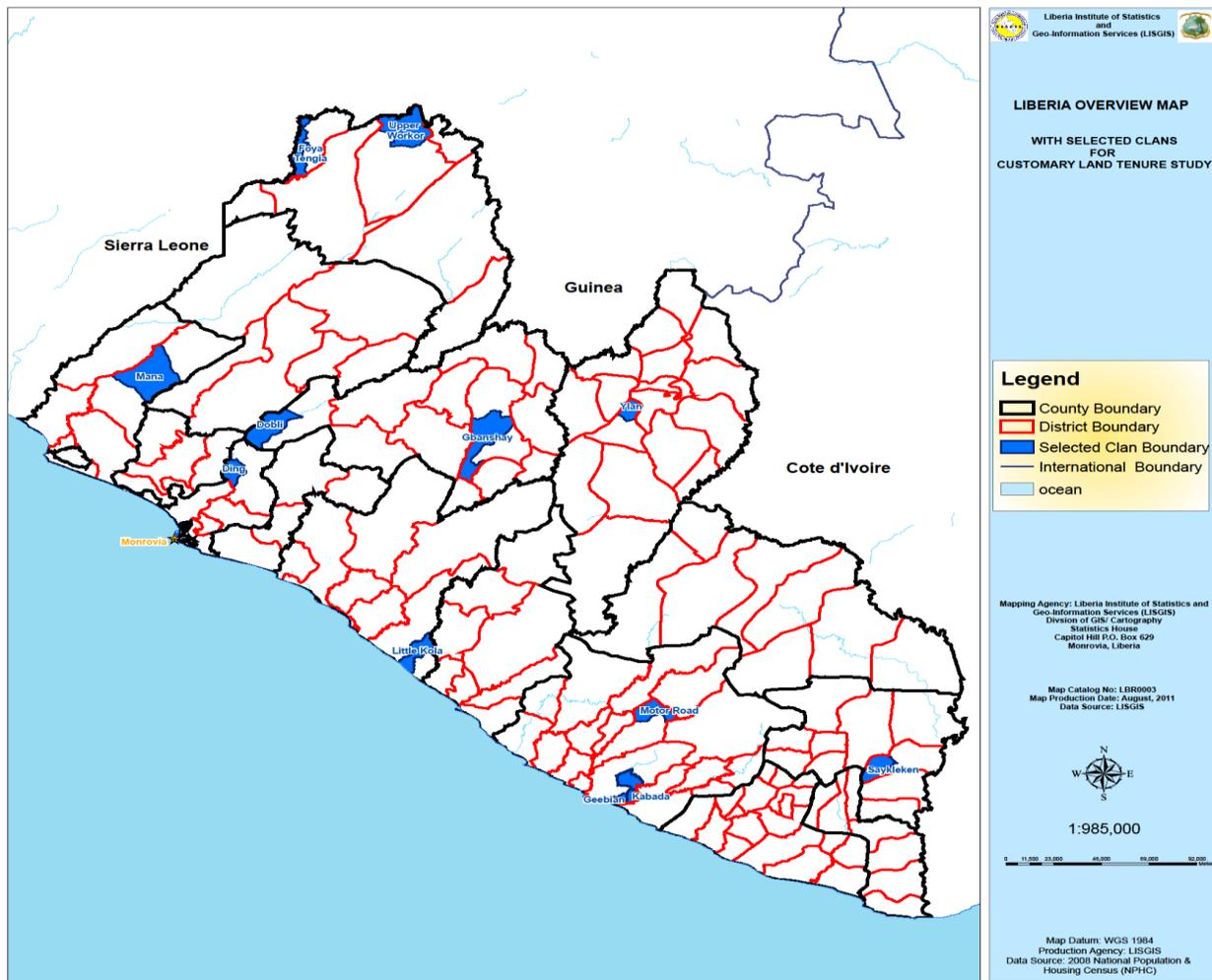
Women's Land Rights

- Invest in social interventions that influence attitudes and behaviors limiting women's land rights, including rights education, mobilizing women to press for changes to customs.
- Strengthen laws to protect women's rights in their natal and marital communities.

I.0 INTRODUCTION

This report synthesizes the findings from field research on land and natural resource tenure in 11 clans in Liberia, including Ding, Dobli, Gbanshay, Little Kola, Mana, Motor Road, Saykleken, Tengia, Upper Workor, Ylan, and the community of Nitrian (see Figure 1.1). It further analyzes critical implications of those findings and provides recommendations for addressing sources of tenure insecurity faced by rural communities in Liberia. The research was carried out under the direction of the Liberian Land Commission and was undertaken with the primary purpose of improving the Commission’s understanding of customary tenure rules and institutions in rural Liberia. The 11 studies were carried out during the period of March 7 to June 30, 2011. The information and analyses are intended to enable the Land Commission to develop sound law and policy that will strengthen the tenure security of rural communities in Liberia. This report was written as part of the Land Policy and Institutional Support (LPIS) Project, supported by the United States Agency for International Development (USAID) and the Millennium Challenge Corporation (MCC). The customary tenure studies were coordinated by Landesa and Tetra Tech ARD.

Figure 1.1: Map of the 11 Studied Clans



This chapter begins with a presentation of the study objectives, then proceeds to summarize some of the literature describing land tenure and livelihoods in Liberia today and in the past. This is followed by a brief historical account of land tenure in the customary realm drawing partly on ethnographic research. Next, we offer a synthesis of the main pieces of Liberia’s civil law that affect the land tenure of tribal people. The chapter concludes with remarks on the interface of customary and statutory tenure.

I.1 BACKGROUND AND OBJECTIVES OF THE STUDY

As described in the LPIS Scope of Work, the overarching objective of the study was to increase the Land Commission’s understanding of the needs of rural communities and opportunities for policy and legal reform governing land held under customary tenure. Within this framework, the study sought to address the following objectives, which were agreed upon with the Land Commission prior to embarking on the study and subsequently revisited following the pilot study:

Figure I.2: Research Objectives: Customary Tenure Research

I. Area claimed by community (note: not an inventory of claims in the area):

- Under customary tenure; and
- Under formal tenure arrangements (public, fee simple).

II. Composition of community:

- Autochthonous/migrants;
- Women/men;
- Elderly/middle-aged/youth;
- Dominant/minority groups; and
- Former internally displaced persons (IDPs) (from area and not)/people who stayed throughout war/persons who settled during war/new settlers (not former IDPs from area) since war.

III. Land and resource uses/tenure niches:

- Household land/resources—resources, uses, primary and secondary right holders;
- Commons—resources, uses, primary and secondary right holders;
- Seasonal changes, historical trends and changes, factors shaping those changes; and
- Foreseen changes in resource availability and in land uses, ideal changes.

IV. Livelihood activities:

- Farming—specific crops grown, when, and by whom (men/women/youth/other groups), commercial/subsistence;
- Livestock, forest resources, water resources, fishing, etc.—when, who, commercial/subsistence;
- Relative importance of different livelihood activities;
- Historical trends and changes, factors shaping those changes; and
- Anticipated changes in livelihoods in the future, ideal changes.

V. Rights and rules surrounding land/resources (formal and informal):

- Accessing land and resources: allocation, inheritance, sharecropping/rental, borrowing;
- Using private and public land—as a household and in common, restrictions;
- Overlapping rights—uses, users, seasonal shifts;
- Differences between women and men, between different groups (including migrants)—accessing land/resources, use rights to land/resources and *control* rights (who decides), rationales for different rules;
- Historical trends and changes, factors shaping those changes; and
- Anticipated changes in rights and rules in the future, ideal changes.

Figure 1.2: Research Objectives: Customary Tenure Research

VI. Governance authorities for land/resources:

- Who they are; how they arrive at their positions;
- Women as governance authorities, minority/vulnerable groups;
- Scope of authority—allocation, administration, instituting rules (land uses; who can access what, when, and how much), upholding rules, dispute resolution;
- Challenges to governance authority;
- Legitimacy of authority;
- Interface of customary governance authorities with civil authorities;
- Historical trends and changes, factors shaping those changes; and
- Anticipated changes in governance structures and authorities in the future, ideal changes.

VII. Sources of tenure insecurity and security:

- Absent or inadequate recognition of rights by the state;
- Lack of clarity over rights;
- Claims asserted by youth, especially leading to removing land from customary authority;
- Returns and resettlement;
- Conflicting claims—communities, neighbors;
- Widespread takings by customary authorities, government, private interests, others;
- Factors protecting/upholding community and individual claims to land/resources;
- Historical trends in the evolution of sources of tenure insecurity, influencing factors; and
- Anticipated sources of tenure insecurity going forward, ideal changes.

VIII. Land/resource disputes:

- Dispute types (intra-family, intra-community, inter-community, government-community, etc.) and origins;
- History and frequency;
- Severity—intensity and duration;
- Current disputes over land/resources; and
- Expectations of disputes in the future, ideal changes.

IX. Dispute resolution institutions:

- What systems exist—formal, customary, mixed;
- How they function;
- Authorities, perceptions of fairness, legitimacy;
- Effectiveness and compliance with rulings;
- Differences between access and outcomes for women vs. men, different groups;
- Historical trends in dispute resolution institutions; and
- Expectations in the future, ideal changes.

X. Policy recommendations by clan to address above issues.

I.2 LAND TENURE AND RURAL LIVELIHOODS IN LIBERIA

1.2.1 Overview of Land Tenure

Liberia has a plural land tenure system based on a combination of statutory common law, including statutes and case law, derived from the Liberian state, and an array of customary laws derived from local lineage-based governance systems. The statutory tenure system was introduced in the early 1800s by the American Colonization Society (ACS), which purchased land along the coast of present-day Liberia from indigenous African chiefs and, in the 1820s, began bringing freed slaves from the United States to settle. Each settler was allotted 10 acres of farmland, 25 acres for married couples, or a town plot, which they held in fee simple,² giving them permanent, heritable, and fully transferable rights.³ In areas not under Americo-Liberian domination, however, customary systems based on community or collective dominion over discrete territories prevailed (Wily, 2007). As a result, land tenure regimes in Liberia are roughly divided geographically, with statutory tenure dominating in urban areas and coastal counties and customary tenure systems dominating in the interior. However, over time, many parts of the interior have been substantially influenced by the statutory tenure regime.

Upon establishing a government and declaring Liberia a country, the Americo-Liberian leadership expanded its territorial control south and east. In the process, land acquired by the government that was not converted into fee simple was regarded by the government to be “public land”.⁴ In practice, however, land tenure in the interior changed little as native Liberians continued to manage access and use of land according to customary tenure systems (USAID, 2010). These divergent claims persist today, such that Liberians who claim access to land under customary tenure are often regarded by the government to be “occupants” rather than “owners” of the land (Unruh, 2007b).

Though customary land tenure regimes are predominant in rural Liberia and contradictory claims persist, scant research has been conducted on the subject. According to Rose (2011, p. 4), “Liberia’s customary land law has not been well-researched, with the result that little is known about its content and operation”. Previous research has indicated, however, that each of Liberia’s approximately 16 tribes has its own system of land tenure, though differences between them are not dramatic (Wily, 2007). One distinctive commonality among tribes across the country is that land is generally considered to belong to extended families, towns, or cluster of towns – rather than to individuals or households.

Despite the predominance of customary tenure in rural areas, the prevalence of statutory claims to land and natural resources is becoming more widespread. The quest for statutory recognition of land rights derives from both “insiders” – members of communities that have long relied on customary tenure systems – and “outsiders” who are not related to those communities. Whereas the former are often seeking protection of customary claims, the latter are generally asserting new claims which commonly result in removing land from the jurisdiction of customary tenure regimes. Munive (2011) explains that the commodification of land led elites to clamor for statutorily held land for plantations and speculations and local groups to seek to maximize their claims.

Liberian law permits indigenous persons to obtain documentation of land rights as a group or community. This has given rise to claims documented in the name of whole clans, towns, and groups, as well as in the name of individuals who are considered to be holding land in trust for a particular group. According to Wily (2007), several local authorities have sought deeds for their land which are either issued in the name of the community or in the name of a chief who holds the land in trust for the people of that community.

² According to Black’s Law Dictionary, fee simple is “an interest in land that, being the broadest property interest allowed by law, endures until the current holder dies without heirs; esp., a fee simple absolute.” Fee simple absolute is further defined as “an estate of indefinite or potentially infinite duration.” See: Garner, Bryan A. (Ed.). (2001). *Black’s Law Dictionary* (2nd ed.). St. Paul, MN: West Publishing Company.

³ Equivalent to what is referred to as “ownership” in the U.S. tradition.

⁴ For a more in-depth discussion of public land in Liberia, see: World Bank. (2008, October 22). Report No. 46134-LR: Insecurity of Tenure, Land Law and Land Registration in Liberia.

Under the statutory tenure regime, conversion of public land⁵ to private tenure, including private group tenure, in the area designated as ‘the Hinterland’ requires one to first obtain a TC.⁶ By law, TCs are procedural documents used to apply for a deed through the purchase of public land; as such, they do not bestow property rights on the holder (Norton, 2011). State-sanctioned ownership can only be evidenced by a deed. Though not a deed, TCs have been interpreted by indigenous communities as conveying statutory evidence of property rights and have thereby come to represent a secure claim to land under customary rules.

In other attempts to secure rights to land, institutions not authorized under law to issue state guarantees of property rights have proceeded to issue their own documentation. As explained by Unruh (2007b):

There have been cases where local forms of deeds have been issued at the district level by various government and customary offices. These are used as forms of claim, and together with robust tree crop planting by smallholders involved in this type of holding appear to be fairly secure within local communities. This is a category of occupancy where the formal practices (documentation of holding) interfaces with poor customary understanding of what constitutes legal documents in land matters (p. 7).

Though the subdivision and privatization of land held under customary tenure has increased in order to fit with the legal options offered by the state for securing tenure, according to Wily (2007, p. 170), the preference among rural people is for “collective entitlement of the community property as a whole”. This could be because customary land tenure systems typically revolve around and evolve to meet the needs of a community’s livelihood systems, environmental circumstances, and values. For example, rotational bush fallow cultivation, which prevails in rural Liberia (Richards, 2004), frequently operates through the support of customary land tenure systems which are often structured to meet its particular land and community labor demands (FEWS NET, 2011). Playing an important role in helping meet subsistence-related needs, the success of rotational bush fallow cultivation depends largely on the cooperation of the group, rather than on the individual.

1.2.2 History of Liberian Livelihoods

Historically, subsistence agriculture has been an important livelihood for many Liberians. Writers from the 1930s to the present affirm the dependence of the rural population on small-scale crop cultivation. In the 1960s, approximately 90% of the total population depended on subsistence agriculture for their livelihoods (Qureshi et al., 1964). Rice and cassava were the principle food crops, supplemented by wild palm and coconut products, as well as yams, sweet potatoes, and other tropical fruits and vegetables. While a small amount of these crops were marketed in Monrovia, the majority were produced to meet domestic consumption needs (Qureshi et al., 1964). This continued to prevail into the 1980s, when USAID researchers stated that:

Small-scale farming families focus much of their efforts on production of low-yielding but labor-intensive upland rice to satisfy family subsistence requirements. Family labor not needed for rice production is used in growing other crops for home consumption and local sale – root crops, other vegetables, some fruits (Hughes, 1989).

Nevertheless, the introduction of cash crops has led to significant changes in livelihoods. The American Firestone Rubber Company rubber concession in 1926 introduced alternatives to subsistence production

⁵ “Public land” is not clearly defined in law. According to the World Bank (2008), “In summary, land under customary tenure has been treated as public land, which can be disposed by the state by sale. This uneven playing field was seen by the indigenous Africans in the interior as inequitable; the resentments this engendered contributed to the fall of the civilian government in Liberia in 1980 and the ensuing chaos” (p. 3).

⁶ The Hinterland is the interior larger half of modern Liberia formally incorporated into Liberia in the 1920s. Anything within 40 miles of the coast of Republic of Liberia was/is not considered Hinterland under the law. (Art. 1-4). The Hinterland regulations (2001) divided the interior of the country into three provinces, with the Eastern and Central provinces divided into four districts each, and the Western Province divided into two districts.

(Renner, 1931). Initially lacking a national labor market, Firestone utilized labor supplied by the Liberian government under an agreement to “encourage, support and assist the company to secure and maintain an adequate labor supply.” The government used chiefs to “recruit” labor and paid them 15 cents per month for every worker recruited from January to June (the rice growing season) and 10 cents per month from July to December. Further, the government instituted quotas on the chiefs to provide labor for the rubber concession. A League of Nations’ Enquiry Commission to Liberia also found that the coercive power of the Liberian Frontier Force was relied upon to meet the company’s labor demands (Munive, 2011, p. 362). In time, with government support, Firestone became Liberia’s largest employer, diverting labor away from subsistence farming and into the labor economy. Eventually, other concessions and private farms – including those for mining and timber – also came to compete with Firestone for labor (Kromah, 2003).

During the 1950s, a number of small private rubber farms emerged with Firestone assistance. The company aided independent producers by providing seedlings and technical assistance and by purchasing their output for processing and export (Qureshi et al., 1964). In the 1960s and 1970s, rubber production increased and the contribution of Liberian farms rose to 36% of the output. By the mid-1970s, there were approximately 4,000 rubber farms, though it seems that the majority of these were not held by smallholders as nearly 80% of the farms were greater than 20 hectares (World Bank, 2007).

In the 1960s, the GOL instituted a push for agricultural self-sufficiency, which was implemented through area development projects. From the 1950s through the 1970s, smallholder coffee and cocoa farms began to be planted on a wider scale with the support of the Liberian Produce Marketing Corporation (LPMC), which was responsible for the promotion of the agricultural export trade and the provision of inputs. This was especially the case in Bong, Lofa, and Nimba (Bellachew, 2009).

Additionally, in the mid-1960s, small-scale swamp rice farming was introduced. The first projects were launched in Gbedin located in Nimba County and in Firestone rubber areas (Qureshi et al., 1964), presumably around Harbel in Margibi County. Swamp rice cultivation was later spread through area-based projects in Lofa, Bong, and Nimba counties. However, researchers writing in the late 1980s found that swamp rice cultivation was not widespread. USAID researchers suggested that this was because farmers preferred upland cultivation methods, as well as the flavor of upland rice (Hughes, 1989).

Increasing mineral extraction also aided the diversification of the Liberian economy. In 1951, the Liberia Mining Company began iron ore mining at Bomi Hills. In subsequent years, the National Iron Ore Company (NIOC) and the Liberian-American-Swedish Company (LAMCO) established mines in the Mano River Area near Sierra Leone and Mount Nimba, respectively (Qureshi et al, 1964). In the 1970s and 1980s, iron mining accounted for more than half of Liberia’s export earnings (U.S. State Department, 2011). Alluvial gold and diamond mining began in the 1930s, though artisanal and small-scale surface mining predominated (Qureshi et al, 1964).

1.2.3 Effects of the War on Livelihoods

The Liberian Civil War (1989-2003) devastated the country’s economy. Over the course of the fourteen year conflict, over 270,000 Liberians were killed and, according to the Internal Displacement Monitoring Centre, an estimated 500,000 Liberians were displaced (2003 data). Though only a few thousand were still registered as displaced in 2010, an unknown number of people who never registered continue to reside in Monrovia (2010). Not only did the war disrupt education, it also caused the collapse of country’s legitimate economy (Bellachew, 2009). Most major businesses were destroyed or heavily damaged, and foreign investors and businesses left the country (U.S. Department of State, 2011). Consequently, there are few economic opportunities within the formal economy in Liberia today (Wily, 2007).

The negative tolls of war also disturbed smallholder agriculture. As farmers fled the violence, areas of cocoa and coffee cultivation were left to be overtaken by forest. Those farmers that were able to harvest their crops had to depend on cross-border smuggling as marketing channels within Liberia broke down. While plantation rubber continued to be cultivated and exported throughout the Liberian Civil Wars, including concessions that were

occupied by combatants, smallholder rubber cultivation was disrupted by instability and population displacement (World Bank, 2007).

Other sectors also experienced severe difficulty, ranging from total shutdown of trade to diversion to illegal cross-border smuggling and trading (World Bank, 2007). For example, iron ore production stopped completely (U.S. Department of State, 2011). In contrast, during the war, timber earnings largely enriched the warring factions. Rebel leaders also took control of diamond fields (Wallace & Lepol, 2008) and used diamonds to finance the conflict. Due to the role that diamonds and timber played in funding the war, the United Nations banned exports of both from Liberia (U.S. Department of State, 2011).

As a result of the Liberian Civil Wars, standards of living and access to economic opportunities plummeted. Infrastructure was damaged or destroyed, 75% of the population was reported to be illiterate, and access to health and education facilities was poor. After the wars, the economy began to grow modestly and standards of living began to gradually improve (U.S. Department of State, 2011); however, these gains have been extremely protracted in rural areas.

1.2.4 Livelihoods Today

In rural Liberia, dependence on subsistence agriculture persists. Consistent with reports from earlier decades, a vast majority of farmers are primarily dependent on a combination of rice and cassava cultivation, and farm using the bush fallow system. After the annual subsistence crops of rice, cassava, and vegetables are harvested, the field returns to fallow and a new field is cultivated (Corriveau-Bourque, 2009). Rice and vegetable cultivation is supported by secondary livelihood activities. Depending on location, this might consist of small-scale commercial vegetable production, mining, hunting, or fishing. For example, coastal areas rely heavily on fishing to supplement their income from agriculture. Similarly, heavily forested areas may depend on hunting and the sale of bush meat. Some areas with access to the Monrovia market count on the sale of garden produce for additional income (FEWS-NET, 2011).

Also, despite setbacks from the Civil Wars, tree crop cultivation continues to provide supplementary income to many rural cultivators. A majority of cocoa and coffee cultivators have indicated that they hope to rehabilitate war damaged crops. Yet Liberian cocoa cultivation has stagnated. The disjuncture arises from a lack of market infrastructure – including poor access to transportation and pricing information – and fluctuations in international cocoa prices. Though cocoa continues to play an important role in Liberia’s rural economy, especially in counties along the borders of the Guinea and Ivory Coast, many rural farmers have switched to more profitable agricultural ventures (World Bank, 2007).

For example, while coffee and cocoa cultivation decreases due to low prices and a lack of buyers, rubber production continues to grow (Bellachew, 2009). Today, rubber production – which never ceased during the war – is the primary contributor to Liberia’s Treasury (Wily, 2007). A vast majority of farmers forced to abandon their rubber farms during the war indicated that they are planning to rehabilitate their fields (World Bank, 2007). This is likely a reflection of increasing rubber prices. In September 1989, international rubber prices were USD 0.39 per pound, whereas they were USD 2.06 per pound in September 2011.⁷

Finally, iron ore, gold, and diamond extraction is increasing throughout Liberia (FEWS-NET, 2011). Currently, mining is undertaken by both artisanal diggers and Class A and Class B companies. Class A enterprises have concession contracts with the government (Wallace & Lepol, 2008). Meanwhile gold and diamond mining are still dominated by small-scale operations. Officials estimate that there are over 100,000 artisanal miners in Liberia (USAID, 2011).

⁷ Prices retrieved from Index Mundi, Rubber Daily Price:
<http://www.indexmundi.com/commodities/?commodity=rubber&months=360>.

I.3 HISTORY OF LAND TENURE IN LIBERIA

1.3.1 Overview of Customary Tenure

When Americo-Liberian settlers arrived in Liberia in 1821, they encountered societies with indigenous systems based on local practices, customs, and rules. In areas under their control, the settlers imposed a land tenure system based on fee simple ownership which extended about 40 to 55 miles inland. The rest of the lands in the interior remained under the governance of customary land tenure systems (Unruh, 2009). Thus, a dual system emerged under which the coastal areas of the country adopted statutory tenure systems, while the system in the interior continued to operate according to customary rules and norms (Unruh, 2009; Wily, 2007).

Through force and coercion, the Liberian government subjugated and exerted sovereignty over what became the country's interior. By 1923, the area was largely under its administrative, judicial, and legal authority. Despite this, Unruh (2009) notes that the "customary tenure system continued and was sanctioned as a distinct tenure system by the Liberian government." As a result, customary rules for land and resources were left largely intact and the settlement patterns of indigenous communities with discrete land areas was unaltered (Unruh, 2008).

According to Wily (2007), the customary rules that governed land and natural resources were similar across the area that comprises modern-day Liberia. These systems were based on usufruct rights under which land was held to be inalienable. Unruh (2008, p. 6-7) asserts that customary land tenure in Liberia is based on two principles: (1) that "customary group connection to specific land areas in Liberia is based on the idea of early and later arrivals", and (2) that "land cannot be subdivided or inherited individually, and that lineage lands belong to the dead, living, and unborn". Ethnographic research including descriptions of customary land sheds further light on the tenure regimes in specific clans.

Research by Blanchard (1967) on the Mano and Kpelle of the Wolota Clan in Bong County reveals that land was accessed through family groups within their respective towns. Prior to the 1920s, the people of Wolota Clan were divided into autonomous town clusters, which were often at war with one another. These towns were further divided into 'sibs,' which were comprised of family groups who traced their lineage through the male line to a common ancestor. "Public property," or property held in common (i.e., undeveloped land, paths, and water resources), was controlled by elders. Within the clan, each cluster of towns had recognized boundaries. Within the cluster, each town had its own allocated land. And each sib within each town had land to meet its members' needs. After "pacification" of the interior, however, the property regime in Wolota Clan underwent a dramatic shift. In some cases, Town Elders assumed the responsibility of distributing land. Most of the land, though, was eventually divided into private plots and held under TCs (Blanchard, 1967).

In her review of ethnographic research on customary land law, Rose (2011) cites Currens' research on the Loma of Lofa County – the only study that she found to detail customary land use rules. According to Currens' research, the Loma determine rights to land according to kinship with and descent from a common ancestor. Land and property pass to a man's next oldest brother, rather than to his wife and children. However, cash crops – primarily coffee and cocoa groves – tend to fall outside of these customary inheritance rules, passing on to sons rather than brothers (Rose, 2011).

Rose (2011) summarizes her overall findings drawn from ethnographic research on pre-war customary land tenure in Liberia:

(A)uthorities used client-patron relations or intermarriages to confer land rights to others and to increase their power; land was not scarce; land access and settlement were flexible; individuals controlled farms; farmers were concerned with the control of crops and trees on their land but did not raise land ownership questions; farmers could claim any land not already marked by another farmer for that year's swidden, any forest contiguous to their previous season's rice field, and any land that they had improved (e.g., by planting trees) (p. 13).

However, Rose's review of the literature also reveals changes in rural land tenure, instigated in particular by growing interest in land by outsiders and even politically influential local elites, or so-called "big men" (2011). In

Bong County, for example, politically powerful individuals from the coast used money and connections to pressure farmers and chiefs into selling their land. In other cases, such individuals would promise to contribute to local development (e.g., offering to build a road) in exchange for land, for which outsiders would subsequently acquire a deed. Some local authorities offered land to powerful individuals in exchange for political patronage, but justified the exchange to their constituents in the name of development (Cobb et al., 1979).

Road construction further induced speculative behavior and altered the tenure landscape as well-connected elites sought to acquire land near roads (Rose, 2011). According to Cobb (1979), as soon as road development projects were announced – or even rumored – speculators would “rush to obtain deeds to land” in the area. Those with money and/or personal connections were able to purchase or otherwise obtain long-term control over large swathes of land near to motor roads. Those without resources, however, were disenfranchised and forced to move away from roads and into the bush (p. 13).

As land grabbers pushed to validate their claims by private deeds and concessions, indigenous farmers found themselves losing access and rights to their land. Over time, land held under customary tenure was increasingly alienated and transferred to statutory tenure. This shift occurred by way of the acquisition of land deeds by Americo-Liberians and other well-connected individuals, principally wealthy individuals from Monrovia, who bought land in the interior for the cultivation of cash crops and mining (Bledsoe, 1976). The establishment of Firestone in the 1920s paved the way for commercial concessions to also become a legal basis for conversion of land rights to the statutory tenure system. Unruh (2009) argues that the unbridled appropriation of land generated tenure insecurity and conflict among those who held land under customary tenure.

Despite the encroachment of statutory tenure claims, land in the interior continued and continues to be principally governed by customary tenure systems. However, these systems have also changed. For example, Rose (2011) found that farmers were claiming inalienable ownership of trees, and that cash cropping was being grafted atop subsistence farming. Cobb (1979) also found that deeds were out of the reach of the majority of rural farmers, who thus planted life trees to strengthen their customary claims to land (p. 14).

1.3.2 Overview of Statutory Law Governing Tenure in Rural Liberia

As a common law country, Liberia relies on both statutes and case law to define the legal regime governing land tenure. This likewise holds true when it comes to law governing the land rights of Liberians residing in rural areas where customary tenure systems still prevail, though most such law derives from statutes.

The basis for the recognition of customary law in Liberia is found in the 1986 Constitution which requires courts to apply both statutory and customary law.⁸ The Supreme Court of Liberia has made it clear in a series of case opinions that customary law will be upheld where it does not directly conflict with the Constitution or the express provisions of statutory law (World Bank Report, 2008, p. 30). Despite this, customary land law has not been dealt with in any significant way by statutory courts. The issue of where customary law fits within the statutory system has not been addressed. This has prevented customary law from being absorbed into the larger framework of formal law in Liberia as it has in many other African nations. This creates ambiguity concerning the enforcement of customary land rights in the courts.

The 1956 Public Lands Law provides the basic legal framework governing public land, although what constitutes public land is never defined in this or other Liberian law. The law provides a process for purchasing public land, thereby converting it to private tenure in the form of a deed. To begin the process, the purchaser must acquire a Tribal Certificate or Public Land Certificate and have it signed by the appropriate authorities confirming that the parcel is not owned or occupied and that the tribe claiming that land has given the government permission to sell the land.⁹ In the case of county land, a Public Land Certificate must be signed by the Land Commissioner of the county. For land in the Hinterlands, a TC must be signed by either the Paramount or Clan Chief. Although many rural Liberians believe the TC alone grants them legal rights to their land, under the Public Lands Law, the

⁸ 1986 Constitution, Art. 65

⁹ Public Lands Law, 1956, revised 1974 (Title 34, Liberian Code of Laws Revised), Ch. 3, Sec. 30

Certificate is merely a permit to survey the land rather than a deed. Several additional steps must be taken before a public land sale deed will be granted, including obtaining the signature of the President of Liberia. Whereas most land held under custom by indigenous tribes was designated “public land” and is therefore presumably subject to conversion to private tenure through public land sale, the Public Lands Law prohibits the sale of land in the “Tribal Reserve.” However, no definition for that term is given.¹⁰ The presumption seems to be that if a TC is issued the land must not fall under *Community Land*, a presumption that assumes both that tribal chiefs know what constitutes the *Community Land* and that they will enforce the law prohibiting its sale.

In addition, the law codifies the antiquated and offensive allotment system that had been in place since the ACS first began bringing settlers to Liberia.¹² Upon arrival, and with a declaration of intent to become a Liberian citizen, immigrants are to receive 10 acres of farmland or a town plot. Upon receiving Liberian citizenship and either building a house or cultivating two acres of the farmland, the settler is entitled to a deed granting him permanent ownership of the land in fee simple. The same right is available to “aborigines (indigenous Africans) who become civilized,” (Brown, 1982)¹³ although one-fourth of the farmland must be brought under cultivation before a deed is granted in their case.

The Hinterlands Law, first drafted in 1905 and redrafted at least four times since (Wily, 2007, p. 112), focuses mainly on creating a governance structure for the Hinterlands, though two articles specifically dictate tribal land rights in the interior regions of Liberia not falling under fee simple tenure.¹⁴ Article 66(a) states that title to such land vests in the state, though respective tribes have rights to use the land for farming and other livelihood activities. However, it also states that, “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 the Government [...] their rights and interests in and to such areas are a perfect reserve and give them title to the land against any person or persons whenever.” The language clearly suggests that tribes hold title to land that they occupy and use, but this conflicts with the preceding statement that title to the land vests in the Liberian state. All reference to the tribes holding title to their land was removed when the Hinterlands Law was codified as the Aborigines Law (discussed below). However, the 2001 revision of the Hinterlands Law retains the original language. Although this language suggests that tribes hold title to the land they use regardless of those rights being documented, the law grants the tribes a right to apply for communal holdings with the Paramount Chief acting as trustee for the land which are surveyed at cost to the tribe and cannot be sold.¹⁵ In addition, Article 66(e) provides that tribes may petition the government for a division of tribal land into family holdings in fee simple “should the tribe become sufficiently advanced in the arts of civilization.”

In 1956, the Hinterlands Law was codified and given full statutory force as the Aborigines Law in the Liberian Code of Law, though references to tribes holding title over the land they use were replaced with a “right of possession.”¹⁶ The shift in language and codification of the Aborigines Law changed the status of the indigenous Africans from collective landowners to merely land occupiers. Prior to this, the land in the Hinterlands was generally acknowledged as unregistered, customarily owned land with the government as trustee (Wily, 2007, p. 122). Whether the Aborigines Law is still in effect today is disputed as it was excluded from the 1973 Revised Liberian Code of Laws (129) – the Code currently in effect. It is unclear if the exclusion was an unintended

¹⁰ In this report, the term “Tribal Reserve” is used interchangeably with ‘*Community Land*’ and is defined as “land available for communities to exert perpetual, heritable rights to land via customary law, which is inalienable unless removed by a member of the claimant community via a prescribed process to convert it to fee simple tenure.”

¹¹ Public Lands Law, Ch. 3, Sec. 30

¹² Public Lands Law, Ch. 4

¹³ While being “civilized” traditionally depended greatly on level of education, additional factors included adopting a “civilized” (namely western) life – choosing to wear western-style clothing and having western homes and furniture. “Civilized” people were often ‘minor officials, clerks, schoolteachers, [and] nurses’.

¹⁴ Rules and Regulations Governing the Hinterlands, 2001

¹⁵ Rules and Regulations Governing the Hinterlands, 2001, Art. 66(b)-(d)

¹⁶ Aborigines Law (Title 1, Liberian Code of Laws, 1956-58), Ch. 11, Sec. 270

omission or if it was intended as a repeal of the law. Since that time, the 1949 Hinterlands Law text has been revived in the form of an administrative regulation (171; World Bank, 2008, p. 26) as evidenced by its re-publication by the Ministry of Internal Affairs on multiple occasions since omission of the Aborigines Law from the Revised Liberian Code of Laws.

The Property Law also deals with public lands and has implications for the tenure status of Liberia's indigenous peoples. It recognizes tribal reserves and communal holdings as encumbrances on land that would keep it from being sold by the government without the permission of tribal authorities,¹⁷ although it can be leased.¹⁸ However, the law only recognizes registered encumbrances, indicating that the tribal reserve or communal holding may have to be registered in order to have effect.¹⁹ Unfortunately, no legislation provides a clear definition of what constitutes a tribal reserve, nor is there any clear, practical guidance on how to document and register such encumbrances. Section 8.52(b) grants an individual ownership of a parcel of land if he can demonstrate that he has been in possession of the parcel for an uninterrupted period of at least 20 years. A person is deemed "in possession" of the land if he recognizes no other owners and has use of the land to the exclusion of others.²⁰ If the section included communities as well as individuals, it would create a legal basis for ownership rights for the indigenous African communities in the so-called Hinterlands. However, as it is written, the provision pertains exclusively to individual ownership and through omission fails to recognize customary tenure systems, which are characterized by a nested and fluid system of governance and use rights vested in lineages and families (Wily, 2007, p. 140).

To summarize, there are effectively four ways for indigenous Africans to either gain or prove title to land under Liberia's current land laws. The strongest rights would appear to be conveyed by the Hinterlands Regulations, which indicates that tribes residing in an area designated as the Hinterlands automatically hold title to land they occupy and use. Although, it is important to recall that this is contradicted by provisions in the same law vesting such title in the state as well as provisions suggesting tribes need to apply for communal holdings. Second, by utilizing the provisions in the Public Lands Act for sales of public land, indigenous peoples can effectively purchase their own land from the government. This route has been pursued by entire clans, towns, families, and individuals alike. However, many do not know that legal rights are only granted when the land is surveyed and a deed is issued, and even if they did, most could not afford the cost. The other two means require relinquishing communal claims in favor of individualized, fee simple tenure. Article 66(e) of the Hinterlands Regulations allows tribes to petition for division of their tribal land into family holdings which would then be deeded. And, fourth, through the Public Lands Law, "civilized" indigenous Africans can petition individually for an allotment of land secured through a fee simple deed.

Three more recent laws have also affected rural Liberians' land rights. The first is the Public Procurement and Concessions Law of 2005. The law established general provisions for procurements and concessions and created a committee to ensure compliance. However, the law does not provide a mechanism for ensuring that land granted as a concession is unencumbered and does not afford a right of review to those whose use of the land is affected. Among many tribal communities, discontent arises when their land is granted to concessionaires, made worse by various examples of tribal land being usurped for purposes that never come to fruition.

Second, the National Forestry Reform Law of 2006 declares all forest resources in Liberia to be "held in trust by the Republic for the benefit of the People"²¹ and brings all forest land under the management of the Forestry Development Authority.²² The law does provide for local communities to manage "communal forests,"²³

¹⁷ Property Law, (Title 29, Liberian Code of Laws Revised), Ch. 8, Sec. 8.123.

¹⁸ The Public Lands Law (Ch.5, Sec. 70) gives the President authority to lease any portion of public land not appropriated for other purposes to foreigners. Wily (p. 137) claims this is how concessions have been lawfully granted to customarily owned land.

¹⁹ Property Law, , Ch. 8, Sec. 8.123

²⁰ Property Law, Ch. 8, Sec. 8.52(b)

²¹ National Forestry Reform Law, Ch. 2, Sec. 2.1

²² National Forestry Reform Law, Ch. 2, Sec. 2.2

however, rights granted to communities seem limited to forest use for subsistence, as the law specifically prohibits the use of communal forests for commercial purposes.²⁴ This problem is resolved in the Community Rights in Forest Lands Law of 2009, which allows communities to enter into commercial contracts for the harvesting of timber and other forest products in community forests, while acknowledging those communities' historic right to use the land.²⁵ While the law does not grant communities full ownership rights to the land, as would exist under a fee simple deed, it does recognize communities' rights to community forest land and ownership over all forest resources on that land. It also stipulates that any decisions or agreements pertaining to that land require the consent of the community to proceed.²⁶ For rights pertaining to community forest land to be invoked, forest land must be "traditionally owned or used by communities for socio-cultural, economic and development purposes."²⁷

1.4 INTERFACE BETWEEN CUSTOMARY AND STATUTORY LAW

There is limited research on the intersection of customary and statutory law in Liberia (Unruh, 2008). At the time of the Americo-Liberian settlement, most land in the country's interior was held by indigenous Africans under customary tenure regimes, while land on the coast was converted to fee simple ownership by the settlers and "civilized" indigenes. While generally this pattern persists today, statutory law has, over time, removed land from the domain of customary tenure and customary governance authorities. Provisions in certain laws and the practices of government authorities imply that land held under customary tenure is legally considered public land, the full authority over which is vested in the government (Unruh, 2009).

Historically, customary and statutory tenure systems in Liberia served as distinct and separate systems that have not informed one another. Under the statutory legal framework, the indigenous inhabitants of Liberia were subject to statutory laws, even while they were unable to hold land under these laws. In contrast, Americo-Liberian settlers were not subject to customary laws (Unruh, 2009). In an attempt to bridge this disconnect, the government created what Unruh (2009) calls "state sponsored customary law," which did not accurately reflect or respond to customary norms and needs (p. 5). Instead, these laws, including the Rules and Regulations Governing the Hinterland and the Public Lands Law, violated many commonly accepted customary land tenure norms and served as a third tenure system that competed with customary laws (ibid).

Unruh (2009) cites an example of this disconnect in the Public Land Laws (GOL, art. 90), in the government-held right of *escheat*, which is the "reversion of property to the state in consequence of a want of any individual competent to inherit" (p. 14). He states:

The definition of escheat focuses on the 'competent individual' as opposed to a group, able to inherit land. The fieldwork noted however that rural land in the Liberian interior is in most cases tied to groups and not individuals, with indigenous individuals unable to inherit land in the individualized Western sense. Instead land is tied to the lineage and access to it by lineage members is subject to clan, Paramount Chief, and elders' prescriptions. In the Public Lands Law the procedure for reclaiming land back from the government that it has taken over via the right of escheat is also focused on the individual, and assumes a good deal of literacy and financial resources. *Thus because customary groups do not pursue inheritance based on the individual, this aspect of the law is unworkable, goes against customary concepts of the group-land relationship, and resulted in loss of land and a source of grievance.* [emphasis added] (ibid)

The problematic interface of customary and statutory law can also be seen in the confusion surrounding forest ownership in Liberia. In her research on the topic, Wily (2007) found that forests comprise an integral part of a community's property that are identified as discrete land areas held by towns, clans, or chiefdoms. However,

²³ National Forestry Reform Law, Ch. 10, Sec. 10.1

²⁴ National Forestry Reform Law, Ch. 9, Sec. 9.10(b)(iii)

²⁵ Community Rights Law of 2009 with Respect to Forest Land, Ch. 3

²⁶ *Id.* at Ch. 2, sec. 2.2

²⁷ *Id.* at Ch. 1, sec. 1.3

national law contradicts customary law in terms of forest ownership. For example, even those who hold titles to forest land do not own the trees. Wily (2007, p. 24) states that there is "...a vacuum in national law as to the exact status of customary land interests". Thus, those who hold forests under customary claims and the government are in contradiction in regards to who owns forests and how they should be used and regulated (Wily, 2007, p. 13).

In short, the relationship between customary and statutory land tenure systems has been characterized by "separation and isolation, ambiguity and confusion, the emergence of ad hoc property norms, and customary tenure versus statutory and state sanctioned customary law" (Unruh, 2009, p. 10). The non-integrated and exclusionary approach to land ownership in Liberia has bred disrespect for land rights derived from custom and the structures that uphold those rights (10). Today, customary institutions that were once recognized by the government are now being threatened, and the recognition of native rights to land has become increasingly weak (Wily, 2007).

2.0 RESEARCH METHODOLOGY

This chapter discusses the process for selecting the research sites and the methods that were employed in the study of customary land tenure in Liberia. It also highlights the limitations of the study and provides a brief profile of the communities visited.

2.1 SITE SELECTION

Initial site selection was based on Livelihood Zones featured in the Livelihood Zoning “Plus” Activity in the Liberia (Draft) Report by USAID’s Famine Early Warning Systems Network (FEWS NET). This report was prepared as part of an effort to establish remote early warning systems for food security risks in places where FEWS NET does not currently have an office. A key part of this exercise was to map livelihood zones that are the primary source of livelihood generation corresponding to a particular geographic area. The FEWS NET report provides for nine livelihood zones:

Figure 2.1: Livelihood zones in Liberia as described by USAID FEWS NET

Livelihood Zone	
1	North–East Rice Intercropped with Cowpeas and Groundnuts + Palm Oil
2	North/Central Rice with Cassava + Market Gardening
3	South–East Rice with Cassava
4	Coastal Plain Cassava with Rice and River Fishing
5	Coastal Fishing and Cassava
6	Rice Intercropped and Forest Hunting
7	Plantain Cash Crop with Food Crops
8	Rubber and Charcoal with Food Crops
9	Monrovia Peri–Urban: Petty Trade, Market Gardening and Casual Employment

These zones are mapped across 15 distinct areas of Liberia. See Figure 2.2. To arrive at the 10 communities needed, the research team leader initially undertook a random selection within each livelihood zone, eliminating Livelihood Zones 5 and 9 because of the limited geographical coverage and in the case of Monrovia because of the likelihood that customary tenure institutions would be minimal to non-existent. While Livelihood Zones 1, 3,

7, and 8 cover only a single area, Livelihood Zone 2 covers two areas, Zone 4 covers three areas, and Zone 6 covers four areas. For those zones covering only one area, only one site was selected. For the remaining zones, the research team selected the two largest areas that they covered and selected one site in each area. This eliminated Zone 4 in Grand Cape Mount County and Zone 6 in Grand Gedeh County and Gbapolu County. This left the research team with a total of 10 areas with one clan unit selected from each.

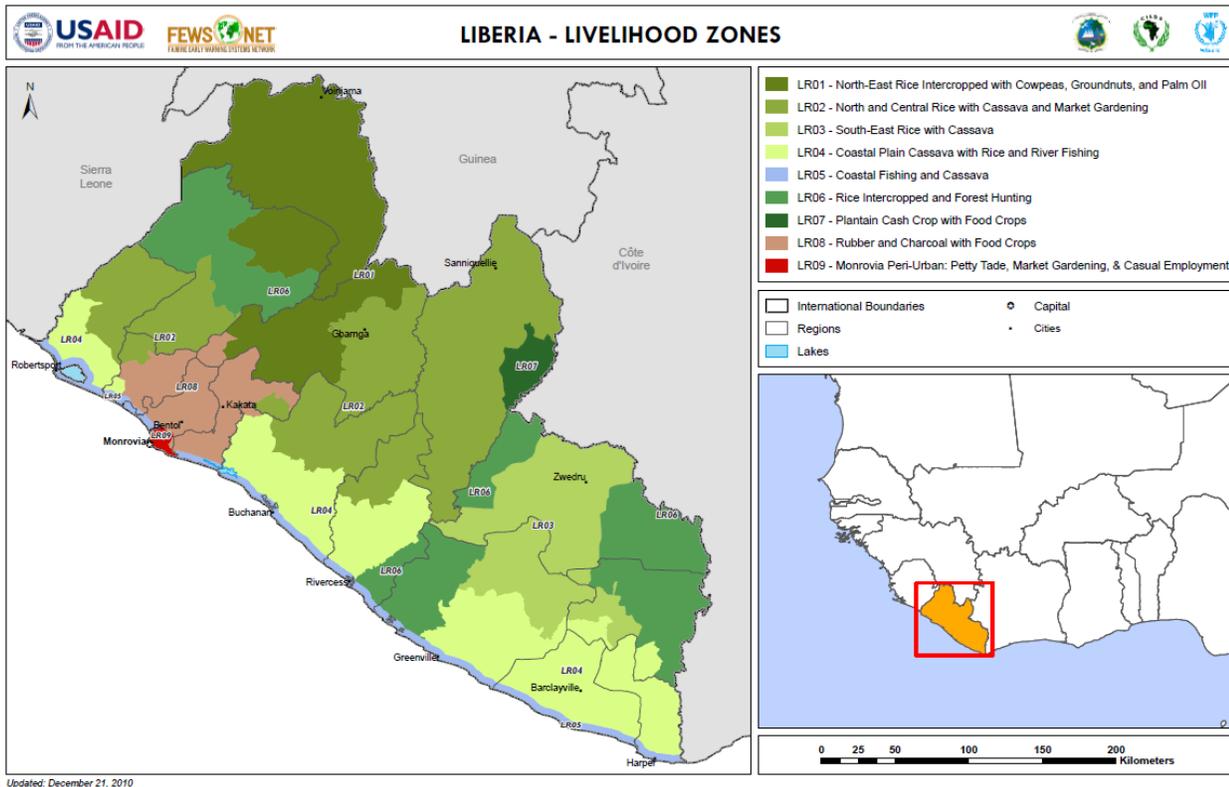
Subsequently, due to security issues along the Cote d'Ivoire border, Livelihood Zone 7 in Nimba County was replaced with Doblí Clan in Bong County (Livelihood Zone 1) and Livelihood Zone 4 in Maryland County was replaced with Nitrián Community – comprised of two official clans in Sinoe County (also Livelihood Zone 4). The selection of Nitrián Community was also based on the interests of the USAID Land Rights and Community Forest Project in undertaking a tenure assessment in the region where the project supported community forest efforts. In the case of three other selected sites, initial selections were discarded and replaced with clans that reflected the specific interest of the Land Commission to understand tenure dynamics in those areas.

The final selection comprises the clan units below:

1. LR 01: Upper Workor–Lofa;
2. LR 01: Doblí, Bong;
3. LR 02 Area 1: Mana–Grand Cape Mount;
4. LR 02 Area 2: Ylan–Nimba;
5. LR 03: Motor Road–Sinoe;
6. LR 04 Region 1: Little Kola–Grand Bassa;
7. LR 04 Region 2: Nitrián–Sinoe (also served as a case study for the Land Rights and Community Forestry Project supported by the FDA and USAID);
8. LR 06 Area 1: Tengia (Foya District)–Lofa;
9. LR 06 Area 2: Saykleken, River Gee; and
10. LR 08: Ding–Montserrado.

In addition, Gbanshay Clan in Bong County was randomly selected from those clans surrounding the city of Gbargna. Gbanshay Clan served as the pilot site for field training on Rapid Rural Appraisal methods. Therefore, in total, the team carried out 11 case studies.

Figure 2.2: FEWS-NET map of Liberia Livelihood Zones



2.2 METHODS FOR GATHERING AND REPORTING INFORMATION

The research informing this report was gathered using Rapid Rural Appraisal (RRA) methods. RRA is a qualitative research methodology that draws heavily on the knowledge, perspectives, and values of local communities to understand a given problem or phenomena. It involves application of a collection of different tools – often applied in group settings – that engage communities in explaining and interpreting their own realities. RRA places a premium on local knowledge and validation of research findings by local community members who have contributed their knowledge.

In applying RRA methods, rigor comes from employing researchers from different disciplines and backgrounds to form RRA teams who ask different questions and interpret information through different disciplinary and life-experience lenses. Rigor also derives from liberal use of ‘triangulation,’ seeking the same information multiple times from different sources, using different tools, and asking questions in different ways. It also comes from spending a minimum of five days in the community, not only doing research exercises with members, but also socializing, working, and living with them during this time – which helps build trust and mutual respect. Since the 1970s, RRA methods have been applied to understand land and resource tenure realities and issues in rural communities. They have the advantage of enabling researchers to gain an appreciation of complex social institutions and dynamics at a reasonable cost and within a relatively short period of time.

In order to prepare for RRA field research on land and natural resource tenure in 11 Liberian clans, a research team of 10 participated in a three-day training course in RRA methods led by ARD’s Mark Freudenberger. Subsequently, researchers engaged in a pilot case study in Gbanshay Clan, also facilitated by Mark Freudenberger. This involved training in the techniques by day and engaging in “restitution” during the evenings to download the information gained onto flip charts and to discuss areas for improvement.

After the pilot, the group divided into two teams of five, each responsible for carrying out the research concurrently in different parts of Liberia over a period of four months. Each team consisted of one technical

lead from Landesa. The remaining researchers – seven Liberian researchers and one U.S. researcher – were split between the two teams. Included in each team of five were men and women representing different professional backgrounds, regional origins, ethnicities, and ages in order to capitalize on diversity of skills, experiences, and insights to improve the research.

For each of the remaining 10 studies, research teams spent five days in their designated study clans engaging in a series of research exercises with clan members. The team began each visit with an introduction to the purpose of the study, emphasizing that the research was being carried out on behalf of the Liberian Land Commission for the purpose of reforming land policy and law in the interest of securing the land and resource rights of rural communities. During the study, the team used the following RRA tools with members of the community:

- *Maps* of the clan and one town in the clan, typically the main town (samples of which are located in Annexes 4 and 5);
- A *Venn Diagram* to illustrate important organizations and individuals in the community comprising that clan (a sample of which is located in Annex 6);
- *Transect Walks* to discover and comprehend the local natural resource landscape and tenure niches it embodies (samples of which are located in Annexes 2 and 3);
- *Seasonal and Labor Calendars* to portray important crops, natural resources, and labor allocations throughout the year (a sample of which is located in Annex 13);
- A *Historical Profile* to capture the history of communities;
- A *Historical Matrix* to capture trends in resource use and availability and also conflict (samples of which are located in Annexes 7 and 8);
- A *Well-being Ranking Exercise* to understand the structural realities and their interface with land and natural resources; and
- *Semi-Structured Interviews* to probe land and resource rights, rules, and governance authorities.

In using these RRA tools to draw on the knowledge of community members, the research teams regularly employed techniques using raw beans to enable community members to express approximate proportions, change over time, and ranking of importance. For example, a team might ask community members to indicate the proportion of families in the clan who hold documents for their land against those who do not by apportioning a handful of beans to each alternative. In another case, team members might ask participants to demonstrate, with beans, the prevalence of disputes between land owners and land borrowers during different periods of time up to the present and what their expectations are for the future. Also, beans might be used to show relative importance, such as when communities rank the importance of livelihood activities or crops. It is important to note that these exercises are designed to provide a visual indication of proportion or change. They are rough approximations and reflect people's perceptions of their realities. They do not represent actual numbers, nor should they be understood to indicate percentages or actual rates of change. For this reason, when displaying the results of these exercises in the case study reports and this report, we do not attach numbers to the beans or convert them to ratios or percentages.

While undertaking research in each of the clans, research teams met every evening for “restitution,” a process of synthesizing information gathered during the day and planning exercises and questions for the following day. Identifying information needing triangulation is an important part of this exercise. On the final day in the clan, the research teams met with the community to report on what was learned and to validate their understandings. Teams asked whether they understood clan members properly and encouraged participants to make any corrections to the information. The teams also invited community members to fill in any information gaps, offer new information, and provide additional recommendations to the Land Commission. A sample research schedule, from Tengia Clan, is contained in Annex 1.

In each case, after completion of community-level research, research teams would spend four days drafting and compiling the case study report. Each member of the team had responsibility over one or more sections. In several cases, certain members of the team went back to community members with follow up questions and the information gained was subsequently incorporated into the reports.

Following the research drafting process, local study coordinators travelled back to all sites to deliver copies of the draft reports to designated community authorities, a practice that that was typically met with noteworthy appreciation. Community members were encouraged by the study coordinators to provide any further feedback on the reports to the extent they were able. In some cases, coordinators were contacted to correct minor pieces of information.

Key findings from each of the case studies were delivered as formal presentations at the Land Commission to which Commissioners, Commission program officers, and local members of MCC and USAID were invited. Input received from these events as well as from reviews of the individual studies by the Land Commissioners, the Research Officer of the Land Commission, and the LPIS Chief of Party were then used to revise the reports. This report draws principally from the information gathered from the case study research and provides a synthesis of the findings corresponding to each of the study objective categories described in Chapter 1. In doing so, we examined the data collected from all 11 cases, recurrent patterns, and relationships as well as notable distinctions between the different communities. In order to strengthen our analysis of the implications of the research findings, we have purposely supplemented our research with findings from both published and unpublished sources as well as a review of the legal framework governing land tenure in rural Liberia. In doing so, we hope to be able to identify measures that can effectively pave the way to improved tenure security for rural communities in Liberia.

2.3 LIMITS TO STUDY

Because the findings in this report draw primarily from information gained from community members and local authorities, it may not reflect the views and observations of others with knowledge and insights on the study areas. Although we triangulated information with different local stakeholders and validated the information we gathered with them, there is still a risk that the information is biased and even that community informants may have sought to sway the research team to depict the situation in a way that would serve those interests. In this report, we have attempted to counteract these risks by drawing on secondary sources of information. However, given the limited number of studies on customary tenure in Liberia, the fact that most are decades old, and the fact that few overlap with the specific communities we studied, their ability to offset these risks is restricted. At the same time, however, we contend that local perceptions of reality – particularly concerning sources of tenure security – offer valuable information. It is those perceptions, rather than some notion of ‘objective truth,’ that ultimately influence people’s behaviors, which in turn shape the prospects for continued peace and improvements to productivity and welfare.

Two additional limits to the study arose from logistical challenges. The first stemmed from the fact that in some cases, the research teams were unable to secure appropriate lodging in the communities, necessitating them to stay 30 minutes to one hour away from the communities. The inability to reside within the communities may have compromised the depth of the rapport teams were able to establish with communities, an important ingredient for seeding trust. It also diminished the amount of information teams were able to collect through informal conversations. The research teams tried to counter this limitation by engaging with community members as much as possible in between research activities to elicit additional knowledge, clarify understandings, and triangulate information.

With only five days to conduct the research, research teams were unable to visit all towns in the studied clans in order to gain full appreciation of the variation and maximize the array of clan member perspectives. Instead, the research design necessitated that RRA activities be typically based in one town. Resultantly, the largest number of participants usually consisted of individuals residing in that town. To counter these potential biases, the research teams made a point of setting aside at least one day to do ‘transects’ that involved visits to other communities, tours of different tenure landscapes, and interviews with their residents. A sample transect walk map of a

portion of Little Kola Clan is included in Annex 2, while a transect walk matrix is included in Annex 3. Transects inevitably proved invaluable to enriching the team's knowledge and provoking new inquiry. Additionally, members from towns throughout the clan were invited to participate in the exercises and discussions. The study participants were regularly asked, "Is this true for the entire clan or just this particular town?" This type of questioning provided researchers with a way to distinguish whether information was specific to certain towns or if it was more broadly applicable to the clan. In general, the majority of the information conveyed reflected the situation for the larger clan. Where information was specific to a particular town or area of the clan, it was noted within the case study reports.

While women were very active and vocal during RRA sessions in some clans, in others, women sat in the back and contributed very little to the discussions unless instructed by the men or requested by the research team to speak. In order to ensure the knowledge and perspectives of women were captured and reflected in the case studies, the research teams held several women-only exercises facilitated by female research team members. During sessions that engaged women exclusively, women were typically more vocal than in mixed groups and contributed vital information to the study.

Another challenge that the research team faced was the expectation of remuneration for attending RRA sessions or for being interviewed. Although the research team compensated members for transportation from outside the town where RRA sessions were held, some community members wanted payment for their time. The research team addressed this problem by informing the communities at the beginning of each study that participants would not be paid for attending RRA sessions or for talking to the team. Despite a lack of remuneration, explaining that the study offered clan members a chance to shape land policy and law in their country proved especially helpful in eliciting people's willingness to participate. At the end of each visit, the research team surprised communities with a donation of supplies for their community school, a gesture that earned the team and the Land Commission great appreciation.

3.0 LAND USE AND LIVELIHOODS

This chapter begins with a profile of the communities that we visited, then identifies the different natural resources available in the studied clans, and lastly, describes land and resource uses and livelihoods.

3.1 PROFILES OF COMMUNITIES VISITED

The majority of people in the rural clans we visited live in towns, most of which are small communities comprised of extended families and kinship groups. Generally, the small size of most communities, combined with familial bonds, afforded the reproduction of close social networks and interdependencies. Households within each town are typically clustered together or lined up along the main road. Most households are comprised of five to 10 people, although we observed some with up to 20 people, including married sons and daughters, living in the same house or compound.

Standards of living vary throughout the clans we visited. Those clans within close proximity of Monrovia – namely Mana, Ding, Gbanshay, and Ylan – have improved infrastructure, access to markets, and cellular phone service (though this is still tenuous). The more isolated communities in Little Kola, Motor Road, Upper Workor, Tengia, Saykleken, and Doblí Clans, and Nitrian community, tended to have fewer infrastructural improvements and a higher prevalence of unimproved roads, rickety bridges, absent or unreliable cellular phone service, and thatch roofs. Several also had limited access to markets, though important exceptions did exist. Members of these clans often blamed the poor infrastructure for hindering a variety of economic activities.

Within each clan, we also conducted well-being rankings with small groups. Each group was asked to describe characteristics associated with individuals in the clan considered to be living well (high well-being), living poorly (low well-being), and those in the middle (medium well-being). Once they identified the characteristics of persons living in each category, the groups were then asked to distribute a handful of beans between the three categories to indicate the approximate distribution of persons in their particular clan within each category of well-being. Most people in the studied clans fall in the poor or low well-being category by their own assessment. Typically, it is those who are well-off that have big farms, food security, and houses with zinc roofs, and who send their children to good schools, have cash, and buy labor. Other distinct characteristics of relative wealth include sending children to Monrovia (or to other urban areas) and having cultivated tree farms. Alternatively, those who are poor are, in some clans, landless (or have small farms) and they struggle to find food, have little or no cash, and must sell labor to survive. Those of medium well-being often have small businesses, farms, and houses. They also tend to struggle to survive, but are generally better off than the poor.

3.2 LAND AND NATURAL RESOURCE USES

Although the landscape and natural resources in the visited clans vary, most sites are characterized by hilly terrain supporting upland and lowland cultivation areas. The extent of primary forest appears to be diminishing in many clans, though most report having at least some, often set aside for cultural practices. Secondary forest or “bush,” which is converted to agricultural land after a period of fallow, tends to be much more extensive. However, in many cases, fallow periods are reported to be contracting significantly. We found that land dedicated to permanent tree cropping is increasing in some clans, while in other cases, the effects of war and poor access to markets constrained their production. Land set aside for settlement and farming is typically home to lineages which have occupied and farmed the land for hundreds of years. Ylan Clan is also occupied by a 200 acre refugee camp that provides shelter to Ivorian refugees. Out of the 11 clans visited, only one reported having significant diamond and/or gold reserves. Rivers and creeks were plentiful in most clans; two also border the Atlantic Ocean.

Land in the studied clans is primarily used for agriculture and settlement. Dependence on land and natural resources for livelihoods is universal, occurring primarily through agriculture, but also through harvesting forest products, water collection, fishing, hunting, and mining. In all 11 clans, we noted that residents use upland areas for farming; creeks and streams for fishing, bathing, washing clothes, and collecting water; and bush and forests for hunting and collecting timber and non-timber forest products (NTFPs). In some clans, we also encountered swampy lowland areas being cultivated for rice production; mineral rich areas utilized by artisanal gold and diamond miners; and palm, rubber, cocoa, and coffee plantations. Most clans have areas reserved for use by the Sande and Poro or other local cultural societies (e.g., Quee/Kwi).

Several clans have rich forest resources. Clans such as Motor Road, Ding, and Saykleken and Nitrian communities have managed community forests, which have been set aside for specific purposes ranging from conservation to commercial timber extraction. According to Mana Clan members, portions of the Gola National Forest located in the clan's territory – reportedly the area's last remaining primary forest – have been allocated as a concession by the government to Sun Yeun and B&V logging companies. These companies have yet to begin operations in Mana.

We encountered a few commercial farms. Ding Clan had four such farms, which were established for commercial palm and rubber production. In Ding, these farms were acquired by elites originating from outside the clan who obtained deeds to secure their rights to the farms. Of these, only one – a rubber farm – has restarted commercial production since the owners fled during the war. Also, part of Nitrian Community was recently allocated by the government as concession for oil palm cultivation, but the company has yet to begin operations and community members appear to be largely unaware of the transfer. Areas secured for small- and medium-scale mining operations are a prominent feature of Mana Clan and were also reported in Ding Clan. In Mana Clan, land is being sought for industrial-scale mining concessions.

Settlement areas differed by clan. In Mana, several settlements are highly populated and densely packed. In Little Kola Clan, the settlement areas all have low-populations with houses set far apart from one another. In Motor Road, the settlement areas are small and few, but houses are densely packed. In other clans, the size of different settlement areas varies. In each of these areas, we saw a few homes built of mud bricks and having zinc roofs – a sign of the relative wealth of the homeowner. In most cases, however, the homes had earthen walls and thatch roofs.

3.3 LIVELIHOOD ACTIVITIES

This section describes the livelihood activities in the studied clans, particularly examining those activities derived from use of land and natural resources. Specifically, we focus on farming rice and vegetables, tree crop cultivation, raising small livestock, hunting and fishing, and mining. Other livelihood activities include making charcoal²⁸ for sale, pit sawing, running small businesses such as shops and cell phone charging stations, and driving motorcycle taxis. We also discuss gendered divisions of labor and analyze livelihood trends and their possible effects.

3.2.1 Farming

Farming was almost universally described as the most important livelihood activity in the 11 studied clans. The only exception was Mana Clan, where some members reported that they did not engage in agriculture as part of their livelihood strategy. 'Farming' largely refers to upland rice intercropped with vegetables and tubers, but may also include swamp rice, vegetable gardens, and sugarcane. Farming is predominantly for subsistence purposes. However, in some clans, especially those near major towns and cities, a significant proportion of what is produced is sold in markets.

²⁸ Often referred to as "coal" in Liberia.

Upland Rice

Cultivated in each of the studied clans, upland rice was consistently reported to be the most important crop due to its significance as a staple food.²⁹ Most households have rice farms and the value of upland rice was reiterated throughout the clans where we carried out research.

Upland rice is commonly intercropped with vegetables and tubers, including cassava, okra, corn, cucumber, bitterball, pepper, eddoes, potatoes, eggplant, pumpkin, ground peas (i.e., peanuts), yams, and beans. Intercropping of upland rice was found in all clans. Less commonly, we found cases of farmers intercropping upland rice with rubber tree saplings.

“It is because of rice that we are alive.”
– Paramount Chief, Mana Clan

Cassava was reported to be the second or third most important crop after rice, though in Little Kola, it was eclipsing rice as the preferred staple crop. Cassava can be harvested up to four times a year. It can be sold, as well as used to make fufu, GB, farina, and gari, which can substitute for rice. In Ylan Clan, for example, citizens reported that they eat cassava products almost every day, while in Ding, Little Kola, Upper Workor, and Saykleken, women regularly sell cassava products at local markets.

In most clans, farmers broadcast rice and vegetable seeds, but sow cassava stalks directly into the earth. In Motor Road Clan and Nitrian Community, however, farmers sow all seeds – including upland rice and vegetables.³⁰ In Saykleken, Upper Workor, Tengia, and Gbanshay clans, we did not collect information on how rice and vegetables are sown. Other crops that are planted in or around upland rice fields include sugarcane, avocados (locally called “butter pear”), coconut, pineapple, oranges, papaya (“pawpaw”), mango (“plum”), and plantain/banana.

The sizes of farms vary by household and by clan. Farm sizes were reported to us using either local football (soccer) fields or acres as a measurement; in other cases, the research teams applied their own estimates after visiting a few farms. We estimate that the football fields are, on average, about 1/2 to one acre. With this rough measurement in mind, we found that most rice farms varied in size from roughly one to four acres. In Ding Clan, respondents stated that the average family farm can be 10 to 15 times the size of the local football field. In Mana, clan members reported that rice farms can be as large as 20 acres. However, further research and discussion revealed that this would be an uncommonly large farm, especially given that manual labor is required to clear and cultivate the field. Indeed, respondents in several clans informed us that the size of a person’s farm is dependent on the amount of land available to his/her family, as well as the individual’s capacity to clear and maintain the land.

The distance from settlements to farms also varies by clan. In general, time to reach one’s farm on foot varied from 30 minutes to two hours. For example, most farms in Dobli Clan are a 30 to 40 minute walk from the settlement areas. However, some people have farms on the other side of the St. Paul River. To reach them, residents must cross the river by canoe and the overall journey takes one to two hours. In another example, Saykleken Clan farmers stated that they prefer to make their farms far from towns so as to avoid destruction by livestock; they typically walk 45 minutes to one hour to their farms.

In each of the 11 clans, farmers reported practicing shifting cultivation and rotational bush-fallowing systems for upland rice fields.³¹ Toward the end of the dry season, trees and thick vegetation are cut, burned, and then

²⁹ According to Surajit K. De Datta (1975), ‘upland rice’ is rice grown on flat and sloping fields which is dependent on rainfall – rather than irrigation – for moisture. URL: <http://www.knowledgebank.irri.org/uplandrice/majorResUpland.pdf>.

³⁰ Nitrian Community members reported using the “dibble method” to plant upland rice and vegetables, but broadcast seeds for swamp rice. The dibble method uses a stick or narrow blade to create a hole in the soil. Then, the seed is placed in the hole and covered by soil. It is possible that the dibble method is also used in Motor Road Clan.

³¹ According to Currens (1976), upland rice cultivation follows the swidden (bush fallow) system, which involves clearing and burning the land in preparation for planting. Planting the rice corresponds to the onset of the rain (historically beginning in May-June). Household members guard the growing rice from birds. Women begin to weed the rice

cleared. Rice is then planted in the prepared fields intercropped with vegetables for one year. After the rice is harvested, the farmer may continue to cultivate other crops (e.g., cassava) on that field for two years. However, the farmer must move to a new location to plant rice, allowing the bush to regrow and enabling nutrient regeneration. Fallow periods are relatively short in some clans, which might correspond with high population density. For example, Gbanshay (75.45 people/mile), Mana (122.42 people/mile), Tengia (183.28 people/mile), Upper Workor (195.31 people/mile), and Ylan (505.63 people per mile) all had relatively short fallow periods, between one and five years. Little Kola presents a quandary, as it has relatively low population density (57.72 people/mile) and relatively short fallow periods.³² The longest fallow periods, as many as 15 to 20 years, were reported in Saykleken, where the total population is 494 people. The average fallow period in the clans appears to be around five years.

Figure 3.1: Estimated population, population density, and fallow period by clan³³

Clan	Ding	Dobli	Gbanshay	Little Kola	Mana	Motor Road	Nitrian	Saykleken	Tengia	Upper Workor	Ylan
Clan Pop.	2,107	6,683	12,059	3,518	23,518	425	988	494	12,628	28,126	17,778
Clan Area (sq. miles)	43.13	102.59	159.83	60.95	192.11	61.36	29.18	56.48	68.90	144.01	35.16
Pop. Density (people /mile)	48.85	65.14	75.45	57.72	122.42	6.93	33.86	8.75	183.28	195.31	505.63
Fallow Period (years)	7-10	7-10	1-5	2-4	4	No data	4	15-20	4-5	1-4	2-3

Farming is structured around the rainy and dry seasons and involves periods of hard labor during the farming cycle in which community members often labor together as a group. The primary farming activities include “brushing,”³⁴ burning, planting, weeding, driving birds, harvesting, and building storage granaries known as rice kitchens. With some slight variation by clan, the dry season lasts roughly from November to April, while the rainy season runs from May to October. In general, men reported expending the most labor during the dry season months where they are engaged in brushing and activities for seasonal upland farms and in preparing land for rubber cultivation. Women reported expending the most labor during the months when they are “cleaning” their fields, planting nurseries, planting rice and vegetables, and weeding, and again in the months when they are harvesting upland and swamp rice. Planting usually takes place at the beginning of the rainy season. Women work less at the height of the rainy season, from July to August.

Farmers in most clans fence their upland fields to protect them from pests and vermin. Farmers reported that sometimes, a significant portion of their crops are damaged by groundhogs and other rodents, as well as by birds, snakes, and domestic livestock.

In Ding and Tengia Clans, respondents also had problems with bush cows (i.e., water buffalo) eating the rice.

“If you don’t fence, the rice is not for you.” – Ding Clan Member

Rice is grown almost entirely for subsistence purposes with a small portion being sold or kept as seed rice for the following year. Only in Dobli did clan members report selling most of the rice they grow as a means of acquiring

approximately 6 weeks after it is planted, while men build granaries and fences to protect their fields. Almost all household members are involved at some point in upland rice cultivation.

³² Given its coastal location, it is possible that the short fallow periods in Little Kola Clan could be due to limited land suitable for agriculture.

³³ Sourced from Liberia Census 2008 and Liberian Institute of Statistics and Geo-Information Services (LISGIS).

³⁴ Local terminology for the process of felling trees and clearing brush.

money quickly. However, they also reported that this sometimes results in food shortages before the rice harvest, forcing them to buy rice.

In contrast, most vegetables and tubers are reportedly sold rather than consumed at home. Cassava products, in particular, are also sold at markets.

Swamp Rice

In all studied clans except for Motor Road, clan members reported having swamp rice farming in lowland areas. There are two swamp rice farming systems: the traditional method, which utilizes rain-fed lowlands, and improved lowland cultivation. The former requires relatively limited labor, as the area is only minimally cleared and rice is broadcast, rather than transplanted. The latter requires significantly more labor in the initial stages of cultivation, as the farmer must clear the land and construct “bunds” (embankments), which are a form of water control. Further, in improved lowland cultivation, rice seedlings are transplanted, which requires the cultivator to first develop and maintain a nursery.³⁵



Image 3.1: Swamp rice being cultivated in Gbanshay Clan

Swamp rice farming seems especially prevalent in those clans where government and NGO interventions introduced technologies and materials, such as Tengia and Upper Workor,³⁶ both in Lofa County. Similarly, in Saykleken Clan, swamp rice farming was not prevalent until the 1990s when NGOs introduced swamp farming methods to the area. In Ding Clan, though we did not gather information on the introduction of swamp rice farming techniques and technologies, swamp rice farming was reported to be as common as upland rice farming. While we did not collect information on which method was followed in each clan, it is likely that the traditional method predominates in the studied clans where interventions have not been introduced to educate farmers on improved methods. Even in clans where we had heard of these interventions, however, verification of whether improved methods are still being used was outside the scope of our study. We only noted the use of bunds for swamp rice cultivation in Tengia. Nevertheless, the introduction of improved methods does appear to have had tenure implications in some clans, which are explained in Chapter 4.

Yet, swamp rice is not pervasive everywhere. Motor Road clan members reported that they do not practice swamp rice farming, though they have swamps suitable for rice. In Ylan Clan, swamp rice production has decreased because of increased pest infestations that destroy the rice. In contrast, clan members in Saykleken

³⁵ Information on traditional and improved swamp rice cultivation was jointly provided by the Advisor to and the Executive Director of the Liberian Land Commission.

³⁶ Currens (1976) notes that most swamp rice fields in Upper Workor Clan are less than one acre. Swamp rice is planted in July, following the planting of upland rice. Women weed the swamp rice fields after they weed the upland rice fields. These fields can be cultivated for up to four years before they are left to fallow for one year.

reported that swamp rice production has increased because it is *less* susceptible to damage by pests and vermin than upland rice.

Today, in many clans, there seems to be a strong interest in swamp rice farming (likely in improved lowland cultivation) because of its higher yields and the fact that one does not need to brush, fell, or burn the area every season prior to planting.³⁷ Moreover, swamps can be planted three times before fallowing, as well as harvested three times in one season.³⁸ In Ding Clan, however, women cited the labor associated with harvesting so frequently as a deterrent to cultivating swamp rice.³⁹ Further, in Tengia Clan, all swamps suitable for rice were said to be claimed. Thus, opportunities for swamp rice expansion in that clan are limited.

Swamp rice production generally begins following the planting of upland rice. Swamp rice is intercropped with vegetables in some clans, including Ding, Tengia, and Nitrian.

Vegetable Gardens

While vegetables are most often intercropped with rice and cassava, some farmers – particularly women – keep separate vegetable gardens. These may be kitchen gardens located in the settlement area, as in the case of Doblí, Ylan, Gbanshay, and Motor Road Clans, where women grow greens, cabbage, and two-week corn for household consumption. In other cases, farmers keep separate vegetable gardens in upland or lowland fields. In Mana Clan and Saykleken, for example, women and men cultivate vegetable farms that are about one acre in size. Many women reported selling vegetables in local markets for cash.

Our research revealed that women are the primary cultivators of vegetable gardens in most clans. However, in Ylan Clan, men reported that they have separate gardens and produce more vegetables than women. Whereas in the other studied clans, a significant portion of women's vegetables were sold, most of those grown by women in Ylan are consumed at home, while those grown by men are sold in Saclepea Market.

Sugarcane

In some clans, including Doblí and Ding, sugarcane is used to produce 'cane juice' or 'gin,' an alcoholic beverage. According to Doblí Clan members, selling cane juice is lucrative and has enabled many people to install zinc roofs on their homes. Sugarcane can reportedly be harvested for up to five years before one needs to develop a new field. In Ding Clan, sugarcane cultivation has reportedly decreased over time because sugarcane cultivation and subsequent production of alcohol is frowned on by the churches in this clan.

Communal Farming

In some clans, groups are practicing communal farming. The proceeds from communal farms are generally used for town development projects, schools, or farmers' group savings. For example, in Doblí, the women of Mehnpa Town have a communal cassava farm, the proceeds of which are being saved to build a guesthouse in the town. In Saykleken and Upper Workor, communal farming is reportedly common. While in Saykleken, communal farming is voluntary, in Upper Workor Clan, all members of the clan are required to participate in communal farming. The proceeds from one such farm in Doblí Clan are used to fund the community school and to prepare meals for schoolchildren. In Tengia, clan members contribute labor to a communal rice farm which is used to cultivate rice that is then saved to be used when strangers visit the clan. In Ding Clan, both the youth and clan women have communal cassava farms.

³⁷ As previously explained, the area must be cleared when beginning to plant using the improved method. However, in subsequent years, the labor required to farm using the improved method is greatly reduced, though the farmer must continue to maintain the bunds.

³⁸ According to the Advisor to the Liberian Land Commission, instances of farmers actually harvesting more than one crop of lowland rice per year are rare.

³⁹ According to the Advisor to the Liberian Land Commission, the high labor demands of preparing the fields for improved lowland cultivation often require farmers to purchase labor, which is cost prohibitive for most rural farmers.

3.2.2 Trees

In addition to food crops, residents of the studied clans also plant “life trees” to varying degrees. Life trees bear products of economic value, endure over the span of a typical human life (or longer), and typically assert a permanent claim to the land on which they are planted. In the clans that we visited, the cultivation of life trees is frequently also a form of cash-cropping. The predominant life trees were rubber, oil palm, cocoa, and coffee, though in some clans, kola, coconut, and orange also constituted important life trees (see Figure 3.2).

Figure 3.2: Main life trees in studied clans

Clan	Life Trees
Ding	Rubber, Palm, Cocoa, Coconut, Orange
Dobli	Rubber, Cocoa, Orange
Gbanshay	Rubber, Cocoa
Little Kola	Coconut, Oil Palm, Rubber, Cocoa
Mana	Rubber, Orange, Oil Palm, Cocoa, Coffee
Motor Road	None
Nitrian	Cocoa, Coconut, Rubber
Saykleken	Rubber, Cocoa
Tengia	Cocoa, Coffee, Oil Palm
Upper Workor	Cocoa, Kola, Coffee
Ylan	Rubber, Cocoa, Coffee

However, the cultivation of life trees was not widespread in all clans. In Motor Road, for example, only one person reported planting life trees (in this case, rubber saplings). Members of Motor Road Clan reported that although they used to plant cocoa and coffee, these life trees are no longer maintained because there is no easily accessible market for the products. Likewise, in Nitrian, we learned that cocoa plantations were abandoned because of the collapse in cocoa prices and the fact that buyers no longer come to the community for cocoa.

Rubber

In the past, rubber was largely considered a rich man’s crop because, in many cases, only the wealthy or influential government officials owned rubber farms. Today, however, more people are involved in planting rubber. In many clans, rubber cultivation appears to be increasing as a result of the growing proliferation of rubber buyers and high market prices. In several clans, including Gbanshay and Ylan, rubber buying centers are located in the clans. In others, such as Mana and Ding Clans, in order to access buyers, rubber sellers must travel to neighboring clans. In Ylan Clan, middlemen also buy rubber from local producers and resell it to Firestone in Margibi. Firestone also sends rubber buyers directly into rubber producing areas.



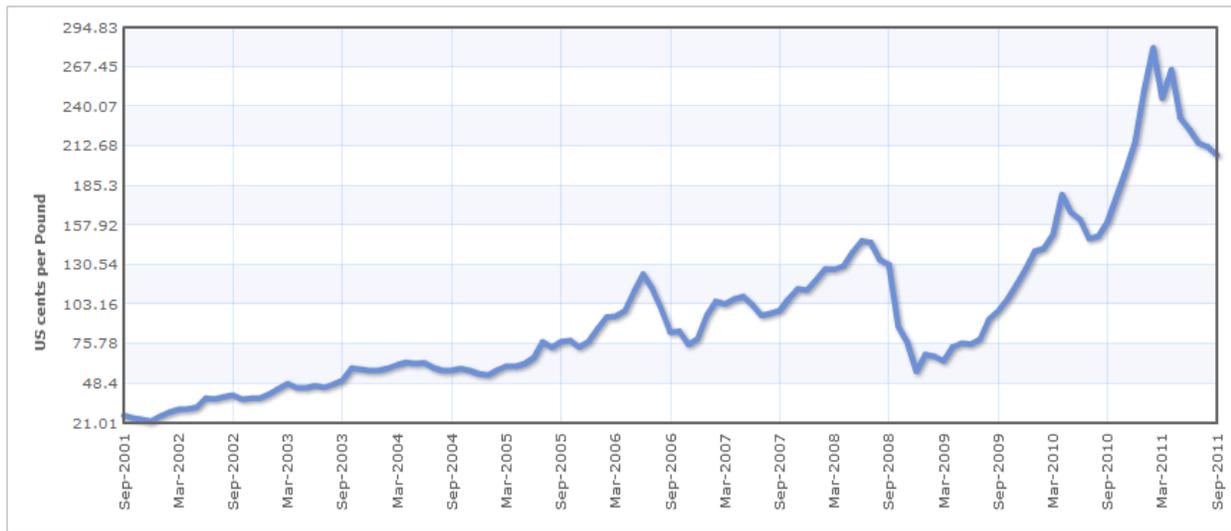
Image 3.2: Mature rubber tree being tapped in Gbanshay Clan

In Ding, Dobl, and Gbanshay Clans, many residents either have converted or are seeking to convert land from rice production to permanent rubber farms. Citizens of Ylan Clan reported that most of the clan’s land is used for rubber cultivation. In Ding, clan members reported rubber to be more important than vegetables and other life trees. In other clans, uptake of rubber represented more of a desire than a widespread reality. In Mana Clan and Nitrian Community, few residents were actively cultivating rubber, but many expressed a desire to do so. In Saykleken Clan, the youth are turning toward rubber and away from upland rice cultivation. According to them, the interest in rubber stems from the fact that it has lower labor demands and yields more economic benefits than rice farming, a sentiment echoed by members of Nitrian Community. In general, many of those who have not planted rubber hope to plant it in the future.

Although there is great interest in rubber cultivation, this livelihood activity is relatively new in the clans visited. In most clans, very few people have begun tapping and selling rubber, which can only occur after a gestation period of seven years (with the more common older variety rubber trees). In Saykleken Clan and Nitrian Community, only one person in each has had rubber trees long enough to begin tapping them.

In Saykleken Clan, however, many men – especially among the youth – that have established rubber farms hope to start tapping rubber in the next five years. In Motor Road Clan, only one local chief has planted rubber trees, which are still too young to tap. The absence of buyers seems to be the main deterrent there.

Figure 3.3: Global rubber prices, September 2001 - September 2011⁴⁰



In Gbanshay, Ylan, Ding, and Saykleken Clans, farmers plant rubber saplings among the rice crop. After the rice is harvested, the field becomes dedicated to rubber cultivation. In Ylan and Dobl Clans, there are a few very

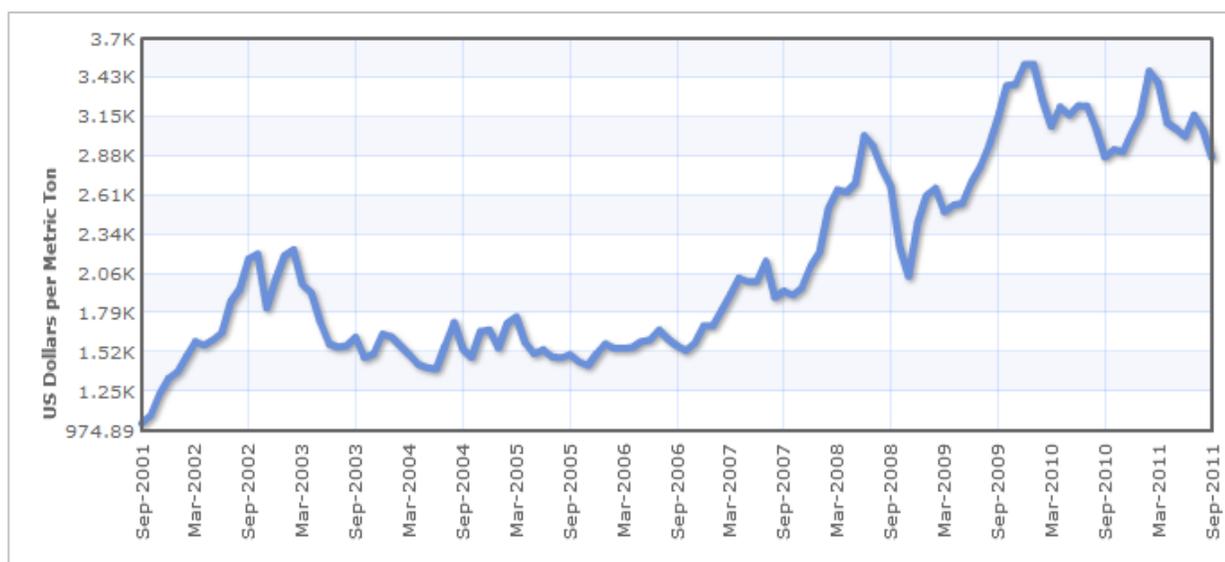
⁴⁰ Data sourced from index mundi, Rubber Daily Price. URL: <http://www.indexmundi.com/commodities/?commodity=rubber&months=120>. Accessed on 26 October 2011.

large rubber farms ranging from 125 to 400 acres. There is also a large rubber farm (between 1,500 and 2,200 acres) in Ding Clan. In all cases, these farms are on deeded land. However, the majority of rubber farms in these clans and elsewhere were found to be small, ranging from one to five acres, and situated on family land that was not under a deed. The growth of rubber has led some farmers to purchase rather than cultivate rice.

Cocoa

As rubber cultivation increases, cocoa production appears to be stagnating in most clans. The only exceptions were Tengia and Upper Workor, both in Lofa County, where farmers are actively engaged in cocoa cultivation and where the market for cocoa appeared more developed. Farmers in Tengia reported that cocoa buyers regularly visit the clan. Some cocoa cultivators hire cars to carry their produce across the border to markets in Sierra Leone. Similarly, in Upper Workor, cocoa production continues and clan members reported that cocoa prices are high. In Ylan, though clan members reported that they still prefer to plant rubber, cocoa cultivation is increasing with the introduction of new varieties that mature after only three years.

Figure 3.4: International cocoa prices, September 2001 - September 2011⁴¹



In other study clans, lack of demand for cocoa seems to be suppressing production. In Motor Road Clan, farmers reported leaving their cocoa plantations to “the chimpanzees” as buyers no longer visit. In Little Kola, farmers maintained their preexisting cocoa fields, but did not plant new ones because of low cocoa prices. In Saykleken Clan, prices for cocoa have decreased and now there are no buyers. Thus, most of the crops have become overgrown and damaged by pests. Saykleken Clan members further predicted that cocoa production will decrease significantly over the next 10 years. In Mana Clan, coffee and cocoa are decreasing in importance because they are reported to no longer be profitable. Today, there are few buyers and farmers shifting to other cash crops, such as rubber. In Ding Clan, few people are engaged in cocoa cultivation, though buyers continue to come from Monrovia.

Coffee

In most clans, coffee production has slumped as a result of falling prices and demand. Only in Tengia and Upper Workor Clans does coffee continue to be an important cash crop, though prices – and local interest – have decreased. In Upper Workor, only single and widowed women reportedly continue to plant and harvest coffee,

⁴¹ Data sourced from index mundi, Cocoa Beans Daily Price. Available from <http://www.indexmundi.com/commodities/?commodity=cocoa-beans&months=120>. Accessed on 26 October 2011.

possibly because men have lost interest in these crops due to low coffee prices. In Ylan Clan, most of the coffee trees are neglected or have been felled to plant rubber trees because coffee has lost its economic value.

Oil Palm

The production of palm oil from the fruit and kernels of oil palm trees was reported to be an important livelihood activity in Ding, Doblí, Gbanshay, Mana, Nitrian, Tengia, Little Kola, Saykleken, Upper Workor, and Ylan Clans. Citizens of Upper Workor declared the palm to be “the king of all trees.” Palm oil is used in the home for cooking, as well as sold for cash. In regards to the latter use, one member of Doblí Clan stated that, “Palm oil gets fast money.”

While a few farmers have cultivated palm plantations (e.g., in Ding, Saykleken, and Mana Clans), many simply plant a few trees near their homes or rely on wild palms which grow naturally in the bush. Even in Little Kola, which engages heavily in palm oil production, citizens rely principally on harvesting the abundant wild palms that grow naturally in their clan’s territory. In Saykleken and Ding, palm plantations were originally private farms, though today everyone uses the trees. The palm plantation in Mana is the only one of its kind in the clan, reportedly because the saplings are difficult to acquire and wild palms are plentiful.

In Motor Road Clan, there is a fledgling community-managed palm farm, initiated as a livelihoods project by an environmental NGO. However, this farm is in poor condition and is not well-maintained. Further, wild palm trees are scarce in this clan, as many trees were cut during the war to harvest palm cabbages for sustenance, thereby killing the trees.

In general, men are responsible for climbing palm trees and cutting the ripe nuts to make palm oil. Many members of the studied clans asserted that this job falls to the men because they consider it too dangerous for women and children to climb trees. However, women often gather the nuts from beneath the trees and bring the nuts to town after men have cut them. Typically, they also participate in the palm oil making process.

Some clans also tap palm wine to consume and sell, including Doblí, Gbanshay, Little Kola, Nitrian, Saykleken, Tengia, and Upper Workor. In Mana and Ylan Clans, those that tap palm wine to sell are considered to be among those enjoying the lowest well-being. In Ding, palm wine tapping is reportedly rare because it is frowned upon by the church for the same reason sugar cane is: it involves producing an alcoholic drink. Only in Motor Road Clan do people not tap palm wine. Clan members in that clan reported that, while they liked to drink palm wine purchased from other clans, they have no tradition of tapping it. Palm wine is typically made from wild raffia palm rather than oil palm. One technique involves felling of the tree while another leaves the tree standing. We were told that most often, the tree dies after it is tapped for palm wine.

Other Life Trees

Other than rubber, palm, cocoa, and coffee, several other life trees play an important role in rural livelihoods, including coconut, orange, kola, and mango (“plum”) trees. The prevalence of these life trees differed according to the geographic location of the studied clan. For example, Little Kola Clan and Nitrian Community, both located on the Atlantic coast, have many coconut trees which serve as important life trees. In Little Kola, several products are made from coconuts (e.g., coconut cookies, coconut water, desiccated coconut, etc.) and are sold in the local market; these products are an important source of income for clan citizens. In Mana and Doblí, orange trees are considered important life trees and serve as a source of cash. In Upper Workor Clan, kola trees were also important. According to Upper Workor Clan members, kola is a symbol of peace. Like the primary life trees described above, these trees that were less common in the studied clans are often used by farmers to establish a permanent claim to land through the act of planting them.

3.2.3 Household Divisions of Labor

The household is the major source of agricultural labor. Generally, clan members reported that husbands and wives work together in their livelihood activities. However, there were certain activities that were largely assigned to women and others that were assigned to men. Almost invariably, however, we heard of cases of men doing

tasks assigned to women and vice-versa. For example, in Tengia Clan, both men and women reported that they take part in harvesting rice, though this was commonly reported to be the women's responsibility. Additionally, women told us that they also assist in burning the fields, though this was almost universally reported to be the men's responsibility. Further, in Saykleken Clan, men were traditionally responsible for burning, felling, and brushing. However, female clan members asserted that "women do the same things like men."

In some clans, including Saykleken, Doblí, and Tengia, women claimed to work harder than the men. In addition to farming activities, women are responsible for almost all household chores, though they are often assisted by their children. For example, it was also reported that children in Saykleken and Ylan Clans help their mothers with chasing away birds and with weeding. A male traditional leader in Doblí Clan confirmed that women carry out most household and farming activities and commented on the injustice by saying, "women have been cheated from the beginning."

"Women have been cheated from the beginning."
– Traditional leader in Doblí Clan

Figure 3.5 provides a rough breakdown of which tasks are generally considered to be the responsibility of women and which tasks are considered to be the responsibility of men. As there was no clear indication among the studied clans of whether men or women more frequently identify and claim land for farming, it falls under both categories.

Figure 3.5: Common roles of women and men

Women	Men
<ul style="list-style-type: none"> • Identifying and claiming land for farming • Scratching (planting) rice • Planting gardens • Weeding • Chasing birds • Harvesting rice and vegetables • Selling produce • Caring for livestock • Creek fishing • Washing gold (in clans with mineral resources) • Burning charcoal • Collecting water • Performing household chores 	<ul style="list-style-type: none"> • Identifying and claiming land for farming • Clearing brush • Felling trees • Burning • Building fences • Building barns • Cutting palm • Tapping palm wine • Hunting and trapping • River and ocean fishing • Digging gold and diamonds (in clans with mineral resources) • Burning charcoal • Pit sawing

In general, men reported bearing primary responsibility for the cultivation of life trees. In some clans we learned that women help the men in life trees production by planting seedlings, weeding tree plantations, and harvesting. There are, of course, exceptions. In Ylan Clan, women reported planting rubber trees, primarily on family land. While Ding Clan members told us that tapping rubber was a male task, a few clan members reported seeing women tapping rubber. This revelation was met with extreme surprise by the other participants. Tengia Clan members reported that women pack and dry cocoa and palm nuts, while men are responsible for picking cocoa and coffee. On the other end of the spectrum, in Saykleken, men reportedly produce all of the rubber and most of the cocoa. While women in this clan assist with cocoa cultivation, they are not allowed to plant or inherit the trees. In an extreme example, Nitrian Community members reported that only men grow life trees.

Often men are also the ones to sell and control the proceeds from life tree products, though there are important exceptions. In Ding Clan, men reported that women also control the proceeds gained from selling rubber (as well as all other sold products) because they are more financially prudent. Yet, in Saykleken Clan, men keep all the proceeds from the sale of life trees products. Selling palm oil tends to be more of a shared task.

Women generally reported that they are primarily responsible for producing and selling vegetables and other produce. In most cases, women keep the money earned from selling their vegetables, usually to pay for school fees and other household needs. In Motor Road Clan, several clan members reported that families depend on what women sell at markets for cash because their husbands are not working.

Mining tasks are also divided by gender. Men typically dig while women sift and wash the gravel. Women also cook for men who are digging. Men are commonly the ones to sell the minerals.

3.2.4 Markets

Markets are an important source of livelihood in the clans that have them. In Dobli, Ding, Little Kola, Mana, and Ylan, markets provide clan members with an opportunity to sell their produce and purchase goods. Clan members sell their local produce at the market, while buyers come from outside the clan. The market also provides a place for clan members to buy salt, soup, spices, and other goods that are not produced locally. The availability of these particular goods more widely attracts buyers. For instance, buyers from Monrovia and Buchanan reportedly come to the Gbain market in Little Kola Clan, despite its remote location, to purchase the cassava and coconut products sold in the market. The clan has a sophisticated system of rules for managing the market, using the market to generate funds for town development, and attracting buyers. For example, canoe rides to reach the market are free on market day. As another example, the Saclepea Market, located in Ylan Clan and reportedly one of the primary markets in the country, has over 200 stalls; more than 2,000 buyers and sellers visit on market days. Many refugees in Ylan use the market to sell fufu produced in the Saclepea Refugee Camp.

In clans without markets, residents must travel to nearby towns or rely on traveling buyers in order to sell their goods. For example, Saykleken residents must travel to the market in Fish Town. In Motor Road Clan, women wait by the main road that cuts through the clan in order to catch rides and transport their produce to market in Juarzon, Zwedru, and Greenville. They complain their produce often rots due to the scarcity of traffic and willing transporters. In Gbanshay and Tengia Clans, farmers depend heavily on motor bikes to transport their goods, making heavier products (e.g., cassava, tubers) unpopular products to sell. Buyers also come to these “marketless” clans to purchase crops directly, but frequency and reliability often tends to be more varied.

3.2.5 Livestock

The importance of livestock as a source of livelihood varied considerably among the clans. We saw many sheep and goats in Gbanshay, Motor Road, Nitrian, Saykleken, Tengia, Upper Workor, and Ylan, but none in Little Kola or Dobli, and very few in Ding and Mana. In several clans, people reported that their livestock had been decimated during the war and that often herds had not been replenished. In some towns in Tengia, cows can also be found, but only where elephant grass grows as fodder. In Motor Road and Tengia Clans, NGO interventions have assisted in restocking livestock, but with mixed success. Animal survival is reportedly problematic. Sheep and goats are both sold and consumed, though consumption is often reserved for either special occasions or during periods of hunger. Also, sheep, goat, and chickens are sometimes used to pay off fines accrued from breaking customary rules. Interestingly, in Motor Road Clan, the research team learned that people care for small livestock on behalf of wealthier relatives who reside in Monrovia.

Fowl, including chickens, ducks, and guinea fowl are more prevalent than small ruminants; chickens were found in every clan. They are both sold and consumed. Dogs are also very common. Most clans use them for hunting and as outdoor pets, though in some clans they are eaten on occasion.

3.2.6 Non-Timber Forest Products

Some clans have primary forests and all have secondary forests (i.e., bush). In all studied clans, residents harvest non-timber forest products (NTFPs) from the forests, including firewood, poles, thatch, rattan, wild palm nuts, wild yam, monkey ropes, and medicinal barks and plants. They also catch fish from creeks and hunt game meat (see Section 3.2.7 below).

3.2.7 Hunting and Fishing

In most of the studied clans, citizens engage in the hunting and trapping of animals for both sale and consumption. Residents usually hunt deer, groundhogs, and other rodents using traps, guns, and hunting dogs. Other more exotic animals are also hunted in some clans. For instance, in Saykleken Clan, residents reported hunting monkeys and antelope. In general, hunting and trapping is the responsibility of men, though we heard a few cases of women setting traps for small game.

The prevalence and type of hunting has changed over time. In several clans, including Ding and Ylan, hunting has decreased in conjunction with declining wildlife populations, which appears to stem from shrinking forest habitats. In Motor Road, clan members used to depend on hunting bush meat for their livelihoods. However, with the introduction of restrictions on hunting endangered species, clan members claim that they are no longer able to rely on hunting as a source of income, though they continue to hunt to supplement household food needs. In contrast, residents of Saykleken Clan sell bush meat, an important source of income for clan members.

Fishing is carried out during the dry season, as high water levels during the rainy season make fishing too dangerous. Both men and women fish, but the water bodies they fish in and the type of technologies they use sometimes differ. In clans with rivers, such as Doblí, Ding, and Little Kola, men dominate river fishing and use canoes, hooks, and lines. In Little Kola Clan, men also fish in the ocean using nets. In all clans, women commonly fish in creeks, streams, and swamps using nets and baskets, though men sometimes engage in this type of fishing as well. Oftentimes, river- and ocean-caught fish are sold at the market, while those caught in creeks, streams, and swamps are kept for home consumption.



Image 3.3: Men in Little Kola Clan bring in their daily catch

3.2.8 Mining

Mining in Liberia is centered on iron ore, gold, and diamonds. Iron ore mining is not present in any of the studied clans, but both gold and diamond mining are prevalent in Mana and Doblí Clans. In these clans, artisanal mining of gold and diamonds comprise a major source of livelihood generation. The majority of clan members in Mana are involved in the mining trade, often done in conjunction with farming. Mana Clan women even reported that mining is the most important livelihood activity while men reported it as the second most important livelihood activity. By contrast, in Doblí Clan, most miners come from outside the clan and mining is not a significant livelihood activity for native clan members. In Ding, some farmers also work as artisanal gold miners as a secondary source of

Image 3.4: Women dig for "glean-glean" in Mana Clan



income. In these three clans, interest in mining is increasing because, as one clan member in Ding Clan stated, “the money is good.” We did not encounter evidence of mining in any of the other eight study clans.

Artisanal gold mining can be undertaken on hillsides, in swamps, and on the banks of rivers. Dirt and gravel from the mining area is dug, sifted, and washed. In the case of diamonds, pits are dug along river banks and sometimes river beds, and the gravel is washed and sifted. Gold mining is reportedly less arduous and provides steadier income than diamond mining, largely because gold is more commonly found and has a higher and steadier value than diamonds. In Mana Clan, we encountered women and children mining for “glean-glean” (very small amounts of gold), which provides just enough money to purchase food on a daily basis.

In areas with no gold or diamond resources, clan members may travel to other areas to work in the mines. For example, Ylan Clan members travel to mining areas around Tapita to mine gold and send money back to their families. Similarly, Gbanshay Clan members travel to what they called “Lofa” (potentially Lofa Bridge, located in Grand Cape Mount County) to mine.

3.2.9 Charcoal Production

In some clans, such as Doblí, Mana, and Ding, residents engage in charcoal production, most of which is destined for nearby urban centers. The wood for charcoal is harvested from secondary and primary forests or from sticks gathered from areas cleared in preparation for rice farms, then burned in charcoal ‘ovens.’ In both Ding and Doblí, charcoal production was reported to be a major livelihood activity. In both of those clans, we saw large trucks leaving the clans with piles of charcoal for sale in urban centers. Buyers also reportedly travel from Monrovia to purchase charcoal. In Mana Clan, charcoal production was reported to be undertaken by the very poor. Here we witnessed charcoal being sold in one of the clan’s major towns, Weajue.



Image 3.5: Charcoal oven in Ding Clan

3.2.10 Labor

Agriculture in Liberia is labor intensive; thus, labor is a vital element of cultivation. In every studied clan except for Mana, farmers participated in *kumu*, a form of reciprocal group labor whereby community members contribute group labor to farming tasks on each other’s farms in succession during critical periods. Men’s *kumis* are generally used for clearing bush and felling trees, while women’s *kumis* are used for planting and weeding, and sometimes harvesting.

Access to labor is critical for women who are single or widowed. Even in clans where single women have access to land, they may be unable to farm it due to a lack of male labor. In Ding Clan, for example, women have access to town land for rice farms, but must purchase male labor to brush and burn the land. Women’s lack of money makes it difficult for them to exercise their right. It is also possible that, in clans where rules do not explicitly restrict women from planting life trees, single women are unable to do so because they lack the necessary male labor.

Labor seems to be a definitive characteristic in regards to relative wealth. In some clans, the selling of labor is associated with low well-being, the poorest being those who need to sell their labor to other farmers. For those able to purchase labor outside of the *kumu* system, as noted by the farmers in Gbanshay Clan, they are able to burn the land when conditions allow and to plant on time. However, those dependent on the *kumu* system to clear their land prior to burning must respect the *kumu* calendar. If the rains come early and the *kumu* has yet to clear

bush and fell trees on a farmer's property, that farmer may not be able to burn his fields before planting due to wet conditions. Farmers in this situation would need to invest more labor into clearing the land individually in order to burn their land prior to the arrival of the rains.

In all clans, labor is sold or given in various ways. In Ding Clan, groups of youth form “*keus*” and sell their group labor for cash. In Ylan Clan, refugees from the Saclepea Refugee Camp and poorer clan members frequently sell labor. Widows in Saykleken clan reported purchasing male labor to clear and fell trees for rice farms. In Upper Workor, the majority of farm labor – usually for clearing and weeding farmland – is provided by local youth, who are paid on a daily basis. In Mana Clan, some clan members work as “mining boys,” meaning that they are employed as diggers for mine owners.

In clans where there are commercial farms or concessions, some clan members are engaged in wage labor. For example, the Mary Page Rubber Farm in Ding Clan employs a few clan members as rubber tappers. Doblí Clan members also reported that those who need their rubber tapped will hire workers from both inside and outside the clan.

3.2.11 Other Livelihood Activities

In most of the studied clans, clan members engage in livelihood activities in combination with seasonal cropping. Common secondary or tertiary livelihood activities include providing transportation services, working as government employees, and operating small businesses. In almost all of the clans, we heard of clan members working as teachers, health practitioners, pastors, or carpenters, or running small businesses. Some clans – including Ding, Doblí, Nitrián, Saykleken, Tengia, Gbanshay, Little Kola, Ylan, and Mana – reported a small population of traders, many of whom also work as farmers. These traders often have small shops that sell goods such as soap, sugar, and spices. Other small business owners run cell phone charging stations or have ‘movie clubs’ with generator-run televisions showing weekly films or football games. In other cases, residents have sugarcane mills or palm oil pits where citizens can pay to process their goods. In many of the studied clans, a few residents supply transportation for a fee. In Ding, Doblí, and Little Kola where there are rivers, some clan members support themselves by charging people a fee to transport them across the rivers.⁴² In Gbanshay, Tengia, and Mana, men with motorbikes provide transport for locals and their goods.

We encountered such occupations in almost all clans, with the exception of Motor Road where citizens reported that no clan members are engaged in other livelihood activities. This likely refers to the absence of shopkeepers and taxi drivers, as there are teachers and government officials residing in the clan. The very low population in Motor Road and the fact that most in the clan source dry goods from nearby Juarzon would seem to account for the absence of these other livelihood activities.

3.3 CHANGES IN LAND USES AND LIVELIHOODS

In this section, we explore the changes and trends associated with the primary livelihood activities. Land uses and livelihoods have changed with population increases and decreases, improved roads, the war, and the emergence of cash crops such as rubber, cocoa, and palm. In some cases, government and NGO interventions and the introduction of new technologies have also resulted in livelihood changes – with both positive and negative impacts. For example, clan members in both Tengia and Upper Workor reported that government interventions enabled them to engage in swamp rice cultivation – an important aspect of many households’ livelihood strategies. On the opposite end of the spectrum, Motor Road Clan members reported that government restrictions on hunting endangered species significantly reduced their livelihood options. In other cases, relatively new livelihood alternatives draw clan members away from farming. This is the case in Mana Clan, where livelihoods appear to be shifting away from seasonal crop cultivation and into mining.

⁴² In Little Kola, a portion of this fee goes to a town development fund.

3.3.1 Impact of the Wars (1989-2003)

During the Liberian Civil Wars (1989-2003), populations in many clans were decimated by death and out-migration. In a few clans, including Motor Road, many of the displaced have not returned. In this clan, several towns and villages were abandoned and forests have regrown. In the studied clans, livelihoods also changed drastically, as farmers were forced to abandon their seasonal crops and life trees. Livestock was stolen and killed and the numbers have yet to recover. Citizens from Little Kola, Doblí, and Ylan reported that farming virtually halted during the war and is only now recovering. Little Kola Clan members also reported that their market shut down during the war and people suffered a decline in their standard of living – before the war, zinc roofs were prevalent, but now they are few. Such reported changes were common throughout the studied clans.

3.3.2 Increasing Cash Crop Cultivation

Interest in rubber and other permanent cash crops, such as cocoa in Tengia and Ylan and cultivated palm in Ding and Mana, is increasing. In many clans, there is a growing shift from seasonal rice and vegetable cropping to tree crop cultivation, especially among men. The trend is fueled by the high value of certain tree crops, as well as by the perception that these crops are less labor intensive than rice cultivation. In clans where tree crops are not prevalent, there is interest in acquiring them, as noted in Section 3.2.2 of this chapter.

The shift to cash crops is clearly underway in many of the studied clans. In Doblí, clan members told us that many primary forests have been cleared to make way for cocoa, orange, oil palm, and especially rubber trees. Similarly, in Ylan Clan, citizens reported that there are no longer primary forests and that the rubber economy is increasing. Clan members from Saykleken reported a growth in the rubber economy and increased cash cropping. And, while most rubber trees are still young, Ding Clan members predicted that, in the future, all the clan's agricultural land will be planted in rubber.

3.3.3 Demand for Labor and Availability

As demand for land increases in conjunction with population growth and the transition from seasonal cropping to permanent tree cropping, land available for agriculture appears to be decreasing. Citizens of Mana Clan reported that the land available for farming is diminishing due to an increase in tree cultivation and mining. Doblí, Gbanshay, and Ylan Clan members reported that, with the growth of permanent tree cropping, land available for seasonal rice farming has decreased. In Gbanshay Clan, rising demand for land to plant rubber is leading to encroachment and disputes and is causing farmers to seek land further and further from settlement areas. In Tengia Clan, increased demand for land and reduced availability was attributed to children establishing their own farms at a younger age, rather than farming with their parents.

3.3.4 Decreasing Fallow Periods

With the exception of Ding, Little Kola, Motor Road, and Saykleken, residents of all other clans reported that fallow periods have decreased. Generally, clan members estimated that fallow periods decreased from around 10 years during the Tolbert Administration to three or four years today. Clan members attributed shorter fallow cycles to the growth of tree crop cultivation and increased population. Clan members from Gbanshay and Ylan specifically associated the decrease with the increase in rubber cultivation. Citizens of Doblí Clan attributed the decrease in fallow periods to population growth. Pressure on available agricultural land has thus led farmers to cultivate land that has not lain fallow for a long period of time. Clan members in Upper Workor reported that it has become difficult for citizens to find fertile land, particularly for upland crops.

3.3.5 Women's Evolving Roles

Women have increasingly taken on tasks previously considered to be men's responsibilities due to men's evolving labor demands. In Mana Clan, men's labor, and especially younger men's labor, is increasingly absorbed by mining activities such that they are farming less than in the past. The male labor needed for farming has become scarce and, as a result, women too are moving away from farming and into the mining sector, either directly or indirectly through the provision of services to miners. In Doblí and Ylan Clans, citizens reported that

men's focus on life tree cultivation has restricted their time available for seasonal farming. In Tengia and Motor Road Clans, women reported that young men (and sometimes women, too) are increasingly leaving the clans for schooling and jobs in urban centers. Male labor shortages in certain clans, coupled with the large number of war widows, has spurred some women to begin to engage in activities previously reserved for men, such as brushing, felling trees, and burning farms. This is particularly the case for women who are widowed and whose sons have either left the clan or who are too young for heavy work.

3.3.6 Climactic Variability

Clan members in all clans except Doblí and Motor Road reported experiencing climatic variability, including variable rainfall patterns. Climatic variability can negatively impact farmers, making it difficult to know when to brush and burn their fields prior to planting.

“Before, we knew the dry season, but now we do not know when the rain can come.”

– Chief in Saykleken Clan

3.4 ANALYSIS

This section provides a brief analysis of the current and potential impacts of changing land uses and livelihoods in conjunction with population growth and climatic variability. In many of the studied clans, population growth has led to increased demands on land for agriculture and other natural resource uses. Increased demand for land has led to both reduced availability of land suitable for farming and reduced fallow periods, as farmers seeking land must increasingly utilize “young bush.”

Declining availability of suitable agricultural land and reduced fallow periods can also be attributed to the increase of permanent cropping, particularly of cash crops such as rubber trees, cocoa, and palm. These trees are “life trees” and, thus, land planted in them is removed from the cycle of seasonal cropping. A shift from seasonal agriculture to permanent cash cropping was evident in Gbanshay Clan, where many of the clan members that we spoke to had or were seeking to plant rubber on their land. In this clan and others, extensive planting of rubber is ushering in a more individualized tenure system, potentially overriding the traditional system, which is dominated by seasonal rights. (See further discussion of this in Chapter 4). While youth in Gbanshay expressed optimism about the prospects of increasing rubber cultivation for the earning of cash income, older members lamented the impacts on seasonal farming and feared that its gradual abandonment could lead to periods of food shortage (presumably if rubber prices were to decline or for families who lacked rubber farms).

Also, women's roles in household livelihood strategies are changing in conjunction with shifting livelihoods. As cash cropping and alternative livelihoods increase, women may be confronted with growing male labor shortages and must thus either take on traditionally “male” tasks and/or shift to alternative livelihoods. This was evident in Mana Clan, where women reported that male labor shortages necessitated them to shift from rice farming to mining and service provision.

Finally, climate variability has the potential to both increase the divide between relatively wealthy and relatively poor farmers and to incent households to diversify their livelihood strategies beyond farming. With variation in the seasons, those farmers with sufficient funds may be able to buy labor to clear their land earlier in the season, while those dependent on *kumu* for clearing would have to wait their turn. If the rainy season arrives early, those households at the end of the *kumu* rotation may not be able to clear and burn their fields before the rainy season begins. In such cases, these households would not be able to plant rice and vegetables on time. Additionally, households that are negatively affected by climatic variability may be drawn to other livelihood activities that are not so dependent on the seasons, such as mining, pit sawing, and rubber tapping. The actual effects of these shifts on food security are difficult to predict since much will depend on the stability of markets for minerals, timber, and rubber. On the one hand, these alternative livelihoods promise higher incomes. However, substitution away from subsistence food cropping toward increased reliance on markets does introduce greater risks to the stability of that income and ability for rural populations to smooth their consumption.

4.0 RIGHTS AND RULES GOVERNING LAND AND NATURAL RESOURCES

In this chapter, we present our findings on the different rights and rules governing access to and use of land and natural resources in the 11 studied clans. The first section describes elements of the customary tenure system, which prevails in all of the clans we visited. This includes the rights governing access to land for farming and housing and the rules for how that land is managed, in addition to an examination of rights to other natural resources such as trees, forest products, and water. Community perspectives on compliance with customary rights and rules in the different clans are also portrayed. The second section examines the extent to which statutory forms of tenure are present in the different clans and how they manifest themselves, particularly in relation to customary tenure.

4.1 CUSTOMARY TENURE

In each of the 11 clans studied, customary rules governing access and rights to land and resources prevail. These rules vary based on the tribal ethnicity and lineage systems that dominate in each clan. Customary tenure systems – though based in tradition and extending back to one’s forefathers who first settled the land – are dynamic and evolve over time in response to interventions and new realities, whether physical, economic, political, or social. Though we encountered many differences in the customary rules of the 11 clans, we also encountered many commonalities. These differences and commonalities are highlighted in the sections that follow. Among the clans, there is a high degree of variance in terms of the presence of statutory forms of tenure, including deeds, Tribal Certificates (TCs), concessions, and government holdings. Where statutory forms of tenure are present, we found that they have influenced the nature of customary tenure – sometimes marginally, in other cases radically.

4.1.1 Access to Land for Farming and Housing

In each of the studied clans, access to land for farming and for housing is governed by a set of rules shared by a particular lineage that settled in the area and first cleared the land. Claims to land are highly nested, typically ranging from claims held by the lineage-based chieftaincy or clan (not necessarily coinciding with formal paramount chieftaincy or clan administrative units) to claims held by towns, extended families, and households and individuals. At the household level, claims can be temporary, as with seasonal upland rice and vegetable crops, or they can be permanent, as with tree crops and house plots.

Moreover, the rights embodied in nested claims are not all the same. At the higher levels, claims embody more governance rights, including the right to establish customary rules to govern access and use to land and natural resources and the right to exclude those who are not citizens of the lineage. At the lowest levels, they represent both use rights and a narrower set of governance rights over discrete areas of land.

Among the studied clans, the primary basis for households and individuals to access land for farming, housing, and harvesting natural resources tends to be through larger claims held by extended families to geographic areas referred to as family land, quarters, and towns. These extended families or communities are often descended

from one or more patrilineages,⁴³ and include persons who marry into those patrilineages as well as individuals from outside the patrilineages who have been selectively assimilated. We refer to these extended family units as “core tenure units,” given that they represent units within which individuals are conferred primary rights to land and tend to be subsets of one or more larger patrilineages residing in the same area. Persons residing in those units who are not descended from the same dominant patrilineage(s) are typically considered “strangers.”⁴⁴ Spouses who marry into these units assume a somewhat unique status, often having strong rights to access and use land and natural resources within the core tenure unit, but often weaker rights to retain this access in the event the marriage breaks down. The land areas claimed by the core tenure unit are typically the areas where one’s family members have previously farmed the land, including land which may currently be under fallow. Other times they may include patches of primary forest. The boundaries of land areas claimed by the core tenure unit can consist of roads, footpaths, trees, waterways, or simply knowledge passed down through generations.

Rights of access to land differ depending on whether one is a citizen of that particular unit and on one’s relation to the dominant patrilineage(s) of the core tenure unit. Priority for access to land is typically reserved for members of the core tenure unit. Members of neighboring core tenure units (e.g., nearby towns), often from the same patrilineage or tribe, may be subject to somewhat more stringent rules for accessing land and natural resources in the core tenure unit, depending on the availability of land and resources. Individuals originating from distant communities and other patrilineages are generally subject to the most restrictions on accessing land and natural resources. Governance of land and resource tenure within the core tenure unit is typically vested in Family Head(s) or a Town Chief and Elders, the vast majority of whom are male.

Communities trace their rights to live, farm, and govern a particular area to the clearing of primary forest and settlement on the land by their forefathers. In clans that still have unclaimed land available for farming (e.g., Nitrian Community and Saykleken, Mana, Motor Road, and Doblí Clans), clearing such land is still used to establish a claim and even to initiate a settlement that can form the basis of a new core tenure unit. In other clans, like Tengia, Ylan, Gbanshay, and Little Kola, we were told that all land in the clan falls under an existing claim.

Once land is claimed, access to it is typically gained via one of the following means: 1) allocation by the one(s) administering rights in the extended family unit (Family Heads, Town Chiefs, elders, and even town citizens), 2) gifts of land from parents to children or from town citizens to strangers, 3) inheritance of land by children or the right to seasonally farm on family/town land from their parents, 4) via marriage – including inheritance as a widow, 5) borrowing land, and 6) planting trees. Land that is not claimed by a core tenure unit tends to fall under the governance of the broader lineage and access to it may necessitate asking permission of one or more customary authorities. This is the case in Doblí and Mana, for example.

Household or individual claims to land for seasonal crops (upland rice and/or cassava, intercropped with vegetables) can be made on land claimed by the core tenure unit (town, quarter, or family land) and usually last one to two seasons. Upon marriage, couples will seek land to farm on their own, most often in the town or on the family land of the husband. Before marriage, most youth farm with their parents.⁴⁵ In some cases, individuals must acquire permission to farm on land within their core tenure unit, while in other cases they can simply go and find any area that is free and ready to farm (see Figure 4.1 for examples). After one or two seasons of rice farming, tropical soil fertility is typically depleted and the land needs to revert to fallow for several years before it

⁴³ The term ‘patrilineage’ is defined as “a multi-generational group of relatives who are related by patrilineal descent. Patrilineages usually consist of a number of related nuclear families descended from the same man.” See: <http://anthro.palomar.edu/tutorials/cglossary.htm#sectP>.

⁴⁴ In some of the studied clans (e.g. Ding, Little Kola, and Tengia), we found merged or mixed patrilineages. Moreover, strangers are sometimes assimilated into patrilineages and in the process acquire rights on par with actual descendants.

⁴⁵ The logic of waiting until one is married to cultivate one’s own farm has to do with the strict divisions of labor for different tasks in the subsistence farming cycle. However, some clans are experiencing pressures from youth (particularly male youth) to start farms of their own earlier. This is especially the case for tree crops, for which gendered division of tasks is not so rigid.

is fit to be farmed again. In Ding, Little Kola, and Motor Road Clans, claims to land for seasonal crops last only one or two seasons; after the land has been sufficiently fallowed and its fertility has been replenished, the land becomes available for any town citizen to farm. Seasonal farming rights tend to be one to two seasons, though in Mana and Ylan Clans, the claim lasts three to four seasons. When farmers identify a piece of land that they would like to farm, they often mark their claims by clearing a small portion and putting sticks, leaves, or a combination of the two in the cleared area. This lets others know that the land has been claimed until the claimant has a chance to clear and burn the land and begin planting.

In Ylan and Tengia Clans, immediate or smaller extended family units have permanent claims to a swathe of upland for farming. In this case, they follow a rotational system, in which members of the family will farm adjacent to their former seasonal farm until they have farmed all the area under their claim. At that point, the family unit will then go back to their original farming area to begin again. In Tengia, women also cultivate their own separate vegetable gardens and have priority access at the town level. But if they wish to cultivate a garden in a neighboring town's bush, they must ask permission of the Town Chief and head of the family who controls that land.

For clans that cultivate swamp rice, areas for lowland cultivation can fall under different tenure arrangements. The starkest cases we found were in Tengia and Upper Workor Clans, where technical interventions by the Lofa County Agriculture Development Program (LCADP) led farmers to allocate parcels for the cultivation of swamp rice to individual families who expressed an interest with priority going to Family Heads. This effectively converted swamp land to individualized tenure. By contrast, in Saykleken, land for swamp farming is considered to belong to the entire clan, rather than to one of the eight main families within the clan as is the case with upland farming areas. Hence, tenure in swamp farming areas is communal in Saykleken whereas it is highly individualized in Tengia and Upper Workor.

In all 11 clans, we found that the planting of life trees – principally rubber, cocoa, coffee, oil palm, coconut, kola, and orange trees – exerts a permanent claim to land that is vested in the one who plants those trees and typically his/her immediate family. The individualized nature of rights would appear to reflect the perennial character of these crops, the lower soil fertility demand and depletion rates of tree crops compared to seasonal food crops, the high up-front investments required for cultivation, and the typically higher economic benefits generated from the commercial sale of these crops. Whereas land under cultivated tree crops is likely to remain under the overall governance right of the extended family unit, it has the effect of excluding this land from land available for seasonal cropping and other family uses and of vesting exclusive, permanent, and more substantial control rights in the individual and his/her immediate family. Typically, only citizens of a particular town or family can plant life trees on land within their extended family unit, though in some clans, outsiders who have been assimilated into a town or family are additionally given permission. Rules for acquiring land for tree crops differ among the clans, however. In Ding, the Town Chief and the town citizens are involved in identifying locations in which individuals can plant life trees. In Dobl, if one wants to plant trees on family land, he/she must seek permission from the Family Head, but if one wants to plant life trees on unclaimed land in the town, he/she must ask the Town Chief and the elders.

Exclusive permanent rights are also accorded to land designated for house plots, which oftentimes includes small areas of land for planting trees and small kitchen gardens in addition to a dwelling structure. Again the process differs among the various studied clans. In most cases, the administration of house plots is the same as that for farming parcels. In Mana and Upper Workor Clans, however, Land Committees were established for the allocation of house plots. In Mana, these town-level committees sometimes require payment and the collected funds are reportedly invested in town development initiatives.

Members of the core tenure unit exercise rights in common to land not under current use for settlement or farming. Anyone who is a member of that unit has rights to access that land. In most cases, these areas are available for new farming, or even for establishing new settlements, but certain areas are often subject to restricted uses (e.g., for cultural activities or for gathering forest products). Rights to resources on that land are discussed in Section 4.1.3.

Figure 4.1: Access to land for farming and housing in a selection of clans

	Ding	Dobli	Ylan	Little Kola
Extended family unit (i.e., “core tenure unit”) through which rights are administered	Town	Family Land	Quarter (sub-unit of Family Land)	Town
Means to access land for seasonal farming – temporary claim	Town citizens may go and claim land for 1-2 years within the town; no permission needed	Ask permission of the Family Head on Family Land; of the Town Chief and elders on unclaimed land in the town	Members of the quarter family may access land within their quarter; no permission needed	Town citizens may go and claim land within the town; no permission needed
Means to access land for tree cropping – permanent, heritable claim	Town citizens inform the Town Chief of his/her intent to plant life trees; the Chief and town citizens identify an appropriate spot for the planter	Permission is sought from the Family Head and members on Family Land; permission is sought from the Town Chief, Clan Chief, and elders on unclaimed land	<i>Information not collected</i>	<i>Information not collected</i>
Means to access land for housing – permanent, heritable claims	Wife of town citizen selects spot; husband then goes and seeks permission from the Town Chief	Permission sought for a house spot in town outskirts or bush (because most land in settlement area is already claimed)	Ask permission of the Quarter Head; ask one’s parents for a spot next to theirs. For house spots near the road, one purchases land from the town through Town Chief	Town citizens may go and claim a house spot within the town; no permission needed

Inheritance and Inter-vivos Gifts

Membership in the core tenure unit forms the basis of one’s rights to access land on a seasonal basis, to inherit permanent rights to land, and to receive land rights in the form of a gift. In general, one only has these rights on land in their father’s community, though there are exceptions when married couples settle in the wife’s community when children can sometimes inherit land in their mother’s community.

Rights to seasonally farm are typically granted to children upon marriage if they remain in their natal village. Most frequently, this applies to sons, as girls have traditionally married out of their natal communities. However, in some of the studied clans (e.g., Motor Road, Gbanshay, Little Kola, and Upper Workor), it is becoming more

common for daughters to remain on family land, either marrying someone from the same town or an outsider coming to reside on her family's land.

When parents die, children either retain the right to farm on the land claimed by the broader extended family unit wherever they choose or inherit the right to rotationally farm on land claimed by their immediate family (see Figure 4.2). In areas where rights have become more individualized – e.g., Gbanshay and Ylan – land rights are passed from parents to their sons and daughters. Land is often bequeathed to children jointly, rather than divided among them, and it is the usually eldest son who inherits rights to administer that land, though there are variations on this. For example, in Dobli Clan, the oldest child administers the land on behalf of his or her siblings, regardless of sex. Other times, parents choose to divide land between their children, but this seems more common for land planted in tree crops rather than seasonal farming land.

Among all studied clans, land planted in tree crops is either given or bequeathed from parents to their children. Although it is more common for sons to inherit this land, in Ylan, Upper Workor, and Gbanshay Clans, community members reported that land was increasingly being bequeathed to daughters. In the case of Gbanshay and Upper Workor, this was attributed to male youth being viewed as irresponsible.

In the case of house spots, these are passed from parents to children. Because it is more common for sons to remain in their natal communities, these are often passed to sons, though we heard cases of women either inheriting or being allocated house spots of their own, for example in Dobli, Gbanshay, and Saykleken.

Figure 4.2: Children's acquisition of seasonal cropping land

	Ding	Mana	Dobli	Ylan	Little Kola	Nitrian Community	Tengia
Most common means for children to receive seasonal cropping land	Allocation of land within town upon marriage	Inheritance of immediate family land	Inheritance of immediate family land	Inheritance and inter-vivos gifts of immediate family land	Allocation of land within town upon marriage	Allocation of land within quarter	Inheritance and inter-vivos gifts of immediate family land
Joint inheritance or individual inheritance	N/A	Jointly by children	Jointly by children	Jointly by children	N/A	N/A	Jointly by children
Inheritance of allocation and administration rights	Rights of administration over town land are assumed by Town Chiefs	Eldest son, usually	Eldest, whether male or female	Eldest son	Rights of administration over town land are assumed by Town Chiefs, who are typically also Family Heads	Rights of administration over town land are assumed by Quarter Heads	Eldest son

Borrowing

Borrowing land for seasonal crop farming outside of one's core tenure unit is common in some clans, while in others it is not (see Figure 4.3). Where land is plentiful, there tends to be less borrowing because people have sufficient fertile land to farm within their core tenure unit.

Borrowing terms for land for seasonal crop farming are typically one season, with some clans allowing borrowers to renegotiate for a second season if they choose. The short term length is due to the fact that fragile tropical soils are not able to support rice and cassava crops for longer than a single cropping season before the land needs to be put to fallow. In Mana Clan, however, borrowing terms are typically four years. Basically, this is a window during which the borrower has the option to plant his/her seasonal crops, frequently vegetables. If the borrower does not exploit the option, the land returns to the primary holder after the four years have expired.

Most communities expect borrowers to pay a small portion of harvested crop, such as one to two bags of seed rice. Sometimes, this represents a requirement, while other times, borrowers tend to provide this in order to maintain good relations with the lender. In some areas with more plentiful land, such as Nitrian, Motor Road, and Saykleken, no payment is required and there are few borrowers due to the widespread availability of land. In Nitrian and Motor Road, the paucity of borrowing arrangements also owes to the largeness of the core tenure unit.

Although on the surface it would appear that borrowers have weak tenure security, intra-group social cohesion can provide borrowers with some assurance, especially if both the borrower and lender are from the same kinship group. For example, in Nitrian Community, we were told that no borrower has ever been refused land. Likewise, in Tengia, landholders cannot refuse to lend land they are not farming to other town citizens. Otherwise, the intended borrower can go to the Town Chief, who will assure that the borrower's request is granted.

On land that is borrowed, it is a nearly universal rule that borrowers may not plant life trees. The reason for the prohibition is that life trees impose a permanent claim to land, such that the landholder or landholding family would be unable to reclaim the land they had lent. The only clan where borrowers were reported to be able to plant life trees – namely cocoa and coffee – was Tengia. Here, one group of elders reported that this allowance is restricted to fellow town citizens and is only sanctioned with the explicit permission of the landholder and payment of a portion of the harvested tree crop.

Tengia Clan also had unique rules for borrowing land for banana crops. Reportedly, the average life of banana crops is 10 years, but borrowing terms for cultivation of these crops is five to six years. The lender does not charge the borrower a "tax" (i.e., an in-kind payment for using the land) because she/he has invested in developing the land and the landholder will benefit from harvesting the banana crops for a few years after the borrower's term has expired.

Borrower access to land has become a contentious issue in Gbanshay and Dobli Clans due to the propensity of borrowers to plant life trees on land that they agreed to use for seasonal cropping, thereby asserting an individual claim to the land. The problem has led to landowners becoming more leery of lending land to borrowers for fear that borrowers will assert permanent claims. The issue is discussed further in Chapter 6.

Figure 4.3: Profile of borrowing of land in select clans

	Mana	Ding	Dobli	Gbanshay	Little Kola	Nitrian	Ylan	Saykleken	Tengia	Upper Workor
Borrowing Common?	Common	Uncommon	Common	Very common	Uncommon	Uncommon	Common for strangers/ refugees	Uncommon	Common	Uncommon
Types of borrowers	Within families, between families, and between towns in the clan; occasionally strangers	Only citizens of towns in the clan	Citizens of other towns in the clan and strangers from outside the clan	Mostly clan members	Mostly clan members	Others from Nitrian Community	Strangers, including refugees from the Cote d'Ivoire; uncommonly by others in Ylan	Mostly clan members	Others from Tengia Clan and strangers from outside the clan	Mostly strangers and only on the limited deeded land in the clan
Process for acquisition	Request permission from Family Head or Town Chief	Request permission from Town Chief	Request permission from Family Head	Request permission from "landowner," sometimes involving the Town Chief	Request permission from Town Chief	Request permission from Quarter Head	Request permission from land owner/Family Head	Request permission from Family Head	For upland fields, request permission from family landholder; for lowland fields, request permission from individual land holder	Permission of the deedholder
Terms	4 years	1-2 seasons	1 season	1 season	1-2 seasons	1-2 seasons	1-2 seasons	1-2 seasons	1-2 seasons	1-2 seasons
Payment	None, except for crops used for sale (e.g., vegetable gardens)	None	One bag of harvested produce	1-2 bags or buckets of seed rice	Either up-front payment of gin or cash or token portion of the crop once harvested	None	1-2 bags of the harvested produce	None	For borrowers from outside the town, 1-2 bags of seed rice for upland and lowland cropping. For town citizens, none for upland fields; 1 bag of seed rice for lowland cropping	One bag of rice
Restrictions	Seasonal crops only	Seasonal crops only	Seasonal crops only	Seasonal crops only	Seasonal crops unless obtain explicit permission to plant life trees	Seasonal crops (upland and lowland) only	Seasonal crops only	Seasonal crops only	Seasonal crops (upland and lowland) only, unless one is a fellow town citizen, then may be allowed to borrow land for tree cropping on another town citizen's family land	Seasonal crops only

Strangers and Internally Displaced Persons (IDPs)

Most of the clans we visited were dominated by a particular ethnic lineage. In Ding, there were two such lineages, resulting from the integration of two once warring ethnic groups, the Gola and the Kpelle; in Little Kola, Bassa and Kru lived side by side; while in Tengia, several Mandingo were integrated among the dominant Kissi people. People originating from outside of the resident lineage or mixed lineages are almost invariably considered ‘strangers.’ In Motor Road Clan, ‘strangers’ are those originating outside of the traditional Wedjah Chieftaincy. In Nitrian, it defines anyone who hails from outside of Nitrian Community, which is comprised of Geebiah, Kabada, and Nitrian Clans. In Upper Workor, ‘strangers’ are those that originate from other parts of Liberia while those who come from outside of Liberia are referred to as ‘aliens’ and are subject to somewhat different rules. In other cases, the term is used to mean those who originate from outside the town and immediate surrounding towns or from outside the clan, even if they are part of the same resident lineage(s). For example, in Tengia, ‘strangers’ include people who are from another town, even if they are Kissi.

Settlement of strangers in a town other than one’s own is not uncommon in most of the clans we studied, even before the war unleashed waves of IDPs. Even where stranger settlement is more uncommon, such as Upper Workor and Motor Road, it happens on occasion, mostly when men marry clanswomen and come to settle in their towns instead of women going to settle in their husbands’ communities. Women from another lineage who come to settle in their husbands’ communities are considered strangers in some respects, but are more readily assimilated due to the patrilocal marriage tradition and, likely, to the fact that her children will be lineage members. In all of the clans, we encountered established rules providing strangers with access to land. All 11 clans reported that strangers require a Stranger Father,⁴⁶ native members of the clan who facilitate the stranger’s access to land and can also vouch for the character of the stranger and be held accountable if the stranger does not comply with customary rules. In Ylan and Ding, IDPs and refugees do not need a Stranger Father to settle in the clans.

Generally, strangers are given land either by a local authority or their own Stranger Father.⁴⁷ In Tengia and Little Kola, the Town Chief facilitates borrowing arrangements between clan members and strangers, while in Motor Road, this is the responsibility of the Town Chairman. Elders advise on the allocation of land to strangers in Gbanshay, while Family Heads and Quarter Heads perform this role in Saykleken and Nitrian, respectively. In Upper Workor, the Land Allocation Committee assigns house plots to strangers. In Doblí and Mana, strangers typically farm on the land of their Stranger Father (or Mother, in the case of Doblí). Stranger Fathers in Mana will ask the Town Chief and citizens for permission for the stranger to settle and use land in the town; if approved, the stranger will acquire the right to access a piece of the Stranger Father’s family land. In Doblí, the stranger can borrow from other members of the community if his/her Stranger Parent does not have land ready, but he/she must receive permission from the Head Elder first and pay a portion of the harvest to the landholder. Strangers are given house plots for free. In most cases, they will have perpetual, heritable rights to those plots as long as they (or their heirs) reside in the clan. Exceptions to this were found in Doblí and Tengia, where perpetual rights could be revoked if the stranger ceases to occupy the house.

In most clans, including Saykleken, Ylan, Ding, Motor Road, and Nitrian Community, strangers can be assimilated, a process by which they become fully integrated into the core tenure unit and subject to the same rules as indigenous community members. In Saykleken, the process follows the identification of an “adopting family” and land for the stranger, after which a public ceremony is held in which the stranger vows to accept the rules of the adopting family and is blessed by the Truwan-o family, the leading family of the eight families in the clan. The situation is similar in Nitrian Community, where strangers are “adopted” into a Quarter (see Figure 4.4); however, there is no blessing ceremony. In Ding, the stranger’s conduct is paramount to whether

⁴⁶ In the case of Doblí Clan, it was reported that a Stranger Mother was also possible.

⁴⁷ Women who marry in to a community do not have ‘Stranger Fathers,’ but instead access land through their affiliation with their husbands.

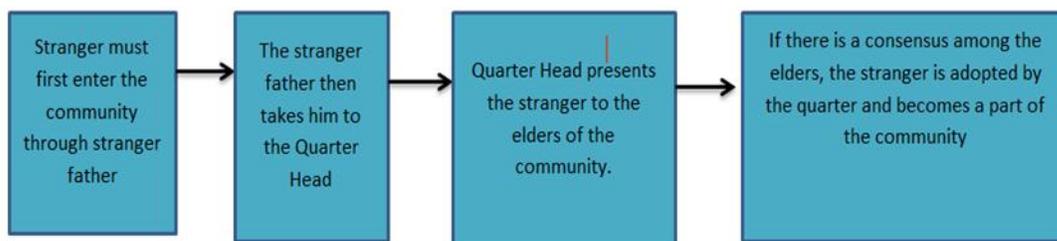
he/she is fully integrated as a clan member, and there is no fixed period defining when a stranger can be treated like a citizen. In some cases it may never happen. In Motor Road, strangers are readily assimilated with the exception that they can never plant life trees.

In Tengia, Upper Workor, and Doblí Clans, strangers are never fully assimilated. In Upper Workor, strangers are forbidden from ever planting life trees and the stranger's children may only inherit farming and house plot land if he marries a clanswoman and dies before her. If she dies first, neither he nor their children retain rights to the land – a situation that rather mirrors widow eviction and underscores the importance of lineage ties to perpetual land rights.

Rules governing whether strangers can plant life trees vary. In Ylan, Saykleken, Ding, and Nitrian, assimilated strangers may do so. However, in Ylan, these rights can be revoked if the stranger leaves the town or misbehaves. If he is married to a clanswoman and either leaves or dies, the trees and the land will be inherited by his widow and children. In Doblí, some clan members maintain that strangers can never plant life trees, while others say strangers can do so with the explicit permission of the Family Head and can pass this land on to their children. However, the land will always be regarded as belonging to the landowning family. This closely mirrors the rules in Tengia, where strangers may plant cocoa and coffee trees only if accorded permission by the Family Head (landowner); these rights are subject to continuous occupation and payment of a portion of the proceeds earned from those crops to the town. Strangers can pass the rights to tree crops on to their children, who must also remain on the land to assert their rights to the trees. The only means by which the stranger can assume full rights to the land and trees is if the landowner gives him the land as a gift.

Stranger access to land has been controversial in Ylan, where outsiders, including IDPs, referred to as “business people,” have acquired deeds for land in the clan without the consent of clan members.

Figure 4.4: Stranger adoption process in Nitrian Community



Women's Access and Rights to Farm Land and House Spots

Women acquire rights to land through many of the same channels as men: inheritance and gifts from their natal families, borrowing, and, much less frequently, through planting life trees. However, a primary means by which women access land is also through marriage, such that women's rights to land are substantially framed by customary marriage traditions. In all of the studied clans (and apparently among all tribes in Liberia), the marriage system is predominantly patrilocal, whereby women relocate to their husband's communities upon marriage and therefore access land for housing and farming there. Marriage traditions combined with traditions of lineage-based claims to land result in women generally having weaker rights to land compared to men. This is particularly the case when it comes to rights to administer and retain land in their husbands' communities when they are widows and rights to administer land in their natal communities.

Prior to marriage, daughters, like sons, typically farm with their parents, although there are some variations. In Ding, parents will sometimes give a portion of the parcel they have claimed for seasonal cropping to their daughters who are expected to contribute part of the harvest to the household. For any portion of the produce they have sold, daughters must share part of their proceeds with their mothers as a token of

appreciation. Other clans where daughters are sometimes given gifts of land and farm on their own include Ylan, Little Kola, and Gbanshay.

For land dedicated to seasonal farming, daughters often inherit an entitlement to farm on their extended family's land or on the land of their town. Where rights are bestowed on immediate families, daughters may inherit land jointly with their brothers (with the eldest brother typically acting as the one who administers the allocations for use by the siblings) or the land will be apportioned between siblings. When land is divided, daughters tend to receive lesser portions than their brothers. Likewise, individualized holdings, including land planted in tree crops, are either bequeathed jointly or to individual children. When land is bequeathed individually, daughters generally receive smaller shares or are excluded altogether. Among all the studied clans, the only place where daughter inheritance was not practiced was Saykleken (although daughters sometimes receive gifts of land and house plots). In this clan, sons are expected to take care of their mothers and sisters and to ensure that they have enough land to farm subsistence crops.

In some clans, daughters are increasingly inheriting or being given land. This is the case in Gbanshay, where daughters have a growing tendency to remain in the clan as compared to sons who are increasingly seeking opportunities outside the clan. In both Gbanshay and Upper Workor, increasing inheritance of land by daughters is attributed to trends of irresponsibility among male youth. Gifts and bequests of land in Little Kola were reported to be directed to those children who would take care of their parents in their old age. In Tengia, women told us that they received inheritances of land for lowland and upland rice and gardens from their parents, as well as land planted in cocoa, coffee, and oil palm. If a woman were to marry outside the clan, she would put this land in her brother's care and may or may not ask that he share a part of the harvest with her; this land would always belong to her.

It is very uncommon for women to administer rights to her family's land, especially in the case of joint inheritance. This is primarily because customary rules stipulate that one can only administer the land of their own extended family and most women leave their natal communities when they marry. As a result, men are almost always the ones to administer land on behalf of their families or extended families. The only exception that we found to this was in Doblí Clan where the oldest child will manage inherited land on behalf of his or her siblings, regardless of sex. Here, too, women frequently farm on both land in their natal community and their husband's community.

Women have rights to access land in their spouse's community when they marry and relocate to his community. All clans reported that a woman has the right to return to her natal community and access land for subsistence farming there, particularly if the marriage breaks down (e.g., divorce, abandonment, death of her husband). In such cases, women will need to rely on their natal families to contribute and help mobilize the labor required for subsistence farming. In Tengia, women reported that they must petition their brothers to be allocated a parcel. Unlike widows, a divorced woman cannot continue to access land in her husband's community, but this also appears to be the case for divorced men when the couple has settled in the wife's community. In Doblí, citizens confirmed that a stranger husband loses rights to land he lived on and farmed in his wife's community.

While we encountered polygamy in nearly all clans, its prevalence varied. In Ylan, clan members reported that it is very common. Here, a husband will divide up land he acquires in his quarter for seasonal farming among his wives, though some wives cultivate together. In Motor Road, more men are reported to be polygynous than monogamous. In this clan, wives reside together in the same household and cultivate the same parcel of land together.

In the studied clans, it was reported that widows have the right to remain in their married community. Most retain rights to the house plot, the right to access land for seasonal farming, and rights to continue to manage tree crops where these are present. This right to retain land in her husband's community is strengthened when a woman has children, who forge a widow's tie to her husband's lineage. Widows' rights are more precarious in the absence of children and will often depend on her rapport with her in-laws and her continued ability to remain in their good graces. In some clans, such as Ylan, Little Kola, Tengia, and Nitrian,

widows will sometimes marry a male relative of her deceased husband (often his brother) and thereby protect her claims to land in that community. However, this practice is not compulsory, nor even particularly common.

In Ylan and Tengia, brothers of the deceased will assume management of land farmed by the couple if the children are not yet adults and will also be expected to take care of the widow and her children. Overall, eviction of widows is reported to be uncommon, though it is said to have happened in Tengia, Mana, Ylan, and Little Kola (in the past), mostly in the case of childless widows. In Tengia, however, even widows with children report being evicted from the land that they farmed with their deceased husband. In Upper Workor, widows can approach the Land Allocation Committee for assistance if attempts are made to seize her land.

Widows and divorced women also have the right to return to their natal communities or to marry someone else from a different community. In such cases, the widow will revoke her rights to reside on the house plot, to access land for seasonal cropping in her husband's clan, and to the proceeds from the tree crops she and her deceased husband might have cultivated. This is because she will be expected to access land in her natal community or in the community of her new husband.

Widows' and divorcees' right of return is also stronger in some clans than in others. In Mana, for example, it is deemed their "born right," whereas in Tengia and Motor Road, some women reported that if they were to return to their natal communities, they might have to appeal to their brothers to gain access to a piece of land and pay him a share of the harvest. Divorced and widowed women generally can acquire permanent house spots in their natal communities upon return. In Upper Workor and Saykleken, a male relative is required to facilitate this acquisition, reportedly because women need men to support their claims in the event of disputes.

When women return to their natal communities and gain rights to land, their children cannot inherit those rights. Rather, they can only gain these rights in their father's community. However, we learned that in Mana Clan, the children of sons who leave to marry and settle in their wife's community are entitled to return to their father's community and claim a share of the father's family land. This affirms the general customary principle that land passes to children through the male line. In fact, the allowance of women to pass the house plots they inherit from their parents on to their children has invoked resentment in Saykleken because it violates this principle.

In addition to accessing land through family entitlements, inheritance, and their spouses, women in some of the studied clans also borrow land, often for vegetable gardens. In Gbanshay and Tengia, women borrowing land is reported to be more prevalent than men doing the same. When women cannot afford to borrow land in Gbanshay, they often sell their farm labor instead. Women appear to be subject to the same rules as men when it comes to borrowing land (see Section 4.1.1).

With the exception of Saykleken, there are no rules that prevent women from planting life trees in the studied clans. However, much fewer women plant tree crop on their own than men; when they plant them with their spouses, women often have less decision-making authority over tree crop cultivation and less control over the proceeds of these crops than men. In Nitrian Community, only one woman has managed to inherit life trees, and only because she has no brothers. In Tengia, though, several women are reported to have their

Box 4.1: Women's Control Rights over Land in Ding Clan

Married women have strong control rights and decision-making authority over land. Though most decisions are made in consultation with their husbands, women are the primary decision-makers in regards to where and what to plant and what portion of the harvest to consume versus sell. Women are also responsible for selling crops and other goods at market. The woman keeps the money and will give some to her husband when he asks for a portion. Women not only manage money earned from sale of food crops, but also earnings from rubber and other cash-based livelihood activities. According to one Town Chief, "My woman is my treasurer and cautions me not to waste money." Decisions about how to spend the money are made jointly by the couple.

own coffee and cocoa farms and to have planted their own palm trees on their house plots. Here, too, some women received individualized rights to land during the 1970s, when allocations were made to parcels for swamp rice, cocoa, coffee, and oil palm.

In most of the studied clans, we found that women exercise robust control rights over land they farmed with their husbands, including the rights to control the proceeds from the sale of seasonal crops. In Motor Road, for example, women are the ones to choose the location of the farm, to elect what portion of the crop will be sold versus reserved for household consumption, and to retain the proceeds from the sale of crops.

According to the Tribal Chairman of Motor Road, women will keep the money because they are the ones who “manage the home.” If a man needs money, he will have to appeal to his wife. This view was echoed in Saykleken where it was reported that once rice “enters the barn,” it is women’s exclusive domain to manage it. In both Ding and Little Kola, men reported that women are the ones who control cash proceeds because they are better at saving money than men. Men sometimes had stronger control over land cultivated in tree crops, including control over the proceeds from tree crop products. This was true in Ylan and Tengia where husbands sell and command the greater share of proceeds from tree crops. In Ding Clan, however, women tended to control the proceeds derived from sale of tree products as well.

4.1.2 Rules for Managing Lands

This section describes some of the customary rules in the studied clans that govern how land is managed.

In general, we found few rules restricting access to uncultivated bush, though certain rules governing the harvesting of resources from these areas are covered in the next section. Bush (secondary forest) typically constitutes common property available to all town or family citizens and sometimes the broader clan or chieftaincy. In some clans, like Ding and Tengia, the availability of bush has substantially declined, contributing to reduced fallow periods. In Little Kola, however, towns have started charging outsiders for harvesting products from their bush and forests, including timber.

In Gbanshay, Ding, and Tengia, some clan members expressed concern that the widespread cultivation of life trees was reducing availability of land for seasonal rice cropping. Some towns in Ding Clan restrict households from planting more than a single parcel in rubber to ensure that there is sufficient land for food crop production and also adequate land for all households to have their own rubber parcels. Town Chiefs and town citizens in Ding Clan also engage in determining where rubber parcels can be located.

*Kuu*⁴⁸ – a local term for reciprocal group labor – is a widely observed custom for managing farm land in all the studied clans, except for Mana. Groups of men will clear and burn one another’s farms in succession, while groups of women will do the same for planting and weeding. Often both men’s and women’s *kuus* will participate in harvesting. Host farmers are responsible for providing food and drink to the other *kuu* members on the day(s) their farm is being worked. Failure of a *kuu* member to work on another member’s farm generally incurs a fine. In Saykleken, this fine is LD250 to the group, while in Ylan, one pays LD100 to each *kuu* member. *Kuu* members will sometimes also sell their labor to individuals who are not *kuu* members. In Ylan, they earn a wage of LD150 plus two meals and alcoholic drinks per day.

Where rotational farming is practiced, farmers typically have rights of first refusal over land adjacent to their existing seasonal crop parcels. In Upper Workor, if someone wants to farm next to another’s farm, she/he must first ask that farmer for permission. In general, the area that one wishes to farm is only limited by labor – the household’s own labor and that which it can mobilize. However, in Saykleken, households are restricted from planting a new field until the rice germinates on their first field. Occasionally, rights to land can be lost if one fails to maintain the land. In Upper Workor, this even includes land planted in tree crops if the area around them is not brushed.

⁴⁸ Called “spare” in Dobl.

Several communities have rules governing town development and maintenance, including periodically clearing roads of overgrowth. In Tengia, failure to contribute to town development can result in restricting an individual's access to town resources, such as the bush and the water pump, which in effect effectively forces him/her out of town. Other clans reported that it was becoming increasingly challenging to engage youth in town development activities.

In several clans, it was reported that communities are more frequently participating in the process of making and adapting customary rules. In Little Kola, it used to be that rules were made only by the traditional authorities, but now there is much more community participation in this process. In Tengia, Town Chiefs continue to play a central role in interpreting and administering rules governing land and natural resources management, but these rules are subject to adaptation by the larger community which also can put forth new rules. In Upper Workor, rules are said to be made by the community, reviewed and endorsed by the elders, and enforced by the chiefs. Rules continue to derive from elders and other authorities in Mana, but they are now subject to endorsement by the broader community. Nevertheless, in Doblí, Tengia, and Mana, youth resent not being more engaged in making rules and decisions.

Additional rules exist to demarcate boundaries for towns, family land, and individual landholdings. Several clans rely on traditional markers, including soap trees, roads and pathways, rivers, creeks, and valleys. Often boundaries are where one's forefathers stopped clearing land for farming and knowledge of these limits are passed down from adults to children. In Tengia, it was reported that landholding boundaries have remained stable over time and are respected, whereas in Gbanshay, boundary encroachments and disputes are on the rise.

Some clans have witnessed major changes in their tenure structures during the past several decades. Government agricultural interventions in Tengia during the 1970s prompted increased individualization of property rights, with the expansion of tree farming and allocations of lowland rice farming parcels to household heads. This was also true for swamp rice parcels in Upper Workor. In Gbanshay, the introduction of TCs in the 1960s (discussed in Section 4.2), together with the construction of the motor road leading to Gbargna City, appears to have led to increasing individualization of landholdings and the disappearance of unclaimed land. In Mana Clan, the growth of the mining sector has ushered in a plethora of temporary claims to land for both industrial and artisanal mining. Rising pressures on land due to population growth and the introduction of statutory tenure forms, the latter of which is treated in Section 4.2, are also invoking changes to customary tenure regimes. Interestingly, among the studied clans, the civil wars were generally regarded not to have altered land tenure substantially, with the exception of Motor Road Clan where war violence led to the abandonment of several towns.

4.1.3 Rules Governing other Natural Resources

Life Trees

All of the clans we visited engage in cultivating life trees, ranging from one or two individuals having parcels in Nitrian and Motor Road to clans such as Ding and Doblí that claim that nearly every household in the clan has at least some land planted in life trees. Some households and individuals cultivate small tree plantations, while others may only have a few trees planted on their house plot. The latter is often the case with oil palms. The most commonly planted trees in the studied clans are rubber, oil palm, and cocoa.

Planting of life trees engenders permanent, exclusive rights to those trees and the products they produce, just as it does to the land they are planted on. The rights are typically vested in the planter and members of his/her household. When land planted in life trees is bequeathed, heirs also gain permanent rights to the trees on the land. In Ylan, daughters are reported to inherit less trees and tree-cropped land than sons. Daughters cannot inherit life trees at all in Saykleken, nor can they plant them because it would result in a woman establishing a permanent claim to land. This was not found to be the case in other studied clans.

Typically, uprooting or cutting a life tree is prohibited or highly restricted, reflecting their importance in asserting permanent claims to land. In Saykleken, life trees cannot be cut or uprooted for any reason, while in

Little Kola, life trees can only be felled for purposes of building a house. If the tree is cut and the house is not built, the harvester will be charged by the town authorities for the tree. Several clans have strict rules against harvesting from trees planted by another person. In Tengia, for example, failure to seek permission to harvest palm nuts from another person's tree invokes a punishment of 25 lashes or a fine of LD500, plus payment for any damages. Maintenance of the trees can also be important for retaining one's rights. In Upper Workor, if one fails to properly maintain the trees for a period of four years or more, anyone in the community may harvest the products or even clear the land. This has been the case with coffee trees, due to steep reductions in the price of coffee. Similarly in Ding, abandoned palm farms were freely harvested by community members.

The only life trees we encountered that were not planted were wild oil palm and raffia palm. When land is cleared for seasonal farming, wild oil palms will often be left standing. In most cases, the individual or household asserting a seasonal claim to that land will also have a seasonal claim to the trees growing on that land and its products. In the case of Gbanshay Clan, this includes borrowers. In Ding, Upper Workor, and Gbanshay, there is a rule that anyone wishing to harvest the nuts from an oil palm growing on someone's rice farm must seek permission from the farmer and must provide the farmer with a gallon of oil in return. In Ylan, the payment is a share of the harvested nuts, rather than the oil. However, in Dobli, the harvester has the primary claim to the tree. Any community member can harvest the palms growing in another's rice field without permission provided they do not damage the crop; the harvester is also expected to give some of the oil produced to the farmer. Tenure for wild palms found in uncleared bush is more communal and rules for accessing those palms are discussed in the section below on bush and forest resources.

With the exception of Saykleken, women are allowed to plant and own life trees – and thereby establish a claim to the land they are planted on. However, married women often leave this task to their husbands or cultivate the trees with him. In Upper Workor, high levels of war widowhood are said to be the reason why many women are planting and harvesting cocoa on their own. All clans reported that women are prohibited from climbing trees, including life trees, the rationale being that this is a very dangerous activity, particularly when trees are wet and the bark is slippery. In the case of palms, this typically precludes women from harvesting products from oil palms and tapping raffia palms for wine. Most often, women will plant oil palms with their husbands and rely on them or other male family members to harvest the palm nuts. Women will participate in the processing of the nuts into oil and have a claim to it. When women plant and own oil palms on their own and do not have access to male family labor, they will often hire labor to harvest the nuts for them. In Tengia, the danger involved in scaling palm trees means that men too will sometimes hire labor to harvest the nuts and pay them either with a share of the oil or in cash.

As noted in the prior section, nearly all of the clans either have rules prohibiting borrowers from planting life trees or allow it only in very particular circumstances. However, rules governing rights to trees and the associated land if borrowers violate this rule differ among clans. In Little Kola, the proceeds from the trees must be shared with the person who lent the land. In Gbanshay, the research team discovered that rules were not consistent. The Clan Chief asserted that the trees could not be uprooted and that the borrower would lay claim to the land and trees. However, the Town Elders maintained that rights to the land and improperly planted trees would be assumed by the landholder.

Life trees are a chief source of cash income in many clans which implies that persons who face restrictions on their ability to acquire land for planting life trees become excluded from this important cash earning opportunity. This appears to be the case in Gbanshay where acquisition of TCs (discussed in Section 4.2) by individuals and small groups has resulted in some families not having their own land and relying mainly on borrowing. In clans where all or most of the indigene families have access to land belonging to their extended family (family land, quarters, or towns) – for example, Ding, Ylan, and Little Kola – most households can access land for tree farming on family land or town land. This may partially explain why disputes concerning borrowers planting life trees are much more prevalent in Gbanshay than in clans where land access by indigene families is more egalitarian.

Bush and Forest Resources

In all of the studied clans, residents depend extensively on natural resources from uncultivated land referred to as “bush.” When such land has fallowed a number of years, it becomes rich in vegetation, often constituting secondary forest. Harvested products from bush areas include such items as firewood, thatching material, palm fronds, poles, medicinal plants, bamboo, piassava vines, wild oil and raffia palms, and fish and wildlife. Rules governing access to water bodies and fish in the bush are discussed in the subsequent subsection on water and fishing.

Rights of access to bush vary according to clan. In many clans the right of unrestricted access to bush is limited to members of the same core tenure unit (e.g., extended family or town), within which rights to seasonal farming are also given. For example, in Ding, Motor Road, and Little Kola, free access to a town’s bush (no permission required) is limited to citizens of the town, prescribing the same underlying principle that governs land used to make seasonal farming claims. Meanwhile, accessing another town’s bush requires permission of the Town Chief. Likewise, in Mana, permission is required from the Family Head to access bush and to harvest bush resources on family land other than one’s own.

Even if unlimited access to certain natural resources is prohibited outside one’s particular town or family land, most clans have rules for accessing bush belonging to another extended family. In general, only the permission of the Town Chief or Family Head is needed. This is the case in Motor Road, Mana, Nitrian, and Ding. Uniquely, Little Kola charges fees to non-citizens harvesting certain bush products with the exception of firewood.

In other clans, rights of access to bush resources extend to a broader grouping. In Tengia and Gbanshay, for example, all clan members have rights to freely harvest bush resources even though primary rights to farm land are conferred to smaller family units; no permission or payments are required. In Ylan, bush products can be harvested in unlimited quantities on the broader family land; one is not restricted to the quarter from which one accesses farming land.

Wild Palm Trees. These rules also apply to clan members’ rights to access wild palm trees that grow in the bush. However, because of the particular value of palms, additional rules often apply to them. For example, some clans have rules for marking palms that one intends to harvest. In Gbanshay, asserting a seasonal claim to an oil palm is done by one of three methods: 1) hanging a leaf on a tree, 2) erecting a bamboo pole next to the tree, and 3) clearing the area beneath the tree. For raffia palms, one hangs a plastic barrel at the top of the tree to catch sap used for making palm wine. Citizens of Saykleken mark wild palms with a leaf. In Mana Clan, people also mark trees in the bush to claim rights to harvest honey from a beehive in that tree.

Similar to other NTFPs, strangers from outside Saykleken Clan must ask permission to harvest wild palms, while in Tengia, strangers pay a “tax” to harvest wild oil palms in the clan, typically a share of the oil they produce. Tengia citizens also direct those tapping raffia palms to refrain from killing the trees because they are used for protecting roads.

There are also conventions specifically pertaining to women’s access to wild palm trees. Like planted palms, women may also not climb wild palms. Yet, there are often norms that facilitate women’s access to the nuts. For example, in Gbanshay, women can collect a portion of what a man has harvested without seeking his permission, provided the amount is small and for their own consumption. If she wishes to collect a larger amount, she can do so, but is expected to give the harvester a portion of the oil produced from what she has collected. Unlike palm nuts or palm wine, there tend to be few or no customary restrictions on collecting palm fronds. In Gbanshay, fronds are to be cut judiciously so as not to damage the heart of the tree and thereby kill it. In Ding, special rules also apply to bamboo and piassava. One can only cut bamboo that has been tapped for wine and is no longer of use, and only the young leaves of piassava trees can be cut.

Forests. Rules for accessing products in primary forests often substantially mirror those for high bush, provided that the forest is not protected or set aside for special purposes. In Ylan, the sale of wood is prohibited though timber can be harvested for one’s own use. This rule also exists in Upper Workor with the

additional restriction that permission must be sought from the Wood Committee to cut logs in the clan's bush or forest. Towns in Ding explicitly preserve certain forested areas as wind breaks. Sometimes rules are particular to primary forest areas, as is the case in Dobli and Nitrian Community where timber from the primary forest cannot be harvested and where the forest cannot be cleared for farming. Non-timber forest products (NTFPs) are invariably off limits in forests reserved for cultural activities.

Apart from forests reserved for cultural activities, four of the clans had set aside forested areas for other purposes. These included Motor Road, Nitrian Community, Ding, and Saykleken. Forest reserves in Motor Road and Nitrian were community forests established with the assistance of the Forestry Development Authority (FDA) and other organizations for purposes of either conservation or sustainable management. In both cases, these forests were managed by the communities themselves and rules disallowed timber harvesting and collection of certain NTFPs. Saykleken also reported having a forest reserve that the community itself set aside for conservation purposes. Here only hunting activities were permitted. The origin of Ding's forest "reserve" was also organic. Although its primary purpose was commercial – to lease timber harvesting rights to pit-sawyers and reinvest the collected funds in town development – clan members also sought to preserve the land for their children by protecting it from sale. Forest reserves in Ding, Motor Road, and Nitrian all have forestry management committees charged with enforcing rules agreed on with the communities. Annex 14 contains the by-laws governing the use of community forests and their resources in Nitrian and Motor Road, respectively.

Hunting and Trapping. Wildlife is sometimes an open access resource, particularly for certain wildlife regarded as pests, such as groundhogs in Motor Road and bush cows in Tengia. In Ding, one can freely hunt in the clan's bush without permission, but rules prohibit encroaching on another hunter's trap or "row" (i.e., pre-established hunting area) or hunting on cultivated land. In Saykleken, only strangers to the clan were prohibited from hunting in the clan's forest and bush. By contrast, in Little Kola where wildlife is scarce, hunters and trappers from outside must pay one head of their catch to the town.

In some cases, hunting certain types of animals is restricted. In Motor Road, restrictions on hunting protected species emanate from the FDA rather than customary rules, while bans on hunting leopard, monkey, and elephant in Upper Workor also appear to be imposed by the state. No limits apply to the amount and type of animal hunted in Dobli; one must only inform local leaders when hunting with guns for safety reasons. In general, women do not hunt, and, in particular, never use guns. However, we heard of some cases of women setting traps for rodents and other small animals. This appears to be more of an entrenched gender role rather than an explicit prohibition. In all cases, hunting is not permitted in forests set aside for cultural purposes.

Pit sawing. Pit-sawing – the felling of timber trees with a chain saw – is undertaken in primary forest and "high bush" (secondary forest) of Ding, Mana, Gbanshay, Dobli, and Ylan. Those who have power saws are often small in number and associated with having higher well-being than those who do not have them. In Ding, pit sawyers are said to come from outside the clan, though some clan members also engage in the activity. Customary rules prohibit the felling of young trees, whether one is pit-sawing or using other means to fell the tree. To pit-saw in the Ding Clan Forest Reserve, one must first seek the permission of the management committee, as well as pay a fee based on the number of planks produced, regardless of whether one is a clan member or a stranger. Unlike other products from forests, persons who wish to pit-saw in Gbanshay must first ask permission of the landholder. Reportedly, though, no one has ever refused such requests; we did not inquire as to whether any payment was made by pit-sawyers to landholders.

Water and Fishing

Access to water bodies (primarily creeks and rivers) for fishing and domestic water use tends to be open to all members of a clan.⁴⁹ Most clans permit anyone in the clan to access water bodies, including Dobli, Gbanshay, Ylan, Upper Workor, Nitrian, Saykleken, and Little Kola. In Mana, access to creeks is restricted to citizens of a town; in Ding, river access is for all clan members but creek access is restricted to town citizens. Meanwhile, in Tengia, some clan members claimed that anyone in the clan – or even outside the clan – can access their rivers and creeks, while others claimed that towns bordering rivers prioritize fishing access on those segments running alongside their town to their citizens.

Domestic water use. Some clans apply use restrictions to protect water quality. In Mana, certain creeks have been designated for drinking and cooking water. In these creeks, one cannot wash clothes, bathe, or defecate. Certain areas of creeks are dedicated solely to making sacrifices. Bathing, urinating, and defecating are prohibited in all Nitrian creeks and barred from upstream areas of the creeks in Little Kola because this is where people collect drinking water. The absence of hand pumps was notable in Little Kola. Access to water sourced from hand pumps and wells, a major source of domestic water use, are covered in the case studies, but are not discussed here because it is not anticipated they will be relevant to influencing land tenure policy in Liberia.

Fishing. Some clans allow fishers to stake claims to fishing spots in creeks and rivers. In Gbanshay, this is done by erecting a fence in the water and placing a trapping basket alongside it. Thereafter, only the fisher and his family may access that area. In Ding, fishers can establish exclusive, heritable fishing rights in coves of the St. Paul River by building fences; however, these claims cannot be made in the central part of the river which is open to all to use. In Motor Road, some clan members reported that women will make temporary fishing claims by placing a string across their fishing area, but others rejected this assertion.

Nearly all clans prohibit or regulate the use of natural or synthetic poisons – often referred to in rural Liberia as “medicine” – to harvest fish. In Saykleken, Little Kola, Ylan, and Dobli, it is forbidden, while in Motor Road, it is restricted during the clearing and burning period of the farm cycle (when most women fish) because clan members believe that it will “compel the rains to come.” Dobli also prohibits the use of small mesh nets to fish, though compliance with this rule is reportedly low. In Little Kola, there are rules against a woman removing another woman’s fishing basket to replace it with her own.

To fish or collect water from creeks and streams that run next to or through a cultivated field typically requires the permission of the cultivator (including borrowers). This rule is in place because fishers, similar to hunters and palm nut cutters, can damage the crops that are under cultivation. This was reported to be the case in Ding, Gbanshay, Dobli, and Upper Workor. In Mana and Tengia, creeks running through or alongside a cultivated field are off limits to anyone except the cultivator. In Tengia, failure to abide by this rule results in half of the fisher’s catch being given to the farmer.

In Little Kola, where fishing is a major source of livelihood for many clan members, especially for the Kru and Fanti, rules also govern fishing in the ocean. Access to the ocean is open to all clan members, though fishers must pay a one-time landing fee to park or moor one’s boat. Fishers must also respect another person’s laid net and not place theirs nearby. In Little Kola, it is only men who fish in the river and ocean, reportedly due to the dangers involved. Nitrian does not permit fishing in the Nitrian Community Forest, while the same is true for Motor Road in its community forest.

Livestock

The research teams collected little information on livestock tenure, mainly because raising livestock is not a major livelihood activity in the clans that we visited. We did not find any of the clans to possess livestock that

⁴⁹ In addition to water bodies, several clan towns have hand pumps from which they draw most of their drinking and cooking water.

extensively graze in pastures; households in the studied clans mainly possess small ruminants that roam freely and browse on vegetation in the settlement areas. We also heard of no cases in which fodder was collected from bush areas to feed livestock or animals led to water bodies to drink. Hence, livestock seems to have little influence over rights to land and land-based natural resources which were the chief focus of the research.

Nevertheless, in Tengia, where cattle and livestock appeared to be more abundant than in most other clans, towns have more rules for livestock. Owners of goats, sheep, and cattle are required to register these animals with the Town Chief and pay a fee of LD50 per animal. The collected funds are used for town development. Animals can graze freely once they are branded and, if a registered animal damages someone's crop, there is no fine to the livestock owner. To access livestock, people will ask a livestock owner to give them newborn livestock. Reportedly, if they have a good relationship with that livestock owner, they will not have to pay.

Some families in Ding Clan keep hogs. Rules imposed by the Clan Inspector require that the hogs be penned to prevent them from defecating in the sources of drinking water and from harming crops. While failure to do so can result in the hogs being slaughtered by the Clan Inspector, few clan members pen their hogs because the expense of providing their food is prohibitive.

Minerals

Statutory tenure dominates the assignment of rights to mining spots in the two clans that were engaged in mining – Mana and Ding. Nevertheless, formal rights and regulations (discussed in Section 4.2.2) are layered with certain customary rules. For example, in Ding, an artisanal miner prospecting for gold may initially claim a spot by clearing and prospecting in the area where he proposes to mine. This signals to others in the community that he has reserved this area and intends to exploit it. Having obtained an official permit from the MLME to mine, some miners in Ding will transfer their mining rights to others under customary arrangements. Two arrangements are common: 1) the permit-holder will allow another miner to mine five days for himself and one day for the permit-holder, and 2) the permit-holder will allow another miner to mine all days in exchange for a percentage of the profits the miner earns. Similarly, in Mana, artisanal miners will often go to other towns to mine gold, gaining rights to do so via customary rules. They will ask the mining permit-holder for permission to mine their spot, and either 1) pay dues to the permit-holder once the gold is processed (according to the value of the gold), or 2) pay a flat fee or flat weekly dues to the permit-holder.

4.1.4 Compliance with Customary Rules

With the exception of Little Kola, Motor Road, and Saykleken, the studied clans reported a significant problem of waning compliance with customary rules governing tenure. Even Motor Road and Saykleken citizens acknowledged some decrease in compliance with traditional rules.

War was repeatedly cited as a major reason for diminishing compliance (see Figure 4.5). Many clan members told us that before the war, compliance with rules established by elders and local leaders was strong. However, war destabilized communities and, according to numerous elders, empowered youth through guns, rather than wisdom. Citizens in Ding told us that, as youth gained access to weapons, they began to oppose local authorities. In Motor Road, youth said that worsening poverty caused by the war also weakened compliance, seemingly referring to the breaking of rules restricting overharvesting and stealing.

Among clans where diminishing compliance was reported to be a problem, many citizens, particularly older clan citizens and elders, lamented laws and education promoting respect for “human rights,” and attributed compliance problems to these sources. Whereas before these laws were imposed, those who violated customary rules could be “carried down the road” or “sent into the bush” to be punished by traditional societies, societies are no longer allowed to inflict such harsh customary punishments on rule-breakers. Likewise, parents and teachers used to be able to beat the children when they showed disrespect. Many feel that this lack of traditional deterrents has contributed to a culture of impunity for violators of customary rules.

Other factors cited for contributing to disrespect for customary rules and leaders were abuse of power by local leaders and lack of enforcement power vested in leaders, especially more local or traditional ones like Town Chiefs and Town Elders. In Ylan, for example, the youth and others accuse statutory leaders of grabbing land away from the people and seeding mistrust. For their part, customary leaders in the clan complain that they have lost their power to enforce traditional rules. Compliance with rules in Nitrian Community is said to have once been robust because people believed strongly in the power of the Bodioh and strong norms of mutual respect and unity among community members existed. Today, however, failure of the Bodioh to follow the rules governing his position has led the youth and some elders to question not only his legitimacy but also the legitimacy of the rules he is responsible for enforcing.

Consultations with the youth sometimes revealed a different perspective on the reasons for weakening rule structures. In Tengia, youth expressed frustration with the authority wielded by the elders and the obligations imposed on them, insisting that they no longer wanted to be their “bag carriers and messengers.” According to elders in Saykleken, youth challenge the rules, saying that times have changed and that the rules no longer apply to modern day realities. Exclusion of the youth from the realms of rule-making and authority are being met with acts of resistance, including rejecting traditional practices, decisions made by customary authorities, and directives to contribute to town labor. Likewise, in Doblí, youth attribute rule-breaking to youth not being allowed to participate in decision-making, including decisions about clan rules.

Figure 4.5: Reasons cited for diminishing compliance with customary rules

Clan	Imposition of “human rights” laws and education – including limitations on punishments imposed by traditional societies, parents, and teachers	War breeding disrespect for customary rules and authorities by the youth	Exclusion of youth from decision-making roles or disrespectful treatment of youth	Declining respect for local leaders (e.g., due to abuse of power or lack of capacity to enforce rules)
Ding	X	X		
Doblí	X		X	X
Gbanshay		X		X
Mana	X			
Motor Road		X		X
Nitrian		X		X
Saykleken		X		
Tengia	X		X	
Upper Workor				
Ylan		X		X

Unlike customary rules, compliance with and respect for statutory rules has increased in both Ding and Ylan Clans. In both cases, citizens cited the better capacity to enforce rules – that police could be called in and the perpetrator arrested. In Ding, some predicted that “government” rules will eventually replace customary rules in the clan. Yet, in Motor Road, many expressed frustration with statutory rules introduced by the FDA and

their enforcement. They complain of being wrongly accused of illegal hunting, of abuses by the FDA, and of crop destruction by animals.

4.2 STATUTORY TENURE: TRIBAL CERTIFICATES, DEEDS, CONCESSIONS, AND STATE LAND RIGHTS

With the exception of Saykleken, statutory forms of documenting land rights are present in all clans. With the exception of Tengia, where there is only one suspected deed and a lease for land to a Lutheran Mission, the tenure systems of all nine remaining clans are (or are likely to soon be) substantially influenced by the introduction of statutory tenure forms.

We encountered four main statutory tenure forms in the studied clans:

- **Tribal Certificates (TCs).** These instruments are legal authorizations for the holder to have a designated area of land surveyed. Tribal Certificates certify that the land is clear of pre-existing claims. By law, TCs must be signed by the Clan Chief and Paramount Chief in whose jurisdiction the land lies, but the actual documents typically call for numerous additional signatures, including that of the District Commissioner. Whereas the documents specify the acreage of the land in question, they provide no sketch map. Descriptions of the boundaries of the land area are rudimentary, consisting of the side of the road the claim lies on if one travels from one “block” to another, with each block presumably representing a boundary; there are no indications of the fourth boundary. Obtaining a TC constitutes the first step in the process of securing a deed for a customary holding in the area designated as the Hinterlands. By themselves, they do not constitute legal certification of land rights, which can only be gained once the area has been surveyed and a deed secured. However, the TCs we were shown provide no indication of the legal meaning behind these instruments beyond certifying that the area of land is unencumbered. Annexes 10, 11, and 12 display TCs we were shown.
- **Deeds.** These instruments constitute legal certification of land rights. Unlike deeds issued to secure rights in fee simple, the Hinterlands Law suggests that deeds issued to tribal peoples residing in the area designated as the Hinterlands are supposed to secure rights to communal holdings. Moreover, the Public Land Law’s stipulation prohibiting the sale of land in the “Tribal Reserve” would seem to imply that such deeds do not bestow the right to alienate the land. Unfortunately, the law provides no clear definition of what constitutes “Tribal Reserve” though one might assume that land secured as a communal holding would fall into this category.
- **Rights granted to companies or organizations.** These include concessions, licenses, permits, and contracts granting private companies and organizations rights to land and often certain natural resources associated with that land.
- **Government Land.** Although land not held under a deed is often considered “public land” in Liberia – including areas claimed under custom by communities, Government Land refers specifically to holdings designated for specific use by the GOL, including protected areas and military facilities. In the case of TCs and deeds, some have reportedly been issued to “insiders” (i.e., towns, clans, Family Heads, and other members of the autochthonous group), usually for the purpose of securing customary claims to land. In other cases, these instruments have been used by “outsiders” to claim exclusive rights to land with the effect of removing the land from the customary tenure realm. Because we were not able to examine any deeds, we are uncertain as to whether deeds issued to “insiders” are distinct from deeds issued to “outsiders.” In other words, are members of the autochthonous group granted deeds for customary holdings while outsiders are issued deeds for fee simple tenure, or are both groups issued the same kind of deed?

Figure 4.6 provides a breakdown of the different statutory forms reported on in the different clans and distinguishes between TCs and deeds provided to “insiders” versus “outsiders” since the legitimacy of these instruments tends to be regarded quite differently depending on whether they are certifying customary claims or asserting new claims, with some important nuances that are highlighted in the following sections.

Figure 4.6: Presence of different statutory tenure forms in (or nearby) the studied clans

	Tribal Certificates or deeds issued to towns, Family Heads, or other members of the autochthonous group	Tribal Certificates or deeds issued to “outsiders,” (e.g., government officials, wealthy elites, members of other tribal groups)	Land held under concession, license, or other contract to a company or organization	Land designated for use by the government
Ding	X	X		X
Dobli	X			
Gbanshay	X	X		
Little Kola	X			
Mana			X	
Motor Road				X
Nitrian			X	
Saykleken				
Tengia	X?		X	
Upper Workor	X	X		
Ylan		X		

4.2.1 Statutory Tenure Claims by Clan Citizens

In several of the studied areas, clan citizens have secured TCs and, in some cases, deeds to secure their claims to land. The level at which the claims have been made and on whose behalf the documents are reported to be issued provides insight into local perceptions about who “owns” the land and who should be in charge of administering that land.

In Upper Workor, apart from deeded land in the city of Voinjama, there are reported to be three pieces of land covered by a deed⁵⁰ and two towns that are in the process of acquiring TCs (to be registered in the names of the towns). Here, citizens admit confusion over the process for acquiring deeds and also claim that they lack the resources to pursue them. Others in this clan are reluctant to deviate from the customary tenure system, because of the fear that individualization of land tenure will provoke landlessness. Nevertheless, some see they have little choice if they want to protect their land from government expropriation, especially if minerals are discovered on their land. They feel that TCs can provide such protection and are not aware of the need to acquire deeds.

In Little Kola, three deeds are reported to have been issued during the Tubman administration to individuals indigenous to the clan, including one female congressional representative. All three are recognized by the

⁵⁰ However, it is not known whether the deeds have been issued to clan citizens or to outsiders.

local authorities and there are no disputes over these deeds. Based on a sketch map prepared by the Town Chief of Gbain (see Figure 4.7), two of the deeds cover large areas of the clan (though people did not know the acreage), but no clan members are excluded from the land. Rather, customary tenure continues to govern how land is accessed and used in these deeded areas just as it does elsewhere in the clan. Seven towns in Little Kola are purported to have TCs, which are said to have been introduced to the clan in 1994 for purposes of securing “native reserve land.” Some Town Chiefs said they would like to have these TCs converted to deeds.

Figure 4.7: Little Kola Clan sketch map prepared by the Town Chief of Gbain



Tribal Certificates on behalf of towns are likewise common in Ding. Some of these were reportedly issued in the name of the towns, while others are in the names of individuals but are believed to have been acquired to secure the rights of town citizens. Most TCs were acquired during the Tolbert and Doe administrations in an attempt to protect the land of indigene claimants from acquisition by outsiders. This sentiment was echoed in Mana where the Paramount Chief of Golakonneh and the Clan Chief of Mana claim to have acquired a TC for the whole of Mana Clan in 2001 in an effort to protect the land from companies seeking to buy it from the government. The TC is said to be in the name of the clan. The chiefs would like to convert the TC to a deed, and reported that to do so, all clan members would have to contribute to the cost of the survey.

In addition to the clan deed, most land in Mana is said to be under a TC in the name of a town or an extended family. Two towns are reported to have deeds, though some question whether the deeds actually exist. Whereas customary tenure continues to govern on all these documented lands, a few TCs held by local authorities are for land dedicated to the exclusive use of those elites, mainly for purposes of tree plantations. Similarly, in Ylan, several wealthier and more educated clan citizens are accused of having converted former family land to land held under a deed in their own names. In the process, these elites have excluded all but their immediate families from using the land. Unlike TCs issued to extended families in Ylan, the legitimacy of these deeds is widely contested by clan members.

In Gbanshay, TCs introduced in the 1960s and issued to Family Heads and individuals have resulted in the exclusion of some clan families from farming land. However, access to these areas for housing and harvesting

bush resources largely follows customary rules, such that one's right to access these resources is governed by town citizenship rather than one's descent from the TC holder(s) who claims the land. Box 4.2 below provides the account of clan citizens about the history of TCs and the present situation.

Box 4.2: Tribal Certificates in Gbanshay Clan

Tribal Certificates were reportedly introduced in 1963 when a congressional representative advised clan members to “legalize their ownership to land” via acquisition of TCs. Clan members with land along the newly constructed motor road first acquired TCs – mostly those with more power, knowledge, and means, including chiefs. TCs were used to secure rights to upland and lowland (swamp land) farming areas and settlement areas. Some Family Heads pooled their resources together and acquired TCs jointly, while others pursued TCs as individuals.

Land ascribed to TCs ranges between 150 to 300 acres. All land in the main town of Foloblai is reportedly now under 8 to 10 TCs. Some TCs in the clan were issued in the name of women, though this is not common; most women who have TCs have “inherited” them.

In the process of some families acquiring TCs, other customary claimants were evicted from their land. Those absent from the clan would also return to find their land claimed under a TC by someone else and rendered landless. Some simply chose not to get a TC because they did not know TCs would become important as customary evidence of a claim. Today, the procedure for obtaining a TC requires one to consult with the people in the town before acquiring a TC, but consultation was apparently not mandated when TCs were introduced. Some of these TC holders in turn sold their land to outsiders; some are now renting from these strangers.

Many TCs in the clan were destroyed during the war. After the war, we were told that the Government of Liberia allowed them to be re-issued. However, the process is reportedly long and complicated.

When TCs were issued, most TC holders did not know that they needed to go further for the government to recognize their claim, but rather believed that TCs afforded them full statutory recognition of their rights. There are still very few deeds in the clan because people either remain unaware that TCs do not afford them land rights or they are unable to comply with the heavy bureaucratic and cost requirements involved in acquiring them. As the Gbanshay Clan Chief noted, “Poverty is preventing people from securing deeds.”

The statutory tenure picture is particularly complex in Dobl. First, the entire Fuamah District in which Dobl is situated is reported to be held under a deed acquired by a government minister (discussed further in the next section). Then, all land in Dobl Clan is reported to also be held under a single deed, with some saying it is in the name of the clan, while others contend that it is in the name of a former clan elder. Finally, within the clan, around 10 clan members are said to also have deeds issued in their own names and covering areas ranging from 100 to 1,000 acres. However, clan members are uncertain about the exact number of deeds and acreage because holders are very secretive about showing others the deeds they claim to have; some may not in fact have them. Unlike Little Kola, access to deeded land tends to be restricted to the deed holder's family and sometimes a few other permitted individuals. In addition, many clan members claim that either they or their forefathers were issued TCs, though several claim that their documents were destroyed during the war – a claim that is also common in Ylan. Two types of TCs have been issued to clan members: one issued by the GOL and another by Fuamah District. Some customary leaders, including the Clan Chief Elder – also considered to be the clan's “landlord” – reject those issued by the government and only recognize those granted by the District. Meanwhile the GOL and the Land Commissioner in Gbarnga only regard the

government-issued TCs as legitimate. Most clan members, however, do not know the difference between the two documents.

When it comes to TCs, Doblí, Gbanshay, and Ylan have much in common. In all three clans, TCs are said to have been first introduced in the 1960s and were acquired mostly by Family Heads or small groups of Family Heads. TCs were understood to grant primary perpetual use rights by the state (minus only the right to alienate the land) to individuals and their families. Citizens in these clans largely believe that rights under TCs can be inherited by one's descendants without needing to update the names on the documents. In both clans, TCs have evolved to be a primary source of *customary* evidence of land rights, people largely being unaware of its narrower and less profound legal interpretation. The legitimacy of TCs, moreover, is increasingly being contested in both Gbanshay and Doblí. In both clans, some individuals are learning that TCs do not confer "ownership" in the eyes of government. They are exploiting that knowledge to encroach on TC holders' land (particularly to plant rubber), knowing that claims of TC holders will not be upheld in court. At the same time, TC holders in these clans are reported to be 'extending their boundaries' beyond the acreage prescribed in their TC, which is also arousing tensions.

There are no TCs and deeds reported in Motor Road and Saykleken – all clans located in the southeastern part of the country. Members of Nitrian Community claim to have a deed covering the entirety of the community, but were unable or unwilling to provide any details or evidence to support this claim. In Tengia, only one family is reported to be pursuing a deed, having had their land recently surveyed.⁵¹ Lack of these instruments is attributed to the fact that people are largely unaware of them and the procedures for obtaining them. Moreover, Tengia citizens reported that they prefer to rely on customary evidence of land rights, like tree planting.

4.2.2 Statutory Tenure Claims by Outsiders and the Government

Our study revealed that several of the clans have land that is claimed by one or more forms of statutory documentation issued on behalf of individuals or entities considered to be outsiders, i.e., not descended from the original settlers in the area or assimilated strangers. The most common are deeds, licenses, and concessions granted by the government, as well as claims held directly by the government.

Deeds

Deeds issued in the name of outsiders are reported to be present in Ding, Doblí, Ylan, Mana, Gbanshay, and Little Kola.

Of all the studied clans, Ding has experienced the largest number of outsiders acquiring deeds to land formerly governed under custom. Here, several large areas of land have been transferred to outsiders; the largest parcels were transferred during the 1960s and 1970s on behalf of elite families who established commercial palm and rubber farms. The total land area occupied by these farms is estimated to range somewhere between 4,500 and 6,000 acres. A number of outsiders, including prominent politicians, have also been issued deeds for smaller family farms. Clan members complain bitterly about these deeds, which were acquired without their consultation and allegedly abetted by local government officials.

In Doblí, the entire Fuamah District in which Doblí Clan is situated is reported to have been deeded in the early 1940s by a former Minister of Internal Affairs. There are conflicting beliefs about whether the land is deeded in the Minister's name or in the name of the District and confusion about what this means in terms of who exercises control rights over the land. Although local authorities have succeeded in acquiring deeds for exclusive land rights, these same leaders have foiled attempts by outsiders to do the same. According to the Clan Chief Elder (also known as the "Landlord"), "No one is allowed to buy land in this Clan. No one! If you try it, we drive you from the land."

⁵¹ It is unknown whether the deed is being sought by a clan citizen or outsider.

In Ylan, some land is held under deeds by former government officials and wealthy elites – both clan members and ‘strangers.’ In both cases, access is restricted to the holder’s immediate family and sometimes select individuals. However, deeds issued to outsiders are reported to be much larger, with some consuming entire towns. Clan members say they were never consulted before these documents were issued. The process of deeding land has resulted in the eviction of some indigene families from the land, rendering them landless and fueling resentment. Deeds for house spots have also been acquired by non-indigenes in residential centers and along the main road.

Clan members in Mana reported two deeds issued to outsiders: one for 93.2 hectares that was granted during the 1960s and another for 1,100 acres issued to the brother of former President Tolbert that straddles Mana Clan and neighboring Darblo Clan. Clan members reported that the latter area has never been developed and several towns exist on this land. The former deed is currently being contested since the deedholder’s son has returned to claim the land after his grandfather abandoned it during the war. In Gbanshay, a few TCs have apparently been issued to outsiders, including government clerks whose job it was to issue TCs. Some outsiders have apparently also tried to pursue deeds in Gbanshay, but have not been successful. One exception concerns a deceased revenue agent from Nimba, who left no will and whose girlfriend and children are disputing rights to the deeded land in Gbanshay. In Little Kola, a few strangers in the town report having deeds (in at least one case, a descendent of a European father and a native mother). Just as in Ylan, clan members perceive deeds claimed by outsiders to be fictitious and often report that they have never seen them.

Concessions and licenses

Other types of claims have also been asserted by outsiders. In Mana, temporary claims to land in the form of **mining licenses** far outnumber permanent claims to land via TCs or deeds. Two types of mining licenses have been awarded in Mana Clan to date: 1) Class B mining licenses awarded to companies for surface mining on a minimum of nine 25-acre parcels for five years and 2) Class C mining licenses, available only to Liberian citizens, which are granted to individuals for small scale alluvial and pit mining. It is unknown how many licenses have been awarded to miners in Mana Clan, though one Mining Chairman reported that there are approximately 362 mining licenses in the clan. The vast majority are Class C licenses, which are issued to both outsiders and clan citizens. However, most artisanal mining is said to be undertaken without a license due to costs being out of reach for most miners. Only one company, Weajue Hill Mining Company, reportedly has a Class B license. Weajue Hill operates thirteen 25-acre gold mining claims on Saba Mountain, which were awarded to it in 2010. Meanwhile, another mining company is vying to acquire a mining concession in the clan.

Besides mining, companies are claiming rights for logging in Mana. One logging concession was awarded by the FDA to a company in 2010, while another company has demarcated a concession area and is said currently be in negotiations over its award.

In Nitrian, the research team learned from sources outside the community that a concession has been granted to Golden Veroleum for 240,000 hectares to explore and develop oil palm, and another concession was awarded to Kiwi Mining. Both are reported to include land in Nitrian Community. However, clan members did not mention either of these during the study, indicating that all or most are likely unaware of these acquisitions.

Land in Tengia is also claimed by outsiders. Clan members reported that a lease was extended to a Lutheran Mission by one of the Clan’s Town Chiefs, undertaken in exchange for developing the land rather than monetary compensation. During the war, the Mission abandoned the land and has not returned. Failure to develop the land has led to disappointment and desire by clan members to take back the land from the Mission.

Government claims

Government land acquisitions have been a source of controversy in Ding and Motor Road Clans.

In 1965, 10,000 acres of land in Ding Clan and a small area of neighboring Mehn Clan were surveyed on behalf of the GOL for purposes of establishing a military academy. Clan members reported that they were asked to provide a small piece of land to construct a birthday home for President Tubman and were surprised when the government subsequently laid claim to 10,000 acres. Prior to the war when the academy was operational, only 100 to 150 acres were developed, some devoted to agricultural operations by the military. On the remainder of the surveyed land, clan members continued to live and farm in the towns they had already established under customary arrangements. Several of these towns on Tubman Military Academy land are said to have TCs. Today there are rumors that the government intends to reopen the Academy, stoking fears that this could lead to people being removed from their land.

The establishment of the Sapo National Park south of Motor Road Clan in 1983 marked the initiation of a series of grievances by the current citizens of Motor Road (discussed further in Chapter 6). In 2003, the FDA was successful in extending the park's northwestern boundary by 81,353 acres beyond the Sinoe River, which served as the original boundary. Prior consultation was minimal. This extension cut into the area claimed by the Wedjah Chieftaincy, which Motor Road citizens are part of and identify as part of their territory. This effectively removed land from their access and control and placed it in the hands of the FDA. Then in 2010, a three kilometer buffer was proposed that would further extend the protected zone around the park and also provoke the relocation of the Upper Wedjah Community Forest, which is managed by Motor Road and neighboring Twinboe Clan. According to clan members, FDA staff in Sapo Park told the community that the relocation was necessary because community forests are not permitted in buffer zones.

4.3 ANALYSIS

Unlike fee simple tenure that predominates in areas first occupied by the Americo-Liberian settlers, in the so-called Hinterlands where customary tenure prevails, notions of to whom the land belongs are much less individualized. Rather, rights to land are vested in what we refer to as “core tenure units” – kinship groups that make up towns, extended families, and smaller family units, along with a minority of strangers that have assimilated into these groups. Primary rights and responsibility for governing access to land and natural resources in core tenure units are typically vested in designated representatives – Town Chiefs (or their customary equivalents), Family Heads, Town Elders, and – increasingly – the broader citizenry of these units. The endurance of these lineage-based systems of group tenure over time amidst the influence of statutory systems in Liberia attests to their economic, social, and political value.

Group tenures help communities protect themselves in environments characterized by high levels of economic and biophysical risk by ensuring members have access to land for subsistence cropping, and thereby lowering the risk of food insecurity. Group tenure likewise reinforces social cohesion among members of kinship-based units, thereby equipping them with the social capital necessary for collective action and a greater capacity to defend their land rights than they might otherwise have as individuals. Moreover, group tenure is essential to the viability of the shifting cultivation system that rural Liberians rely on to meet their food needs. Breaking up collective holdings and assigning rights to individual parcels would not only be likely to lack social legitimacy, but would deplete soils and be agriculturally unviable under the current shifting cultivation system.

A common feature of the customary systems we encountered is that rules and governance around access to land and natural resources are highly nested. Whereas access to land for housing and farming tends to be governed by core tenure units, access to bush resources – especially those that are more plentiful – is often more open to larger extensions of the community, though increasing land and resource scarcity often elicits the imposition of barriers to resource access, including requiring non-members of the core tenure unit to seek permission to access resources and pay in kind (and sometimes in cash) for their use.

At the innermost layer of the nest, households within the core tenure unit are provided with temporary rights to cultivate rice and vegetable farms, while households and individuals are conferred permanent rights to parcels planted in trees. The next layer is where the governance rights of the core tenure unit are vested. In

the majority of studied clans, these governance rights are vested in extended families, quarters, or towns. Within these core tenure units, members will have primary rights to access land and virtually unrestricted access to natural resources. The subsequent layers typically comprise various extended patrilineal communities (e.g., clusters of family land or towns) that have rights to access land and natural resources within that unit – either without restriction, if permission is granted by representative(s) of the core tenure unit, or if payment is made. In some cases, these broader tenure units will also be characterized by strong governance rights, as is the case in Nitrian Community and Motor Road. While sometimes these extended units closely reflect administrative clan units, often they do not. Clan boundaries should therefore never be assumed to conform to social or lineage boundaries or used as a basis for circumscribing core tenure units.

The individualization of tenure within these patrilineal customary tenure systems appears to have been prompted by the introduction of commercial tree cropping and statutory forms of tenure. We encountered examples of this in Tengia, Gbanshay, Ylan, and Doblí where core tenure units tend to be smaller. In the first two clans, we found extensive tree cropping, whereas the latter three have been substantially impacted by TCs and deeds. Greater individualization of tenure together with increased reliance on cash over subsistence crops could weaken social inter-dependencies and community cohesion. The poor and disadvantaged that may not have access to life trees are disadvantaged. For example, these trends could invoke negative consequences for women, given that men control significantly more land than women in most clans. The community in general and the tree owners also incur an opportunity cost if they plant trees just for the purpose of securing their rights to the land when they could have devoted their land/labor to activities that would result in the highest return.

Women's Land Rights

We observed positive trends for women's land rights in several clans. In two clans – Ding and Little Kola – women are able to make farms on their own, suggesting either that they are able to mobilize male labor to clear and burn the fields or that women themselves are undertaking some tasks traditionally considered to be “male” in nature. In Tengia, Ylan, Doblí, Nitrian, and Mana, women have their own vegetable gardens, which are smaller than rice farms and presumably necessitate less labor to clear and burn. In Ylan and Tengia, a number of women reportedly have their own tree farms. This, however, was not the case in Saykleken or in clans where tree cropping is minimal (i.e., Nitrian and Motor Road).

In several clans, daughters are increasingly gaining rights to inherit land – including land planted in tree crops and, where land is held by immediate families, land for seasonal farming. Daughters being perceived as more responsible than sons is one factor driving this trend in these clans. Women are also increasingly staying in their natal communities when they marry – either marrying men from the same community or marrying “strangers” that settle in their community. Remaining in her natal community strengthens a woman's rights to land because she is a member of that patrilineage, whereas if she were to move to her husband's village she would access land through *his* patrilineage and is in many respects akin to a stranger. Likewise, a woman that stays in her natal community is more apt to care for her parents in their old age, thereby giving her parents an incentive to ensure that she has the assets to provide for her and her family. Opportunities are therefore present to influence women's control over land through supporting trends that favor daughter inheritance and taking advantage of loosening norms around patrilocal marriage traditions.

Despite these encouraging shifts, they were not apparent in all studied clans. In Saykleken and Nitrian, for example, women appear to be in a much more subservient position and exercise little control over land, possibly owing to the clan's more isolated status.

Women are constrained from farming individually by the labor required for clearing and burning farms, as well as by the distinct gender roles associated with specific subsistence farming tasks. Although we heard of a few women with their own rice farms, this tends to be the exception because male labor is needed to clear and burn the fields. By the same token, men rely on female labor to plant and weed the fields. These symbiotic labor requirements explain why men and women usually only access their own land for subsistence farming after they are married and farm with their parents prior to marrying.

These labor requirements also explain why widows are constrained in farming. Because widows can no longer rely on their husbands to assemble men's *kumu* to clear the land for farming, they have to either assume men's traditional tasks (reported to be taking place in Upper Workor and Saykleken) or pay men to undertake this labor. Yet many widows lack adequate financial resources to pay for labor. Sons may help with these tasks, and may potentially even mobilize *kumu* on their mothers' farms, but young men are increasingly seeking education or migrating away from their rural communities. Even when sons remain, their first obligation is to their own wives and families, rather than to their mothers. The lack of access to male labor makes it difficult for widows to continue to productively farm land in her husband's community. Often, a widow may prefer to return to her natal community where she retains a right to access land through her patrilineal affiliation and can appeal to her family for labor contributions. Further, in her natal community, a widow is not regarded as a "stranger."

Life Trees

For certain clans like Gbanshay, Dobli, Ding, and Ylan, rubber cultivation has become a significant source of livelihood and cash income, particularly for the youth. In several other clans, there is growing interest in rubber and some have started planting rubber trees. The expansion of rubber owes to the escalating world price of rubber and the associated proliferation of rubber buyers and rubber buying stations, especially in areas that are more accessible. Where there is extensive planting of rubber, the tenure landscape is being altered as more and more land is converted to a permanent individual or household tenure as a result of life trees conferring such land rights to the one who plants them. As a result, land is removed from the communal rights regime where it can be accessed for seasonal cropping and harvesting of natural resources.

It is interesting that in three of the four clans where rubber has taken hold – Gbanshay, Dobli, and Ylan – one also sees a proliferation of more individualized claims to land, mostly in the form of TCs, but also in deeds. In places where there is superior access to markets for profitable life tree crops, it would not be surprising to see increasing demand for more individualized tenure forms. Depending on the reliability and affordability of externally supplied rice and other produce, the shift to tree cropping could also have implications for the food security of rural communities as land for seasonal rice farming diminishes.

Statutory Claims

Our research revealed that people have varying perceptions about the authority of the government over their land. Most communities we consulted regard land as belonging to them, and not to the government. For example, in Gbanshay, where there has been a scramble to acquire TCs, people were resolute that, "There is no government land here." Likewise, in Motor Road, the perception was that the government (namely the FDA) was encroaching on the land belonging to the Wedjah Chieftaincy. By contrast, in Tengia, several clan members reported that the land belongs to the government, but that communities are the custodians. However, when we asked clan members if they felt that the government could take land from them, they reported that this would not happen without their explicit permission. Government acquisition of and control over land can manifest itself as a significant source of tenure insecurity, as was witnessed in the case of Ding and Motor Road.

Several customary tenure systems have been significantly influenced by the introduction of statutory tenure systems, especially Mana, Dobli, Gbanshay, and Ding – all of which are close or easily accessible to major urban centers. Mana Clan members have been considerably affected by the introduction of multiple statutory tenure forms, including deeds, TCs, mining licenses, and concessions. The presence of high value natural resources in the clan – namely minerals and timber – combined with improved road access have resulted in rising demand for statutory claims to land both to exploit these resources and to defend them from competing interests. Yet, most land claims of the core tenure units in Mana, Dobli, and Ding are not backed by statutory documentation. In Gbanshay, the process of acquiring TCs has resulted in the exclusion of some family members who otherwise would have had primary rights to that land and the creation of a class that relies solely on borrowing land.

We also found that, in the clans where TCs have been introduced, the majority of citizens regard them as statutory certification of “ownership” with permanent, heritable use rights. Given how widespread this interpretation is, it may be that officials introducing these documents to rural communities conveyed this interpretation and that they were likewise informed by the government that these documents alone conferred robust land rights without the need to subsequently acquire a deed. Moreover, this interpretation could have been reinforced where local land commissioners reissued TCs to TC holders who had lost their documents during the war. As a result, over the last half century, TCs have acquired substantial legitimacy in certain parts of the country and any attempt to nullify them would likely be met with considerable resistance.

Nevertheless, where TCs have resulted in exclusion of some members of the partilineage from land that was traditionally theirs, their legitimacy is more contested. Moreover, uncertainties prevail about the maximum area of land that can be secured by a TC. We heard different assertions, even within the same community, that ranged from 250 to 500 acres. All of these factors are important to consider when assessing whether TCs should be accorded recognition as legal evidence of a customary holding, and if so, what terms should be applied to them to ensure that those who are considered to have legitimate claims are not excluded.

Our research suggests that, with the exception of deeds to large areas secured for purposes of securing land on behalf of clan citizens, deeds have largely been associated with the right to exclude others from using the land. More recently, deeds are being acquired by elite insiders and wealthy outsiders who choose to remove their land from the customary tenure system. Perpetuation of the deeds system in rural Liberia – whether those deeds are issued on behalf of outsiders or insiders – could spell increasing exclusion of the majority of rural citizens whose claims are rooted in custom and their ancestral, marital, and other ties to the local community.

Two particularly thorny issues that reforms will have to confront are: 1) the social legitimacy associated with existing deeds and TCs, and 2) overlapping statutory claims, such as were encountered in Dobi. The latter is likely to necessitate determining which rights are conferred to which individuals or entities and who ultimately holds the administration rights.

5.0 LAND GOVERNANCE INSTITUTIONS IN LIBERIA

In the 11 studied clans, land and natural resources are governed by layers of traditional and statutory authorities. This chapter describes the role of different customary and statutory governance authorities and specifically those that govern land and resource matters. We describe how they acquire their positions, the scope of their responsibilities, and how they relate to one another. The chapter concludes with a discussion of key issues.

5.1 CUSTOMARY GOVERNANCE INSTITUTIONS

Customary authorities derive their legitimacy from custom, rather than from the state, and govern land in accordance with customary rules. Our research shows that in all 11 clans, customary authorities are active in land and natural resource governance and typically govern at the town-level (with some variation). Many rural communities still depend on these institutions to gain access to land and to resolve land disputes, even in areas where demand for land transactions and formal property rights are rapidly increasing.⁵² Studies have shown that customary institutions like these are able to reinforce accountability, ensure low-cost land access, and achieve equity. These findings are supported by the fact that customary tenure institutions are built on structures and procedures that are open to public scrutiny and amendment and are therefore more sensitive to the local conditions and needs.⁵³ During our interviews, clan members in Saykleken, Nitrian, Upper Workor, and Gbanshay reported that traditional authorities are accessible, efficient, and affordable (often offering free services). As a result of these characteristics, communities have a means to address issues locally, and in so doing, maintain peace in the community. In contrast, formal justice systems are perceived by most clan members to be inaccessible and unaffordable. Recognizing and cooperating with customary institutions offers the GOL the advantage of utilizing a free administrative capacity and functions located extensively in rural Liberia at no cost to the state (Unruh, 2007a).

5.1.1 Elders

In the rural clans studied, Town Elders are the most prominent customary governance institutions. Elders often work closely with elected and appointed authorities at all levels of governance in the clans, from the Town Chief to the District Commissioner. Town Elders are typically selected by the citizens of their towns based on their wisdom and ability to resolve disputes within their communities. In some clans, Town Elders were reported to serve until they die, though they can be dismissed from their positions if they do not serve well. Community members explained that a Town Elder is a well-respected resident (usually a man), who has contributed to the town's development, who regularly represents the town, and who is impartial in dispute resolution.

In addition to Town Elders, there are sometimes additional hierarchical layers in the institution of the elders. Some Clan Chiefs have *Clan Elders* who advise them. In some places, *District Elders* advise the Paramount Chief and District Commissioner on various issues, including dispute resolution. Additionally, some clans have a Chief Elder, also called a Dean Elder or Clan Elder, who serves as the leader of all elders. He is appointed by the other elders to advise the Clan Chief, the Paramount Chief, and the District Commissioner.

⁵² See for example Deininger, K. (Ed.). (2003).

⁵³ For more details, see Toulmin (2009) and Deininger (2003).

In some clans such as Upper Workor, Tengia, and Saykleken, elders are well-respected, considered to be very powerful, and play an important role in dispute resolution – especially on land issues. Elders can also greatly influence the appointment of chiefs in rural communities. In Mana Clan, for example, we were told that the elders select the Clan Chief. We also learned that when individuals want to purchase land in the clans, one or more elders in these clans are typically asked to sign the TC.

5.1.2 Chairmen

Although not found in most of the studied clans, we found that where Town Chairmen exist, they play an important role in land governance. For example, in Motor Road Clan and Nitrian Community, Town Chairmen are perceived to represent local interests and are approached for dispute resolution prior to going to the Town Chiefs. The Town Chairmen are said to be well-respected and are expected to have good rapport within their towns. Their duties include resolving disputes and ensuring that the town is well-maintained, as well as receiving strangers and showing them where to live or farm. In clans without Town Chairmen, this role is usually assumed by Town Chiefs. In Motor Road, the role of Town Chairman overlaps with the role of Town Chief. Also in Motor Road Clan, there is a chairman at the Paramount Chieftaincy-level. He is the highest customary authority in the clan and is selected through traditional means.

5.1.3 Chairladies

In some clans such as Upper Workor and Tengia, chairladies are considered important governance authorities, primarily in regards to women's issues. In addition to Town Chairladies, we learned that there are Sectional, Clan, and District Chairladies. Town Chairladies also work closely with the Town Chiefs to carry out their roles. The Town Chairladies are selected by female community members of towns in which they have jurisdiction. Although not directly involved in land governance, community members in the various clans reported that Town Chairladies improve land use by organizing *kums* for planting, weeding, and harvesting crops. In Tengia, they were responsible for announcing the start of the fishing season for women, based on the water levels and judgments about safety. Also, Town Chairladies sometimes play a role in the resolution of disputes, though this is usually confined to disputes between women that are not related to land. Like the Town Chairmen or Town Chiefs, they are responsible for welcoming and caring for strangers.

Clan, Sectional, and District Chairladies perform more or less the same roles as Town Chairladies though they operate at clan, section, and district levels, respectively. However, the authority of chairladies at these levels is questionable. The Clan Chairladies of both Mana and Tengia Clans reported that they are not involved in decision-making or dispute resolution at the clan-level, despite what their title suggests.

5.1.4 Family Heads

Additionally, Family Heads are important customary authorities in several of the studied clans, though their role in land governance greatly varies across the clans. A Family Head may be a leader of many small family units related by blood or marriage. In Upper Workor, Tengia, Gbanshay, and Motor Road Clans, it appears that Family Heads do not play a significant role in town- or clan-level land governance. In others, such as Nitrian Community and Little Kola, they greatly influence access to land and play a major role in land governance. Family Heads are usually approached first when an individual needs land. They also serve as the first line of customary resolution for disputes that arise within immediate and extended families. In Nitrian Community and Little Kola, Family Heads also serve as elders or Town Chiefs and therefore have a hybrid role. In Nitrian Community, Family Heads advise the Community Chairmen, Town Chief, and Clan Chief in the resolution of disputes and other matters in the community.

5.1.5 Quarter Chiefs

Quarter Chiefs exercise authority over land and natural resources within a discrete section of their towns, the “quarter” (though not necessarily one fourth, as the name might suggest). Quarter Chiefs report to the Town Chief and work with the Town Chief and the elders to resolve disputes and enforce rules and regulations

within their quarter. A Quarter Chief's authority and legitimacy is determined by his/her acceptance within the local community.

5.2 STATUTORY GOVERNANCE INSTITUTIONS

In addition to the myriad of customary governance authorities, there exists a host of statutory governance institutions. The statutory authorities detailed in this section are those who have a government mandate to represent local people's interests and to carry out functions on behalf of the government. They derive their authority predominately from the state, rather than from custom, and have a government mandate to represent local people's interests and also to carry out functions on behalf of the government.

Prior to Americo-Liberian rule, land and resources in many rural communities in Liberia were governed by powerful warrior-chiefs. The GOL asserted control over the interior of the country beginning in 1910 and implemented a policy of indirect rule. Before this time, statutory institutions did not play any role in land governance in the interior. Rather, the elders, warrior-chiefs, or secret societies, in this ascending order, were the only governance authorities in place. They were not only responsible for allocating land, but also for resolving any disputes that arose. By the early 1920s, the government had introduced national government into the interior, including the elected offices of Quarter, Town, and Clan Chiefs, as well as the appointed offices of the Paramount Chief and District Commissioner. The superintendents of counties, commissioners of districts, and Paramount Chiefs are appointed to their offices by the president (upon approval by the national legislature).

The introduction of this political structure created a new social structure whereby patrimonial warrior-chiefs and ruler elders were replaced by a bureaucratic hierarchy of Quarter, Town, Clan, Paramount Chief, Superintendent, and President. Elders were relegated to the role of advisors attached to one of the chiefs. The Quarter, Town, and Clan Chiefs depended on the people for their election and survival (Bledsoe, 1976). According to Richards et al. (2005), the chiefs in the past were controlled by the president, a practice that is supported by the Hinterlands Rules, which recognizes the election of chiefs "subject to the approval or disapproval of the President" (Hinterlands Rules, Art. 21). Richards et al. (2005) reported that the presidents used certain chiefs to control the Hinterlands, supporting and enriching chiefs who would then protect foreign concessions and extractive activities. Although the Constitution states that "there shall be elections of Paramount, Clan, and Town Chiefs...to serve for a term of six years" (Liberian Constitution, Art. 56(b)), elections have not been held since 1987.

The following provides details on statutory governance institutions, starting from those that function at the most local level, namely the Chiefs, to those that function at the highest level of the state, namely District Commissioners, Superintendents, and the Land Commissioner.

5.2.1 Chiefs

In the studied clans, the different types of chiefs constitute one form of statutory authority.⁵⁴ The statutory structure governing the interior of Liberia was put in place during the administration of President Arthur Barclay (1904-1912). According to Guannu (1985), the government extended its influence over areas of the hinterland through this new administrative structure. Although the Revised Rules and Regulations Governing the Hinterlands of Liberia assert that a chief has discretion to "govern freely according to the customs and traditions so long as [they] are not contrary to law..." (Hinterlands Rules, Art. 29), the government's policies, established for administering the hinterland consisted of a system of indirect rule in which the tribal leaders, then known as kings but transformed by the government to chiefs, administered their tribal people under the direction and control of the government (Guannu, 2000).

⁵⁴ In Saykleken Clan, the Town Chiefs are referred to as Quarter Chiefs unlike other study clans.

Town Chiefs

Town Chiefs represent the GOL at the town-level. In the studied clans, Town Chiefs handle administrative, cultural, and social issues, as well as supervise land issues at the town level, including helping outsiders to access land. Because they are familiar with the boundaries of towns, villages, and family land, Town Chiefs play an important role in resolving land disputes and are one of the first statutory authorities sought for resolution. In governing land resources, the Town Chiefs rely on the counsel and participation of elders and other leaders in the community.

Amongst the different clans, there exists considerable diversity in the importance of the Town Chiefs' role and their legitimacy. For example, in Ding and Little Kola, Town Chiefs were accorded significant respect and were elected. In Mana, Upper Workor, and Saykleken, elders commanded the greatest authority among people and Town Chiefs were barely visible. In Motor Road and Ylan, clan members regard their Town Chiefs more as government authorities. And, in Nitrian Community, Town Chiefs are considered to occupy a position between the community and the government, with a foothold in both traditional and statutory authority.

Town Chiefs undertake their functions on an unpaid, voluntary basis, which Town Chiefs cited as one of their main challenges. While the voluntary nature of the position may, in some cases, facilitate accountability to the community and the application of traditional norms, some community members claimed that the fact that the Town Chiefs are not paid has incentivized corruption and bias. For example, there were allegations of some chiefs taking bribes during dispute resolution.

Town Chiefs reported that they occasionally face challenges to their authority. This occurs when people fail to adhere to their mandates or when rule-breakers bypass their sanctioning authority by appealing to Clan Chiefs or elders. Further, Town Chiefs said that people sometimes do not respect them because “no flag stands behind them,” and they “have no gavel,” phrases implying that they do not occupy an official government position and therefore lack enforcement authority. Nevertheless, most disputes are reportedly settled before ever proceeding to the Clan Chief.

General Town Chiefs/Zonal Chiefs/Sectional Chiefs

The next layer of statutory authorities hierarchically situated above Town Chiefs include the General Town Chiefs (GTCs), Zonal Chiefs, Unification Town Chiefs (UTCs), and Sectional Chiefs. These positions do not exist in all clans; but where they do exist, the chiefs have governance authority over clusters of towns and their roles vary significantly across clans. In Upper Workor and Doblí Clan, the Zonal Chiefs assist the Clan Chief in the enforcement of government rules and regulations, including rules governing land use. They also resolve land and other disputes in the zone. Additionally, Zonal Chiefs ensure that the zones are clean and the roads maintained. They also promote development activities in the zones. In these clans, GTCs resolve land disputes when these fail to be resolved by the Town Chiefs. One exception was Little Kola Clan, where the UTC referred cases to the Clan Chief, but otherwise did not have a role in the dispute resolution process. Although GTCs are supposed to be elected, all the GTCs in the study areas were either selected by Clan Chiefs or previous GTCs.

Clan Chiefs

Clan Chiefs are situated above GTCs and report to Paramount Chiefs. The Clan Chiefs supervise and administer governmental activities in their clan, administer government laws, and resolve disputes. In some clans such as Saykleken, Doblí, Ylan, and Nitrian Community, clan members reported that the Clan Chiefs are responsible for the enforcement of rules and regulations within the clan, especially those related to land rights and agriculture. In others such as Little Kola, Clan Chiefs intervened very little in land matters, while in Motor Road, it seemed that the Clan Chief was excluded from land governance in general. Clan Chiefs in Saykleken and Doblí were also found to be Poro Leaders in these clans. Clan Chiefs are supposed to be elected by the members of their clans; however, the majority of Clan Chiefs that we encountered had either

been serving since the last election (held in 1987) or had been appointed to the position when the preceding Clan Chief died.

Paramount Chiefs

Paramount Chiefs are the last category of chiefs in the clans who provide governance authority. They are the heads of Chiefdoms and oversee and are assisted by the Clan Chiefs within their Chiefdom. The Paramount Chiefs work under the supervision of the District Commissioner and are assisted by a council of elders. The Paramount Chiefs oversee all the tribal authorities in their Chiefdom. According to the Rules Governing the Hinterland, the duties of the Paramount Chief are to:

Supervise the administration of the tribe; to carry out such lawful instructions given to him from time to time by the District Commissioner in relating to the collection of taxes; construction of roads and bridges; improvement of agriculture, trade, and the sanitation of his tribal area and other matters affecting the general welfare of his chiefdom or tribe (Hinterlands Rule, Article 22).

Paramount Chiefs were widely reported to have the authority to resolve land disputes that the Clan Chiefs fail to resolve. In Upper Workor, Saykleken, and Gbanshay, Paramount Chiefs are also reported to enforce and uphold both government laws and customary laws.

5.2.2 District Commissioners and Superintendents

District Commissioners (DC) are positioned at the highest tier of statutory, district-level governance. District Commissioners are appointed by and serve at the will and pleasure of the president. They generally oversee Paramount Chiefs, although in Ding and Saykleken Clans, we learned that they also oversee Township Commissioners. The District Commissioners and the District Superintendents (DS) are responsible for meeting the needs and concerns of local citizens in their jurisdictions and for ensuring that they are made known to the legislature and the GOL. The DC and DS are based in the district headquarters, which might be located outside the clan. In areas where the DC was based in the clan, his role in land and resource governance appeared to be much stronger than in areas where the DC was distant from the studied clan.

The DC and/or DS are called upon when local authorities fail to address or resolve clan-level disputes. In the sites we visited, the DSs and DCs appeared to be well-respected by the clan members. In Ding Clan, the DC was accorded higher respect because he was seen to be actively seeking to resolve land disputes and to have clan residents' interests at heart.

5.3 OTHER GOVERNANCE AUTHORITIES

5.3.1 Cultural Societies

In many of the clans we visited, cultural societies – primarily Poro and Sande, but also Quee – play an important role in dispute resolution and sometimes in land governance. Cultural societies are customary institutions whose authority is derived solely from local communities. The lore and practices of these societies are kept secret from nonmembers.

In most of the studied clans, members reported that cultural societies are not directly involved in land matters, including resolving land disputes. Rather, the Family Heads and elders constituting these societies serve more generally as the first line of customary resolution for disputes that arise within immediate and extended families. This was true for Gbanshay, Upper Workor, Tengia, Little Kola, Ding, Saykleken, and Ylan Clans and Nitrian Community. By contrast, in Dobli, Mana, and Motor Road Clans, secret societies do play a role in resolving land disputes. For example, in Mana Clan, the Zoe are involved at the highest levels of

dispute resolution.⁵⁵ While in Little Kola Clan, the Poro Society would declare a disputed territory as off limits, but the dispute would be resolved by the Town Chiefs and elders. Moreover, sometimes disputants prefer to take their cases to their cultural society leaders if both parties belong to the same society.

In areas where Poro and Sande are active, these societies advise and resolve disputes on traditional matters, enforce traditional laws, and punish violators. For example, the Poro and Sande are called on to resolve disputes involving the spilling of blood or witchcraft. In Dobli Clan, we were told that, even when these cases are dealt with by the police, the individual will be tried and punished by the Poro or Sande leaders when they return to the community. In the clans where cultural societies exist, they were said to be powerful and respected. However, we found that in several clans – including Little Kola – the influence of the Poro Society was diminishing, especially among the youth.

5.3.2 Religious Organizations

Although in most clans religious institutions play a minimal role in land governance, in Dobli and Mana, clan members reported that these institutions play an important role in promoting peace and in addressing confusions before they turn into major disputes. In Dobli, clan members reported that the church and the mosque have provided unbiased forums for dispute resolution. Youth in this clan embrace these institutions because they question the legitimacy of both customary and statutory leaders. In Mana, clan members reported that Pastors and Imams – representing the Christian and Muslim communities, respectively – advise the elders and Clan Chief and help resolve disputes, though their involvement in resolving land and resource disputes is unclear.

5.3.3 Community Based Organizations

Community Based Organizations (CBOs) are active in several of the studied clans. All the CBOs were formed by clan members, sometimes with NGO guidance, as a way of responding to the needs and challenges facing their communities. While some play a significant role in land management, others are more focused on other types of developmental activities. For example, in Ding, Little Kola, and Dobli Clans, local committees were established to manage markets and to generate the funds needed for improving markets in these clans. In Dobli and Ylan, some CBOs formed to address women’s issues. In Upper Workor, Ding, Motor Road, and Nitrian Community, we found forest management committees that are responsible for crafting rules governing access and use of forest resources in these clans. CBOs do not have funding from outside sources and either raise their own funds or operate on a voluntary basis.

5.3.4 Governmental Agencies

One of the government agencies that plays an important role in land is the Forest Development Authority (FDA) which is active in Motor Road Clan. The agency is perceived to be the most powerful government agency in this clan. The FDA manages Sapo National Park and conducts bio-monitoring, law enforcement, and community engagement. The FDA also manages and controls areas around the Park, such as the Upper Wedjah Community Forest. This involves making decisions over land and resources in areas surrounding the Park. For example, we were told that the FDA has declared that no one may burn the bush in the areas that adjoin Park and the Community Forest and that no one may hunt in those areas.

According to FDA employees, the FDA is engaged in raising community awareness and holds workshops to educate communities about the Park. Further, they have sent some community members to other protected

⁵⁵ In Mana, Ma Zoe is the head of the Sandi, while the Dakpanah is the head of the Poro. Both are heavily involved in decision-making and dispute resolution at the clan and district level. Among the older clan members with whom we worked, we perceived that respect for Ma Zoe and Dakpanah, potentially bolstered by their “strong medicine” and fear among other clan members, that failure to comply with their decisions could result in bad “juju” or worse.

areas – including one in Ghana – to educate them about the value of the Park. They also support some livelihoods activities such as the provision of consumer goods and microfinance loans.

5.3.5 NGOs and International Organizations

NGOs and international organizations that work in the clans influence how clan members use and manage their land and natural resources. In most cases, these organizations are appreciated by community members; many offer services that are not available from the government and are more accessible than government institutions.⁵⁶ Some NGOs have sought to help clan members improve agricultural productivity by providing seedlings or livestock, teaching improved livestock keeping methods, assisting with agricultural microfinance, and providing technical and material support, including seeds and tools. Others aim to help communities improve governance of natural resources, like community forests.

In Motor Road Clan, Fauna and Flora International (FFI) works with local communities and the FDA to improve forest management. FFI's mission in Sapo National Park is to promote conservation, build capacity for park management, and develop communities to reduce pressure on the park ecosystem. Clan members in Motor Road reported that FFI helped them to establish the Upper Wedjah Community Forest. The organization has also introduced livelihood projects into the clan, such as the Upper Wedjah Community Palm Project, and has provided sheep and pigs to clan members. Today, FFI advises the Community Forest Management Committee (CFMC) on how to manage the Community Forest.

5.3.6 Mining Authorities

Specific authorities manage access to and extraction of minerals in the study clans with gold and diamond resources. Detailed below are the roles of the Mining Agent and Mining Chairman as described by clan members in Mana and Ding.

Mining Agent

The Mining Agent is employed by the Ministry of Lands, Mines and Energy (MLME). The Agent issues miners clearances for mining permits and sends them to the MLME for approval. In Mana Clan, he resolves disputes among the miners and mining boys that cannot be resolved by the Mining Chairman.

Mining Chairman

Mineral rich areas exploited for mining in Liberia are divided into mining zones and, in Mana Clan, each of these areas is assigned a Mining Chairman. Mining Chairmen are miners who are knowledgeable about the business. They are elected by fellow miners in each mining zone to serve one year terms, and are eligible for reelection. We were informed that Mining Chairmen are responsible for acting as a spokesperson for miners and for helping to settle mining disputes. Groups of Mining Chairmen report to a General Mining Chairman, who reports to the local Mining Agent. The position of Mining Chairman is reportedly unpaid.

5.4 ANALYSIS

5.4.1 Interface between Customary and Statutory Institutions/Authorities

Prior to 1910, when the roles of Town Chief, General Town Chief, and Clan Chief were reportedly introduced, land and resources in the interior were governed by elders, and in some clans, by powerful warrior-chiefs (Blanchard, 1967). Today, land and resources are governed by layers of traditional and statutory authority. At the most local level, traditional authorities and processes – including the communities themselves – dominate land and resource governance. The introduction of statutory governance authorities,

⁵⁶ There are too many NGOs and international organizations working in the clans to mention all of them, so in this report we highlight a few examples of the most active organizations.

such as Clan and Paramount Chiefs, resulted in an overlay of government authorities atop the traditional system. Our findings show that while in some clans, statutory authorities are built directly onto customary authorities, in others, they are completely incongruent with customary authority structure. For example, in Saykleken, Doblí, Tengia, and Upper Workor, statutory authorities seem to have built onto customary authorities satisfactorily, while in Ylan and Motor Road, these two authorities are somewhat separate with power structures tending to run in parallel. In Motor Road Clan, statutory authorities seem to be confined by communities to a limited role in governing land and natural resource matters, which are taken to be the domain of customary authorities. Moreover, in this clan it seems that citizens prefer the counsel of customary authorities over statutory authorities. For example, several clan members stated that they prefer not to go to the Clan Chief because “he is government.” Instead, they go to the elders and the Town Chairman because they “trust” these authorities.

In Ylan, the introduction of statutory authorities has co-opted or undermined the effectiveness and legitimacy of customary governance authorities in regards to local land and resource governance. This may partially explain tendencies toward non-compliance with customary rules governing land, though community members largely blamed government imposed “human rights” policies and youth discord for weakening compliance with rules. Other possible factors contributing to waning compliance with customary rules are the increased legitimacy ascribed to statutory evidence of tenure over customary evidence, and the uncertain and diminishing role of cultural institutions. Although cultural societies generally do not have a direct role in governing land matters, their reduced importance in some clans, as well as their diminished capacity to exercise social control, may portend weakening compliance with customary rules and norms.

The research team was regularly informed that the proper chain of command among governance authorities extends from the lowest chief (often the Town Chief, but sometimes the Quarter Chief) up to the highest chief (Paramount Chief). It extends from there to the District Commissioner (or District Superintendent) and then to the County Superintendent with elders playing a role in advising these chiefs. However, in many clans, authority does not follow a vertical hierarchy in practice.

In Motor Road, for example, a parallel structure of customary and statutory authorities exists; most land matters are handled by the Town Chairman rather than the Town Chief, and by the Tribal Chairman rather than the Paramount Chief. In Mana Clan, elders are accorded a more prominent role in governance matters than Town Chiefs and Clan Chiefs. In Saykleken Clan, the traditional Bodioh retains authority over land matters, though his authority appears to be weakening. In other clans, “jumping over” authorities in the chain was regularly practiced, such as in Little Kola where the Clan Chief was often found to be ignorant of certain land issues that were taken directly to the Paramount Chief or District Commissioner to resolve after the Town Chiefs failed to resolve them. In Ding Clan, deep seated mistrust in the Paramount Chief led many to bypass him and to take land disputes (especially those concerning claims made by outsiders) to the District Superintendent. In Doblí Clan and Nitrian Community, there is no clear rule about where strangers should go to seek permission to access land or use natural resources, so Town Chiefs, Clan Chiefs, and Town Chairmen and Chairladies all exercise this authority.

There may be several reasons why these types of practices are occurring. One reason could be the imposition of an alien authority structure that failed to merge and work well with the customary authority structure that was in place. Another reason could be the fact that these authorities are more accountable to government and political elites as opposed to the people they are supposed to represent, making people seek forums which would better represent their interests. In most clans, Clan Chiefs and Paramount Chiefs’ elections have not been held for ages, and in some areas (e.g., Nitrian), it appears as though elites are being slotted into these positions by powerful outsiders.

Leaders, especially in Ylan, Motor Road, and Nitrian Community, were frustrated by the lack of a clear division of responsibilities between customary and statutory authorities. Our findings show that continuing frustration among the authorities and local people arises from the significant disconnect between authorities at multiple scales. For example, in Upper Workor Clan, we heard of several instances where the DC disregarded decisions made by the Clan Chief and overturned his rulings and/or decisions. Resultant from

this lack of clarity, community members are sometimes uncertain as to whom they should turn to for help with particular issues.

5.4.2 Legitimacy of Customary and Statutory Institutions

Difficulty accessing outside authorities leads some clan members to prefer that local leaders – mainly Town Chiefs, Quarter Chiefs, and Town Elders – handle their land and natural resource matters. They argue that leaders within the community tend not only to be more accessible and knowledgeable about local matters, but that they tend to work together better. Other times, though, people favor referring matters to District Commissioners, Land Commissioners, the District Superintendent, or the courts, especially when there is a perception that local authorities may be biased or may lack enforcement power. Clan members reported that, prior to the war, customary institutions were effective in ensuring equitable allocation of land resources and resolving disputes. Today, clan members reported that elders and Town Chiefs lack the power of government backing, and therefore are increasingly looking to statutory authorities that have enforcement power to protect their rights and advocate for them. Unfortunately, statutory authorities and courts are seen by some as favoring the wealthy and powerful, who they see as able to use the formal system to their advantage.

Under GOL law, Town Chiefs, Clan Chiefs, and Paramount Chiefs should be elected by community members. Whereas having elections implies that the legitimacy of the governance authorities is based on how they perform, selection or inheritance of a position implies that legitimacy is enshrined by favoritism or custom. There have been no elections since 1987. Some Clan Chiefs and Paramount Chiefs have been in power for over 30 years; others were either selected or inherited their positions. For example, the Clan Chief of Dobli and Paramount Chief of Upper Workor were selected by previous chiefs, while the Clan Chief of Upper Workor inherited the position from his uncle.

In addition to the weakening of governance institutions, NGOs and the GOL have campaigned against the use of coercive mechanisms such as “trial by ordeal.” The practices were greatly utilized before the war, but today they have been criminalized through the law because of human rights implications. Many customary leaders complained that these limitations adversely affected their ability to enforce rules and regulations in the community. Many customary authorities and community members we talked to complained that children’s rights only encourage children to disobey their parents and give them an excuse not to work, which, according to many community members, has significant economic and social implications.

5.4.3 Women as Governance Authorities

Our findings indicate that women are increasingly occupying positions of authority in the studied clans. While men constitute the clear majority in positions of authority, we met women serving as elders, chairladies, Town Chiefs, Clan Chiefs, and Township Commissioners. Some community members attribute women’s growing occupation of these positions to the introduction of principles of gender equity from external sources (e.g., NGOs and the government). Additionally, the elders in Dobli, Gbanshay, and Ylan Clans reported that women’s opinions are valued because they can provide different perspectives on an issue. While women’s occupation of leadership positions signals important strides in gender equity, our research suggests that women in these positions tend to command more limited authority over land and natural resources as compared to men.

We encountered women in statutory authority positions within Ding, Little Kola, Motor Road, and Saykleken Clans and Nitrian Community. In Nitrian and Little Kola, a woman is Clan Chief, while in Saykleken, the District Commissioner is a woman. Female Town Chiefs were found in Ding and Motor Road. However, these female authorities seemed to face significant challenges in carrying out their duties. One woman leader reported that men find it difficult to accept her authority because she is a woman. Due to persisting androcentric norms, women in some clans are discouraged from openly challenging men which greatly limits their ability to make decisions, especially unpopular ones. In Tengia, Upper Workor, and Gbanshay Clans, we did not find any women holding statutory positions, though we did not validate whether there may have been some women Town Chiefs who did not participate in the research exercises. We did however encounter

some women who held positions as elders in Gbanshay and Motor Road although their authority tended to differ from male elders – namely in that they had less authority over land matters and only handled women’s issues.

In terms of land and natural resources, women’s decision-making authority appears to be particularly limited. Land is often still viewed as the domain of men and male decision-making. We found that in some communities, there are positions which have a strong influence over land that cannot be occupied by women. For example, in Motor Road and Saykleken, community members reported that women cannot be Town or Tribal Chairmen, as these positions are elected through traditional means involving men’s secret society, which women are not allowed to attend or witness. Also in Mana and Ylan, women did not have strong input in decisions regarding land use and access.

Despite the barriers, we found evidence that women are commanding power in different ways. In Motor Road and Saykleken Clans, we found that women are increasingly occupying positions of authority; for example, the Town Chief of Jalay Town is a woman and the District Commissioners of Wedjah and Sarbo Districts are also women. In all clans we found that women play important roles such as commanding and marketing of the crops, management of the money earned, and the management of rice kitchens.

5.4.4 Youth as Governance Authorities

In many clans, youth play a role in land and resource governance. In clans such as Saykleken, Ding, Motor Road, Gbanshay, and Little Kola, the youth are well-respected and take part in decision-making, the formulation of rules, and sometimes, in resolving disputes. In Little Kola Clan, when the youth are not consulted in the formulation of a new rule, they are able to voice their disapproval and reject the rule. Especially when organized, youth can have a strong influence on land and resources. For example, youth in Motor Road organized a group of clan members to protest the expansion of the Sinoe Park into the Upper Wedjah Community Forest. In Saykleken Clan, the youth resisted the issuance of papers for the application of a Tribal Certificate to a farmer from another part of the country. And, in Gbanshay and Nitrian, youths occupy positions of Quarter Chiefs and play an important role in dispute resolution.

Youths – especially male youths – are increasingly challenging statutory and customary governance institutions. In some clans, the youth are frequently in confrontation with the local authorities and feel that their positions are overlooked in decision-making about land issues. In Doblí, Tengia, Mana, Ylan, and Upper Workor Clans, youth wished to have more say in land governance. Several times in the field study, the youth in these clans expressed frustration with decisions that the elders had made and derided them for having an old-fashioned way of thinking. Older clan members sometimes complained about the youth, namely for failing to comply with customary rules or for evading participation in town maintenance activities, some of which they blame on the effects of the war, as well as on the formal education received by the youth.

5.4.5 Malfeasance and Power Abuse

Our research revealed several cases of malfeasance by authorities. Customary land governance is usually entrusted in groups with leaders making decisions on behalf of community members. The leaders are expected to work together in making decisions governing land and to be accountable to community members. When governance authorities no longer work together and when accountability mechanisms are no longer in place, it is easy for the authorities to abuse the power that is vested in them (Toulmin, 2009). Acts of malfeasance were reportedly prevalent in Ylan, Doblí, and Ding Clans.

In these clans, local people expressed deep distrust of certain statutory leaders. Clan members complained that some of the authorities are not advocating for their constituent’s interests, but for their own and those of their associates. Some of the statutory leaders in these clans have reportedly sold or bought large expanses of clan land without consulting clan members. Some clan members accused statutory authorities of having adopted imperialistic-like positions with regard to land in that they have allocated large parcels of land to themselves, their associates, and/or clan outsiders, and have unilaterally made decisions about land without

knowledge of community members. We encountered many unresolved conflicts in clans where malfeasance was prominent. Unfortunately, there are no institutions in place to promote accountability or transparency within the clans.

5.4.6 Trends in Governance Authority over Land

In the past few decades, there have been changes in both customary and statutory institutions. Community members reported that in the past, decisions from traditional authorities could not be challenged. Today, however, their legitimacy is challenged by many, and compliance is low, especially among the youth. Leaders find it difficult to enforce rules and regulations governing land. For example, in some communities, we learned that elders' ability to enforce rules is decreasing and that their legitimacy as leaders is being questioned. This problem is compounded by the decreasing ability of elders to enforce rules and regulations. Some youth are of the view that elders are biased in their decisions, especially on matters related to land.

Power dynamics also appear to be shifting in the studied clans, with youth increasingly contesting the authority of their parents and customary leaders. Overall, our research reveals that while in some areas customary authorities still command considerable respect over land and natural resource matters and that compliance with the rules established and enforced by these authorities is fairly robust, in others compliance is very low. The sharpest perceptions of a decrease in compliance were found in Gbanshay, Saykleken, and Ylan. Diminishing respect for the authority of customary leaders – especially by the youth – seems to be resulting in decreased compliance with customary rules for land and natural resources. Reportedly, the war – coupled with persistent poverty – has seeded a culture of disobedience, though in other cases formal education and promotion of “human rights”⁵⁷ was blamed. In clans such as Gbanshay, Mana, Ylan, Saykleken, and Nitrian Community, the youth are increasingly exerting pressure on traditional rules for accessing and managing land. The extent of weakened customary governance institutions varies spatially with authorities in more remote communities having more authority and legitimacy. In some clans, such as Motor Road, Ding, Little Kola, and Saykleken, customary authorities are relatively well respected. In other areas, such as Ylan, Dobl, and Mana, where competition for land is high, customary governance institutions are weakening and community members are seeking alternative institutions to support their claims to land.

During a historical matrix exercise, members of Mana Clan used beans to show the decrease in compliance over time starting with the President Tubman era and into the future. In all of the clans studied, there seemed to be a general decline in compliance over time with clan members expecting compliance to become worse in the future. In Ylan Clan, community members believe that compliance will improve in the future as institutions of governance become more effective with government intervention.

Figure 5.1: Compliance with rules over time in Mana Clan

Variable	Tubman	Tolbert	Doe	Taylor	Johnson-Sirleaf	Future (+10 Years)
Compliance with Rules	●●●●●● ●●●●●● ●●●●●● ●●●●●● ●●●●●● ●●●●●● ●●●●●● ●●●●●●	●●●●●● ●●●●●● ●●●●●● ●●●●●● ●●●●●● ●●●●●● ●●●●●● ●	●●●●●● ●●●●●● ●●●●●● ●●●●●● ●●●●●● ●	●●●●●●	●●	●

The war may be one of the factors galvanizing youth empowerment while also weakening traditional social and normative structures. Some of the people we interviewed suggested that the war transformed the landscape of authority. Many individuals were forced to flee and to forge new networks upon which they

⁵⁷ This presumably refers to the outlawing of ‘trial by ordeal’ practices and other forms of local corporal punishment.

could rely. This in turn produced new and informal systems of authority and created new channels of power distribution and expression. The youth also assumed positions of power, especially among warring factions. Armed and in control, they no longer were subject to the directives of their elders. Today, many youth are not content to go back to the old ways of subservience to their elders and seek to have greater power in their communities. Youth are also gaining control over land at a younger age, are generally the most eager to invest in cash crops or alternative livelihoods, and, in many clans, are regarded as among the better off. As youth acquire more land and power, this could usher in further challenges to customary rules and governance structures.

6.0 DISPUTES

In this section, we discuss the types of land and resource disputes in the study areas, as well as their prevalence, severity, and origins. In many of the studied clans, disputes are pervasive and increasing in conjunction with rising competition for land and resources. According to an Interagency Conflict Assessment Framework (ICAF) report, “(t)he pathways for increasing levels of violence are in place, often used to stimulate minor or small-scale conflict” (Paczynska, 2010, p. 6). The report further states that “the complex and largely unresolved issues of ownership and claims over land are in the views of most Liberians the primary source of social tensions in the country” (p. 9).

Disputes were most prevalent in clans with a high prevalence of life trees, those located near to major urban areas (e.g., Gbanshay, Ding, Ylan), and those with high-value resources (e.g., Mana). Study participants universally reported that the prevalence of disputes is increasing and will continue to increase into the future. Many reported that if no resolution is found for the most pressing disputes, they will become violent. Still, in other clans, disputes existed but were not severe and were locally resolved. Here, we present the types of disputes that we encountered in the 11 studied clans.

6.1 TYPES OF DISPUTES

We encountered a diversity of disputes over land and natural resources in the studied clans. In many clans, these disputes were related to access to resources, encroachment, inheritance, and disputed boundaries. In other clans, disputes arose over outsiders’ irregular acquisition of land. We also encountered a few instances of conflicts between tribes, conflicts with government agencies, and conflicts over mining areas. The various types of disputes are discussed in detail below.

6.1.1 Inheritance Disputes

Inheritance disputes occur over the division of land and resources, frequently over land planted in life trees. These disputes take several forms, including disputes among multiple wives, disputes among brothers and sisters, and disputes between widows and their in-laws. However, in Ding, Little Kola, Mana, and Motor Road Clans, these types of disputes are reported to be uncommon.

In many of the studied clans, disputes over the inheritance of life trees are common. For example, in Upper Workor, inheritance disputes arise between siblings when cocoa and coffee plantations are left only to the male children, though the daughters contend that all the children have equal rights to their fathers’ property. Similarly, in Saykleken Clan, we heard of two cases in which a woman’s father died and her brothers claimed the land planted in life trees. When these cases were presented before the local leaders, they were decided in favor of the sisters. In contrast, a dispute in Ylan Clan arose when a man’s sisters refused him access to a rubber plantation planted by their father. Reportedly, the man’s sisters did not recognize him as their sibling because their father had not paid bride price to his mother’s parents.

Though polygyny is a relatively common practice throughout the studied clans, inheritance disputes among multiple wives were only reported to occur in Tengia and Saykleken. In Tengia, clan members told us that sometimes senior wives force junior wives off the land to safeguard the inheritance rights of the senior wives’ children. In Saykleken, wives fight when they want their sons to inherit specific portions of land. In Ding, clan members reported that in the past, disputes between multiples wives over claims to land were common. However, polygyny has declined in that clan and disputes between multiple wives have become rare.

An additional source of disputes within families stems from married women’s rights to continue to access land in her natal community. In Tengia Clan, women who marry out and then return to their natal

community sometimes encounter resistance from their brothers in providing them with access to family land. Disputes arise when a woman's brother requires her to pay in rice for access to the family land. If the woman does not pay, her brother may "carry her to the Town Chief," especially if "he has no love for [her]." Widows in Tengia Clan reported such disputes to be common, and usually settled by the elders who will allegedly rule on behalf of the brother. In Saykleken Clan, disputes arise between children of women married outside the clan and clan citizens when the former attempt to claim land given to their mother in her community.

In Tengia and Saykleken Clans, disputes occur between widows and their brothers-in-law over the inheritance of the deceased's land. Female clan members told us that a widow's brother-in-law will take property from the widow, even if she has children. As one clan member said, "Women have no power to stop them." Such disputes were also reported to occur in Mana Clan, though instances were rare.

In Upper Workor Clan, inheritance disputes arise in relation to house spots. In one example, a woman and her father's brother argued over her late father's house spot. The deceased's brother insisted that a woman could not inherit her father's property, while the woman claimed that she was the heir to her father's property. After the Land Allocation Committee investigated the dispute, they ruled that the woman should have the land. Also see Section 6.1.3.

In Gbanshay Clan, the inheritance of rights claimed under TCs was reported to be a common source of disputes within families. According to one source, up to four names could be listed on one TC, with the signers often including "and all" to indicate all members of the extended family. Those whose ancestors' names are explicitly listed on the TC are at odds with those who claim their rights through the "and all." Another tension surrounds TCs in the names of groups, like in the case whereby the last surviving member of a TC group bequeaths land to his descendants, excluding the descendants of his fellow TC holders who have since died.

6.1.2 Disputes with Returnees and Refugees

There is potential for disputes stemming from displacement due to the Liberian Civil Wars, during which a peak 500,000 people were displaced. Since the conflict ended, only a few thousand Liberians were considered displaced persons, indicating that the majority have returned to their homes. The influx of "returnees" and their access to land are regularly portrayed by media and development agencies as a potential source of disputes in rural Liberia. For example, the Internal Displacement Monitoring Centre (2010) states that "disputes over the use and ownership of land in return areas have continued" and cites these disputes as "a major barrier to the establishment of security".⁵⁸ However, among the 11 studied clans, disputes with returnees were universally reported to be uncommon because most returnees get their original pieces of land back for farming. The only exception was in regards to house spots which, once occupied, could not be given back to the returnees. In Dobl and Mana Clans, disputes over house spots arise when clan members who fled during the war return to find others that returned earlier have built homes on the formers' house spots. In both clans, disputes over house spots are common, but are resolved locally.

Additionally, the potential for disputes can arise as a result of providing for the needs of refugees. For example, clans that border Sierra Leone and the Ivory Coast – including Tengia and Ylan – have been host communities for refugees fleeing conflicts in those countries. However, with the exception of Ylan Clan, disputes with refugees and returnees were universally reported to be uncommon. In Ylan Clan, the GOL gave 200 acres of land to Ivorian refugees, allegedly without consulting or compensating clan members. Now, clan members are claiming land in the area where the refugees planted plantains and other crops, resulting in disputes with the refugee community.

⁵⁸ See also Munive Rincon (2010); Paczynska (2010).

6.1.3 Disputes over Encroachment

Disputes between Landowners and Borrowers

Under customary rules in all studied clans, the planting of “life trees” – such as rubber or cocoa – asserts a permanent claim to the land. Thus, borrowers are generally restricted to planting seasonal crops and are not allowed to plant life trees on borrowed land. Yet, we found disputes between landowners and borrowers over the planting of life trees to be relatively common in Dobli, Gbanshay, and Tengia. Each of these clans had a proliferation of life trees and a relatively high population density (65.14/sq. mile, 75.45/sq. mile, and 183.28/sq. mile, respectively) high pressures on land. As an example, in Dobli Clan, most of the disputes over uplands occur when people plant life trees on borrowed land, on land that belongs to someone else, or on land that belongs to the whole family without seeking permission.

In Gbanshay Clan, we heard of several disputes involving borrowers of land who did not heed the customary rule and planted life trees on the borrowed property. In one such dispute, a woman who manages her elderly father’s land lent property to a farmer from the same town for upland rice. The borrower began planting rubber trees and then claimed the land. The woman felt powerless to stop the borrower, especially because her father was ill and could not enforce their claim to the land. Disputes over borrowers asserting claims to land by planting rubber are so prevalent that landowners are becoming cautious to lend land. Many of these disputes are unresolved.

In Tengia Clan, we heard of disputes that occurred when borrowers planted cocoa or palm trees on land that was borrowed for seasonal cropping. In such cases, the landowner will bring the dispute to the Town Chief who will reportedly grant ownership rights over the young trees to the landowner. If the case goes to the Clan Chief, however, we were told that he would let the borrower keep the land planted in cocoa, but make them “pay something” to the landowner. The issue of borrowers planting life trees was met with similarly divergent responses in Gbanshay Clan. Here, the Clan Chief told us that because custom upholds that no one is able to uproot trees that another has planted, he will award the borrowers the land where they had already planted rubber trees, and presumably other life trees. In contrast, Town Elders in the clan said that the landowner will keep the land and the improperly planted trees. Another respondent stated that it is up to the Land Commissioner to decide if the person who planted rubber can keep the land or not. Still others said that the land renter/borrower should pay the owner a portion of the money he makes from the crop.

In Ding, Little Kola, and Nitrian, disputes between landowners and borrowers were reported to be uncommon. In each of these clans, clan members reported rare instances of disputes that were resolved locally. For example, in Nitrian, a dispute started when a man from one quarter borrowed land from an individual in another quarter to grow rice, but later planted life trees on it. The dispute was taken to the elders and the Town Chief of Kabada Town who resolved it by granting ownership of the planted life trees to the landowner. In Little Kola Clan, clan members told us of one minor dispute between the descendants of a borrower claiming the borrowed land, leading to “confusion” with the descendants of the landowner. Despite their rarity, citizens of these clans believe that these disputes will increase in the future.

In Mana, Motor Road, and Upper Workor, there are reportedly no disputes between landowners and borrowers, potentially because the practice of borrowing is uncommon. In Saykleken and Ylan, disputes between borrowers and landowners were not listed as a type of dispute prevalent in those clans.

Disputes between “Landowners”

Another form of dispute consists of encroachment disputes between landowners. These are common in Dobli, Gbanshay, Saykleken, Upper Workor, and Ylan Clans. The nature of disputes between landowners varies from clan to clan. In Dobli and Gbanshay, disputes between landowners are complicated by TCs, which many clan members have perceived to assert secure, permanent rights to their land. However, the legitimacy of TCs is being questioned as people learn that they do not afford permanent rights under statutory law. As a result, some farmers are encroaching on land held under TC, often to plant rubber. In one case in Dobli Clan, a farmer planned to plant 125 acres of rubber. A neighboring farmer, however, planted

rubber on adjacent land, as well as on some of the first farmer's land. Both parties claimed they owned the land. The case was eventually resolved through the magisterial court; the two farmers decided to split the rubber farm into two equal parts. An example of a letter disputing land occupancy and use is included in Annex 9.

In Gbanshay and Dobli, single or widowed women holding land under TC are particularly vulnerable to encroachment by other landowners. In these clans, female landowners reported that other farmers encroach on their land and assert a permanent claim by planting rubber. When we asked female clan members in Gbanshay if there were similar cases involving men encroaching on the land of other men, the women stated, "they would not attempt it with a man," which indicates that the ability of female landowners to protect their claims may be weaker than that of male landowners.

In Little Kola, Saykleken, and Upper Workor, disputes occur between landowners in regards to upland and lowland fields. In Upper Workor, disputes arise at the beginning of the farming season when farmers seek plots of cultivable land for rice. Disputes over access to lowland farming areas are also common in this clan, as these areas are held by individuals, though some clan members believe that the swamps are communally owned and that everyone has a right to farm them. Saykleken Clan members reported that disputes between landowners occur when people clear land not claimed by their families, or when they plant life trees on land others want to use for subsistence cropping. Several instances of encroachment arise as a result of unclear boundaries. A number of disputes over boundaries remain unresolved. Clan members in Little Kola told us that, though disputes between landowners are uncommon, confusions arise when neighboring farmers do not coordinate when to brush and burn their farms; if a farmer burns without notifying their neighbor, the neighbor's crops might be damaged in the process.

Finally, in Ylan and Upper Workor, we heard of disputes arising over house spots. In the former, there were several cases in which house spots had been sold to multiple buyers, resulting in disputes. The Upper Workor dispute was described in Section 6.1.1. The local Land Allocation Committee investigated the dispute and ruled that the woman should have the land.

In many other clans, including Ding, Motor Road, Nitrian, and Tengia, disputes between landowners were reported to be uncommon.

Box 6.1: Seeking Resolution: A Case of Encroachment in Gbanshay

The only surviving child of a local landowner from the town of Foloblai in Gbanshay, “Gormah,” inherited her father’s land when he passed away, including the TC in his name. Though her name is not on the certificate and her father had not acquired a deed to the land, Gormah firmly believes that the land is hers.

The inherited land abuts a footpath, which serves as the traditional boundary between Foloblai and the neighboring town of Gbanyea. After Gormah inherited the land, a man from Gbanyea crossed the footpath and began planting rubber trees on Gormah’s land. Gormah first asked the customary authorities in Foloblai to intervene, and they asked the man to stop. But they had no power to enforce their requests and the man continued to plant rubber. Further, the man claimed that, because Gormah did not have a deed, her TC was invalid and the land was “free” (available).

After the customary authorities failed to resolve the dispute, the man asked the Norwegian Refugee Council (NRC) to mediate the case. The NRC suggested that the woman and the man divide the contested land between them, but Gormah refused to settle. According to her, the TC in her possession proved her right to the land. She wanted to take the dispute to court.

At the time that this report was being written, Gormah was suing the man through the Circuit Court in Gbarnga and asserted that she would win because, she said, “I have the paper.”

Disputes between Towns

Disputes between towns were relatively common in Doblí, Little Kola, Tengia, Upper Workor, and Ylan, and are often related to encroachment. In Little Kola, disputes occur when people make farms or use materials from bush across town boundaries without asking permission. In Tengia Clan, disputes occur when citizens of one town encroach on another town’s land, sometimes planting cocoa. The same is true in Upper Workor Clan, where people cross town boundaries and plant life trees, primarily palm, or hunt in another town’s bush without permission. In this clan, an ongoing dispute between two towns is related to a contested boundary, which had traditionally been marked by a soap tree. Several years ago, the soap tree was cut down and farmers from both sides began claiming the area. In Ylan Clan, there is an ongoing dispute between Mehnpa and Saclepea towns, in which people from Saclepea are reportedly encroaching on Mehnpa land and felling rubber trees that have been planted there.

In a few cases, disputes between towns arise over access to valuable resources. For example, in Gbanshay Clan, two towns had traditionally claimed a portion of a mountain that served as the boundary between them. In recent years, however, the GOL, in conjunction with a mining company, is said to have begun prospecting the mountain for minerals.⁵⁹ The potential to secure economic resources associated with mineral exploitation has led to a dispute between the two towns over rights to the mountain, with each trying to push their boundary into the other’s area. A similar situation also happened in Mana Clan over access to an area suspected to be rich in minerals. In Saykleken Clan, disputes between towns are often over swampland. Many clan members want grow swamp rice; however, swampland is limited. Disputes potentially arise due to high competition for this limited resource.

⁵⁹ We were unable to determine which mineral this was, though the description of the mountain as “hot” potentially suggests iron ore.

In other clans, including Ding and Motor Road, disputes between towns are reported to be uncommon. There were no reported instances of disputes between towns in Nitrian.

Disputes between Clans/Neighboring Areas

Boundary disputes between clans and districts are relatively common in the studied clans, and are primarily related to encroachment and resource use. In Dobli, Gbanshay, and Ylan Clans, many of these disputes are exacerbated when strangers plant life trees on the land. In Gbanshay, clan boundaries have not been clearly demarcated, opening up opportunities for encroachment. In one example, farmers from a neighboring district crossed into Gbanshay to make farms and plant rubber trees. Gbanshay clan members told us that they will take violent action against the encroachers if this dispute is not resolved. Ylan and Dobli Clan members told us that there are several disputes with neighboring clans over alleged encroachment.

In Tengia Clan, members reported that they have only one dispute with a neighboring clan. It is an ongoing conflict with Hassala Clan that stems from the claim that their residents are planting cocoa trees on Tengia Clan's land. A similar dispute is occurring in Upper Workor, where people in a neighboring district are claiming land in the clan. In Nitrian, there is a conflict between Nitrian Community and Lower Tartweh Chiefdom. According to Nitrian Community members, they gave land in Gboklogba Town to Lower Tartweh Chiefdom for farming. Over time, however, the people of Lower Tartweh began extending their farms beyond the area that was given to them and have since claimed the land. Also, Saykleken Clan members told us of an ongoing conflict between Sarbo and Barrobo Districts, in which Barrobo people claim that the Sarbo are occupying their land. And, Ding Clan has an ongoing dispute with Marquoi Clan due to people from the latter encroaching on Ding's forest reserve to make farms.

Disputes between tribes in the studied clans were only reported in Saykleken Clan. In Saykleken, there is a continuing conflict between people of the Sarbo and Kiteabo people. The dispute began during Doe's administration over a portion of land that has reportedly been deeded to Sarbo. Additionally, there is a conflict between Sarbo and Potupo tribes over farming areas that dates back to 1971. According to Saykleken Clan members, the Potupo people are encroaching on Sarbo land.

6.1.4 Disputes with the Government

Disputes between clans and the GOL were almost universally reported to be uncommon in the studied clans with the exception of Motor Road Clan. Motor Road has an ongoing dispute with the Forest Development Authority (FDA) over three principal issues: the extension of the Sapo National Park boundary, the creation of a three kilometer buffer zone around the park potentially necessitating the relocation of the clan's community forest, and the lack of a deed for the clan's community forest. Additionally, the rules restricting the hunting and trapping of endangered species and the alleged heavy-handed prohibition of hunting these animals fuels the dispute.⁶⁰

One nascent dispute exists between Ding Clan and the Ministry of Defense over the Tubman Military Academy (TMA), which claimed 10,000 acres in Ding in 1965 and the neighboring Mehn Clan. TMA only developed 100 to 150 acres of this land and clan members have continued to use and claim the land under customary tenure regimes. However, the Ministry of Defense is seeking to redevelop the academy. Clan members are uncertain about whether the intent is to occupy only the original 100 to 150 acres where the former academy operated, or to expand beyond these limits. They are concerned that, if the area is expanded, citizens residing on the 10,000 acres would be evicted and lose their crop and life tree investments. They report that many of the towns on the TMA claim have either TCs or deeds. The TMA property manager has ordered towns adjacent to the developed area not to harvest the crops that they planted in the developed area. In response, citizens have threatened violence, as has the property manager in return. One local official stated

⁶⁰ As of July 2011, Fauna and Flora International (FFI) was mediating the dispute between Motor Road Clan and the FDA. The mediation appeared to be progressing toward a mutually acceptable resolution.

that a compromise might be possible if the TMA does not extend beyond the previously developed area and if citizens are permitted to harvest the crops they had planted.

6.1.5 Disputes between Customary and Statutory Tenure

Disputes over contradictory customary and statutory claims to land are increasing in some clans, including Ding, Doblí, Mana, and Ylan. In Ding and Mana Clans, these disputes can also be categorized as disputes between clan members – who claim land under customary tenure – and well-connected outsiders – who claim land under statutory tenure, including TCs and deeds. In Ding, disputes arise when existing private farms deeded to outsiders seek to expand into areas held under customary tenure, as well as when local authorities illicitly issue TCs to land in the clan to strangers. Clan members report that they are unaware of these transfers until the new “owner” arrives to develop their land. In Mana Clan, disputes between statutory and customary claims are played out between local communities and companies seeking land for mining or logging. These companies allegedly extract local resources, damage clan infrastructure, and renege on promises of service provisions and improvements to clan infrastructure. Further, locals do not benefit. In one such example, Mano Resources – a Class B mining company – is reportedly prospecting without a proper license and failed to consult with local authorities before beginning operations. In another case, a logging company damaged clan roads and refused to pay for improvements. Despite community appeals to local authorities, these disputes have not been resolved.

Yet disputes between customary and statutory tenure also exist among clan citizens. In Doblí and Ylan Clans, both outsiders and clan members are reported to attest to having deeds and TCs for huge parcels of land. In these clans, the documents are purportedly obtained irregularly, with fake signatures. The latter point is also true in Ding, where clan members assert that local government officials are complicit in these irregular land sales. In Ding, Doblí, and Ylan, the confusion is exacerbated when there are multiple claimants to the land, often each having documents “proving” their individual ownership. In Little Kola Clan, despite large areas of land being held under deed, disputes between statutory and customary claims were uncommon. One reason for this is that many of the deeds are recognized as legitimate by local governance authorities, and at least two of the deeds are held by individuals or groups on behalf of clan members. As a result, clan members are able to continue accessing the land held under deed according to their customary rules. Clan members reported only one dispute between a deed holder and the townspeople of Pineapple Beach. According to one local governance authority, the man claims to have a deed for 75.5 acres, but none of the town citizens have seen the deed and doubt its existence. Further, the man has allegedly prevented citizens from accessing and carrying out development projects on the contested land. The dispute is currently being heard by the Town Elders.

There were no such disputes reported in Motor Road, Nitrian, Tengia, Upper Workor, or Saykleken.

6.1.6 Other Resource Disputes

Disputes over Fishing

Minor disputes over fishing occur in each of the studied clans. These disputes usually arise between women over access to and use of local creeks and streams. For example, in Little Kola, fishing disputes occur when one woman removes another woman’s basket and replaces it with her own. In several clans, these disputes occur when women from one town use creeks in another town without asking for permission. These disputes are resolved locally.

There is, however, at least one larger dispute related to fishing rights. In Ding Clan, there is an ongoing dispute over rights to fish in the St. Paul River. According to clan members, a group of 15 fishermen from Kakata arrive every dry season with hundreds of nets and deplete the fish supply in the river. Clan members suspect chiefs of taking bribes in exchange for not heeding citizen complaints. They have threatened to physically block the fishermen from accessing the river, should they come again.

Disputes over Mining

Mana Clan citizens reported disputes between miners and farmers, arising from artisanal miners reportedly engaging in both legal and illegal mining on people's land without consulting them. This is facilitated by one of the Mining Chairman, who allegedly takes bribes from miners in exchange for granting mining spots. Clan members reported that mining permits take precedence over customary claims. Because most landowners in Mana claim land under customary – rather than statutory – tenure, they believe that those with mining permits can take over all land, even that which is planted in life trees. According to one group of youth, disputes between miners and farmers are common. While several youth reported that mining areas are different than farming areas, it is unclear if this is uniformly true and clan members predict that “people with money” will purchase all of the mining claims in the clan and even purchase claims to farmland, potentially disenfranchising customary landowners.

However, others portrayed the relationship between miners and landowners more peacefully, saying that artisanal miners seek permission from landowners to mine on their land and often do so without acquiring permits. One Mining Chairman reported that he has never heard of disputes between miners and farmers, while the Paramount Chief of Golakonneh stated that such disputes are not common because most farmers are also miners: “Miners and farmers are one – they are one people.”

Also in Mana Clan, disputes between miners over claims are common. Some cases arise because one miner fails to renew his mining license, such that another person can be awarded a license to mine that spot, even if the original claimant has lived and mined in the same area for many years. Several informants reported that the Ministry of Lands, Mines and Energy (MLME) or the Mining Agent will give approval to mine areas already subject to another person's mining permit. Reportedly, several licenses are sometimes given to the same spot. This is allegedly due to the corruption of the Mining Chairmen and Mining Agent, who accept money for issuing claims to land they know is already issued to someone else.

In Ding – the only other clan with significant mineral resources – clan members reported that there are no disputes over mining. This is because miners recognize one another's individual claims and mining pits and do not trespass on these. Moreover, because the MLME distributes handbooks on the laws and rules for mining, people are familiar with the rules and follow them.

Disputes over Pit Sawing

Pit sawing is prevalent in Ding, Mana, and Ylan Clans. However, we only heard of disputes arising over pit sawing in Mana, where local authorities reportedly collect the “tolls” paid by pit sawyers and do not share the funds with the community, leading to disputes between the authorities and their communities. In 2005, a local representative accused the Paramount Chief of Golakonneh and a General Town Chief (GTC) of misappropriating funds from pit sawing. The two were found guilty by the Ministry of Internal Affairs (MIA), but refused to accept the ruling. The case was referred to the Minister, who eventually absolved them. In Ding Clan, clan members told us that there are no disputes over pit sawing because the pit sawyers have an interest in retaining access to clan resources and, as such, they abide by the rules and agreements with locals.

6.2 ANALYSIS

Study participants universally reported that the prevalence of disputes over land and natural resources is increasing and will continue to increase into the future. In Tengia, Little Kola, and Doblí, clan members also told us of the perceived causes of disputes over land and natural resources. Clan members in Tengia believe that disputes stem from population growth, lack of available cultivable land (decreased bush), unemployment, and decreased compliance with rules. In Little Kola, disputes are perceived to be increasing because of population growth, lack of respect for elders, increasing competition of land, and the production of tree crops. In Doblí Clan, boundary disputes were linked specifically to rubber planting.

In many of the studied clans, the growing number and severity of disputes indeed appears to be associated with rising competition for land and resources. Disputes were most prevalent in clans that were characterized

by relatively high population density (Gbanshay, Tengia, Ylan), close proximity to major urban centers (e.g., Gbanshay, Ding, Ylan), and the presence of high-value resources (e.g., Mana). In the event that the most grievous disputes are not resolved, these clan members relayed that they will resort to violence. Meanwhile, though disputes were present in other clans, members reported that they were not severe, and moreover, that they were settled locally.

Growing population density appears to be leading to increased demand for cultivable land as more and more people seek finite land to make farms. Pressures are exacerbated by the shifting cultivation system and the need to adequately fallow land before it can be productively engaged. Also, the proximity of some clans to major urban areas increases the number of wealthy, well-connected strangers, primarily from Monrovia, seeking to acquire land in the clan. And, as infrastructure and stability improves, clans with high-value resources are increasingly accessible – and vulnerable – to the acquisition of land by concessionaires and companies. These pressures on land are further exacerbated by the expansion of high value tree cropping, which shrinks the area of land available for seasonal cultivation, while also asserting an individual claim over land that often supports many. Each of these elements decreases the amount of land available for the cultivation and harvesting of natural resources and increases competition for the land, leading to disputes.

In almost all of the studied clans, agriculture was the primary source of livelihood. If the status quo does not change, if alternative employment opportunities are not introduced, and if unclear boundaries persist, competition over land and the prevalence of disputes will only increase in the future. The potential for violent conflict was clear in several studied clans – including Gbanshay, Ding, Mana, and Motor Road – where tensions with neighbors and with outsiders (including government agencies) claiming land and resources had reached a boiling point.

Yet, in several other clans, disputes were not violent or severe. In these clans, dispute resolution mechanisms appeared to be legitimate and effective. Additionally, the clans with the least violence also tended to be further removed from urban centers and had not undergone a major shift to rubber cultivation (though cocoa cultivation was prevalent in at least two of these clans, Tengia and Upper Workor). It is possible that, with two fewer pressures on land – fewer strangers are seeking land in the clans and there has been a less drastic shift to tree cropping – disputes in these clans have not reached the severity of those in Gbanshay, Ding, Mana, Ylan, and Dobl.

Issues of compliance with customary rules and governance authorities that were raised by clan members are also worthy of consideration. This is likely to have implications for the ability of customary authorities to effectively and durably resolve disputes.

7.0 DISPUTE RESOLUTION

Dispute resolution mechanisms in the studied clans are a mix of local customary and statutory authorities, alternative dispute resolution mechanisms, the courts, and other traditional processes involving secret societies and, sometimes, trial by ordeal. Many disputes followed more than one of the processes available after initial attempts at resolution failed.

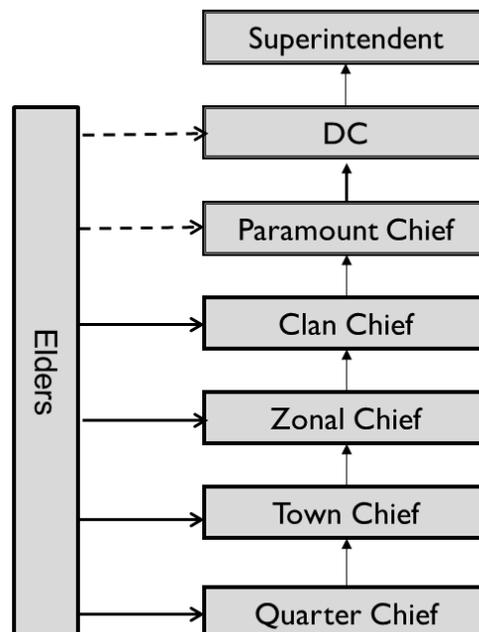
In this section, we present the processes in place for resolution of disputes from the perspectives of members of the studied clans. This includes institutions that settle disputes that occur primarily within the realm of customary tenure and those that cross over to the statutory realm.

7.1 COMMONLY ACCEPTED DISPUTE RESOLUTION PROCESSES

In all studied clans, the prescribed dispute resolution process follows a common hierarchy of local authorities. In this process, disputants first bring a case to clan-level statutory and customary authorities, namely the Quarter Chief or Town Chief, followed by the Zonal/General Town Chief (if the clan has such authorities), and then the Clan Chief. If the disputing parties agree with the ruling, the dispute is considered resolved. If either of the parties does not agree, the dispute escalates to the next level of the hierarchy. If the dispute cannot be resolved within the clan, it is to be referred to the Paramount Chief, the District Commissioner, and, eventually, the Superintendent.

In almost all of the studied clans, elders are an important part of dispute resolution. In many cases, disputing parties consult the elders before going to the Town Chief. In Ding and Mana Clans, the elders told us that they are involved in every level of dispute resolution – even as high as the District Commissioner – and often serve as a jury. The common dispute resolution process is outlined in Figure 7.1. Elders' advisory roles are depicted with solid lines where these roles tend to be more recognized and with hashed lines for roles that seem to be either more ad hoc or less clear.

Figure 7.1: Common dispute resolution process



In Saykleken and Ylan Clans, Family Heads serve as the first line of customary resolution for disputes that arise within immediate and extended families. In Saykleken Clan, the dispute resolution process begins with male heads of households. If they cannot resolve the dispute, it is then taken to the Quarter Chief. In Ylan Clan, it is the head of the extended family that works with the elders and serves as the first level of dispute resolution. In both clans, if the dispute cannot be resolved by the Family Heads, it is referred up the accepted hierarchy.

Many respondents reported that, when resolving disputes, they follow the prescribed dispute resolution process, and that most disputes are resolved before reaching the Clan Chief. However, in Gbanshay, Ding, Little Kola, and Ylan Clans, instances of bypassing authorities are common. For instance, in Gbanshay, many clan members take disputes directly to the District Commissioner. Similarly, in Ylan Clan, it is not uncommon for disputes to be taken directly to the Paramount Chief or District Commissioner. Little Kola Clan members sometimes bypass the Clan Chief and take disputes directly to the Paramount Chief or District Commissioner. In Ding, clan members told us that they frequently bypass the Paramount Chief and take disputes to the District Superintendent; this is especially true for cases of illicit land sales in which clan members allege that the Paramount Chief is an active participant. Rationales for bypassing authorities included desires to take disputes to authorities that would provide the best resolution, feelings of trust or mistrust in certain authorities, and a preference to bring disputes to those with enforcement authority (e.g., those who have the power to imprison someone). In Ding and Gbanshay, for example, the District Superintendent and District Commissioner are seen as more impartial than authorities lower in the hierarchy and are therefore more likely to resolve disputes fairly.⁶¹

Yet, some clan members stated that they prefer to take disputes to customary authorities as statutory authorities are perceived to be outsiders.

7.2 ALTERNATIVE DISPUTE RESOLUTION MECHANISMS

7.2.1 Chairmen and Elders

In both Motor Road and Nitrian, customary authorities are embedded in the dispute resolution process. For example, in Nitrian, disputes are first referred to the Quarter Chief, then to the Community Chairman – a customary authority – and then to the General Town Chief (GTC). However, clan members reported that it is rare for disputes to go beyond the Community Chairmen to the GTC. In Motor Road Clan, disputing parties first go to the Town Chairman – a customary authority – and then to the Town Chief. Clan members in Motor Road told us that they prefer to resolve disputes with customary authorities so as to avoid “the government.”

In Mana and Ding Clans, elders play more than an advisory role in dispute resolution. In Ding Clan, for example, elders work with authorities of all levels to enforce rules and resolve disputes. When there is a dispute over land that fails to be settled by the Town Chief and elders, the Clan Chief will call the elders to serve as advisors and jury. In turn, the elders may be called by the Paramount Chief and District Superintendent to serve in a similar role. Similarly, in Mana Clan, elders work closely with authorities at all levels of governance, serve as a jury for disputes, and are given the responsibility to investigate cases. Here, elders are reportedly very powerful; according to the youth, they have “strong medicine” and no one would dare oppose their decisions.

⁶¹ Foloblai, the town in Gbanshay where our research activities were based, was also the district headquarters. The proximity of the District Commissioner could also have influenced clan members to take their cases directly to him, rather than to local authorities. In Ding, the District Superintendent was also perceived to resolve disputes effectively because of the enforcement power he holds, including the fact that he has a jail and the authority to imprison violators.

7.2.2 Chairladies

In Dobli, Gbanshay, Mana, Motor Road, Nitrian, Saykleken, Tengia, Upper Workor, and Ylan, Chairladies were reported to resolve disputes, primarily among women. In Mana Clan, the District Chairlady is involved in dispute resolution at the highest levels. In contrast, however, the Clan Chairlady of Mana complained that the chairladies are “treated as slaves for the men” and are not invited to resolve disputes beyond women’s issues. Similarly, Chairladies in Tengia Clan reported that they only resolved disputes among women. In Saykleken Clan, disputes between women are first referred to women elders and then to the Clan Chairlady; most disputes are resolved at this level. However, if a party is not satisfied, the conflict is then turned over to male elders or chiefs in the clan.

Although Chairladies play a role in dispute resolution, their involvement in resolving disputes *over land and natural resources* – aside from a few exceptions – is very limited. Chairladies are not active in Ding or Little Kola Clans.

7.2.3 Youth Leaders

In Ding, Mana, and Tengia Clans, youth leaders were reported to play a minor role in resolving disputes, especially among fellow youth. For instance, in Ding Clan, male youth purported to be involved in resolving local disputes. An example provided was that when citizens from Marquoi Clan encroached on Ding Clan’s land, the youth reportedly threatened the strangers so that they would not encroach again. In actuality, however, this dispute has yet to be resolved. In Tengia Clan, disputing parties may consult with male or female Youth Leaders before bringing cases to the Town Chief. Yet we heard from other informants that Youth Leaders merely listened in to the dispute resolution process, presumably to learn about how disputes are resolved. In Mana Clan, youth reported that they resolve disputes amongst themselves and that these are not related to land.

7.2.4 Religious and Cultural Authorities

In many clans, religious and cultural authorities play an important role in dispute resolution, though their involvement in resolving matters related to land and natural resources is unclear. Such authorities include the Head Pastor (leader of the Christian community), Head Imam (leader of the Muslim community), Ma Zoe (head of Sande), Dakpanah (head of Poro), or other leaders of traditional society. In Mana Clan, all of these authorities were involved in dispute resolution, though only the Ma Zoe and Dakpanah were reported to help resolve disputes related specifically to land and natural resources. In Dobli Clan, the Sande and Poro, church and mosque, are often involved in dispute resolution and resolve disputes before they reach the Town Chief, though it is unclear how many of these disputes are explicitly related to land and natural resources. In Little Kola, the heads of traditional society often discipline people for not abiding by traditional rules, though these rules tend to be of a more spiritual or moral nature rather than explicitly related to land and resources. In Nitrian, the *Bodiob*⁶² used to mediate disputes; however, today, disputes are rarely taken to him because he has lost legitimacy among many in that community.

In Gbanshay, Little Kola, and Motor Road, clan members described cases in which “Trial by Ordeal” (TBO)⁶³ was used to resolve disputes. In one case in Gbanshay, clan members called the Sassywood Man⁶⁴ to settle a dispute over fishing rights. When he arrived, the accused party immediately confessed and the conflict was resolved. In Motor Road Clan, the practice is purported to involve using the poisonous bark of the

⁶² The *Bodiob* is a spiritual leader in Nitrian Community and is chosen from a particular lineage. He plays an important role in dispute resolution and land governance in the community. According to one elder in Nitrian, “the *Bodiob* is chosen by God to work with the tribal people”.

⁶³ TBO is a traditional practice in which persons accused of crimes are subjected to ordeals – typically swallowing poison or enduring pain – in order to determine their guilt or innocence.

⁶⁴ A Sassywood Man is a cross between a witch doctor and a judge. He is called to administer Trials by Ordeal to suspected culprits of crimes.

Sassywood tree. In Little Kola, TBO was reportedly used to punish those that break spiritual or cultural rules. TBO has been outlawed by the government and although clan members in each of these clans described these practices, they evaded answering when asked if they continue to be practiced with frequency today.

7.3 OTHER DISPUTE RESOLUTION MECHANISMS

7.3.1 Non-Governmental Organizations

The Norwegian Refugee Council (NRC) is active in Gbanshay, Ylan, and Doblí Clans. The NRC supports local communities in resolving disputes, particularly those concerning land. NRC practices mediation and seeks a resolution that will satisfy all parties. Some clan members in Gbanshay, Ylan, and Doblí Clans reported that the NRC was their first choice for dispute resolution, either because local leaders had been unsuccessful in resolving many disputes or because they felt the NRC was more likely to be neutral in seeking a resolution than local authorities. The organization is also appreciated for being faster, free, and more accessible than formal dispute resolution processes. However, the NRC approach is not agreeable to all, especially those wanting a “winner takes all” resolution. At least one individual in Gbanshay has refused to accept the negotiations suggested by the NRC. In Doblí Clan, the NRC reportedly also helps people in surveying their land. Motor Road Clan members told us that the NRC held a training session on dispute resolution, but that they are not otherwise active there.

In Tengia Clan, a Dispute Advisory Group works in conflict prevention and resolution, particularly on boundary issues. Clan members also mentioned “peacemakers” who are trained by the Justice of the Peace and who work with the Dispute Advisory Group to resolve disputes at the clan and town levels. However, beyond initial descriptions by clan members in discussions about community organizations, these two groups were not mentioned in discussions about dispute resolution.

7.3.2 Courts

Many of the study participants were aware of courts; however, the use of courts for dispute resolution in the studied clans was rare. This is due largely to the high cost and the time required to use the courts, both of which are prohibitive for most rural people. For example, clan members in Gbanshay reported that disputing parties who seek resolution through the Circuit Court located in Gbarnga must engage lawyers and wait for the dispute to be resolved through the legal process. In Mana Clan, the Magisterial Court is used sometimes, but is cost prohibitive for most clan members. In Doblí Clan, the Magistrate and Circuit Courts are considered the final stages of dispute resolution. While many participants in the studied clans expressed frustration with the process, we heard of several individuals in Gbanshay and Doblí who went to the Circuit Court to resolve their disputes after the commonly accepted dispute resolution process had failed.

7.3.3 Mining Dispute Resolution

Mining disputes follow a different dispute resolution process. Among the 11 clans, we only heard of dispute resolution mechanisms for mining in Mana Clan. Here, miners disputing a claim will go to the Mining Chairman, a locally selected official. If the Chairman is unable to resolve the dispute, it will be referred to the Mining Agent, an MLME appointee. In disputes over claim sites, the Mining Agent will close the mining area and will call the MLME to resurvey the claim. According to one elder, local authorities also investigate contentions relating to trespassing on mining claims, though this was not confirmed by those active in the mining community.

Disputes on the mining field among the Mining Boys are referred to the Head Mining Boy. If the Head Mining Boy cannot resolve the dispute, he will refer it to the Field Agent, and then to the miner (i.e., the claim owner).

Disputes between miners and farmers are resolved jointly by the Mining Agent and the Magistrate.

7.3.4 Disputes between Clans/Disputes with the Government

A dispute that crosses clan boundaries will be addressed by the Clan Chiefs and, if the dispute cannot be resolved, it will be referred to the Paramount Chief(s). In disputes between local communities and the government, however, there is not a clear process. For example, we were unable to obtain clear information on how the dispute between Motor Road Clan and the FDA over the Sapo National Park should best be addressed. In our discussions with Motor Road Clan members, we were told that they had appealed to the FDA on multiple occasions via letter, but had not received a response. One clan member had also appealed to the Sinoe County Superintendent and the Chief Park Warden for Sapo National Park. FFI has also served as a mediator for this dispute.

7.4 ANALYSIS

In many clans, dispute resolution appears to be undergoing a shift. The legitimacy of local dispute resolution authorities is increasingly being questioned, particularly among the youth. In some clans, this phenomenon seems to reflect the fact that these authorities were introduced by the state; they do not derive from local customary systems, nor are they fully accountable to their constituencies. This seems to be particularly the case with Clan Chiefs and Paramount Chiefs, and less so for Town Chiefs who tend to be more steeped in customary rules and values and use these to shape their decision-making on disputes. In other cases, local authorities appear to lack the capacity or jurisdiction to respond to the types of land and natural resources issues arising today (e.g., disputes between clan members and outsiders). Further, many local authorities reported that they lack the powers needed to garner legitimacy and to enforce their rulings, including support to punish individuals who fail to comply with those rulings. With limited enforcement support granted to local authorities, rule breakers can act with impunity. This support seems especially critical given that many traditional forms of punishment have been officially outlawed on human rights grounds. Moreover, actors that are knowledgeable about statutory practices can exploit the system and succeed in defying the rulings which are based on customary law. As an example, a woman in Gbanshay Clan took her suit to local authorities, the NRC, and, eventually, the courts, seeking an outcome that was agreeable to her (see Box 6.1).

In some clans, local-level authorities are viewed as biased by some members of the community, especially the youth. This is symptomatic of the lack of necessary democratic structures to hold these authorities accountable, including regular elections. Many Clan and Paramount Chiefs have been serving for decades without systems to monitor their performance or sanctions for poor performance that can be imposed by their own constituencies. In contrast, clan members in Little Kola and Motor Road still prefer local-level or customary authorities, primarily elders and those authorities serving at the town-level or elected through traditional means. Further, in many clans, Town Chiefs have evolved into a hybrid customary-statutory authority, such that clan members trust them to resolve local disputes. It could be that these authorities – elders, traditional authorities, and Town Chiefs – understand local realities and are thus better able to respond according to their norms and values.

At the same time, in some clans, there is increasing legitimacy of high-level statutory authorities – namely District Commissioners and District Superintendents – and reliance on them to resolve disputes. This has led some clan members to bypass local authorities and to take cases directly to these higher-level authorities. As a result, two competing systems of dispute resolution have arisen in many of the studied clans. High-level authorities and institutions act alongside – but not always in partnership with – local-level and customary authorities in land access and dispute resolution. Also, different authorities sometimes apply or interpret rules differently and value different forms of evidence. This leads to repeated appeals and “forum shopping.” Those with knowledge of customary and statutory processes are able to take advantage of the weaknesses and the lack of synthesis between these two systems and “shop around” for ways to attain land and to seek dispute resolution outcomes that will favor them.

8.0 TENURE SECURITY AND INSECURITY

Land tenure security may be defined as an individual's perception of his/her rights to a piece of land on a continual basis, free from interference from outside sources, as well as having the ability to reap the benefits invested in land, either in use or upon alienation (Place et al., 1994). Land tenure security is important to rural investment in productive activities, the sustainable use of resources, and food security. It is also a core component of social security for communities that depend on land as their primary source of livelihood. In this research, we examined people's perceptions around ownership⁶⁵ and control over land and other natural resources, and uncovered important revelations concerning communities' security of tenure. While in some clans sources of tenure insecurity were widespread and severe, in others they were few and manageable. This chapter highlights the main sources of land tenure security and insecurity in the studied clans.

8.1 SOURCES OF LAND TENURE SECURITY

8.1.1 Kinship and Communal "Ownership"

In each of the clans that we visited, the main sources of customary tenure security are ancestral claims and kinship ties. These claims to land extend back to the areas' original settlers who cleared the forests, thereby laying claim to the land and establishing governance rights over access to and use of the areas' resources. In Tengia, Upper Workor, Mana, Motor Road, Little Kola, Tengia, and Saykleken, people that live and farm on family land have perpetual, heritable rights to this land and claim ownership over it. Clan members in Saykleken, Nitrian, Upper Workor, and Tengia reported that they are not worried about losing their rights to land because the land belongs to them; since their forefathers lived and died on the same land, no one can take it away from them.

Patrilineal affiliation plays an important role in tenure security. In particular, primary rights to land are secured through "core tenure units." Primary rights within a "core tenure unit" are chiefly earned through one's patrilineal affiliation, i.e., children gain primary rights to land in the natal community of their father rather than that of their mother. Every citizen of these core tenure units has a right to access land and resources within his/her group's territory. In Nitrian Community and Saykleken, membership is at the community and extended family level, respectively, and we heard several times that people cannot refuse their brothers and sisters access to land because they have the same ancestors. Similarly, in Tengia, community members insisted that one cannot refuse to lend land to another member if their land is not ready to farm. In Upper Workor, land is held communally by the clan and, as one chief asserted, "The land is for all of us." In Ding, land is accessed at the town-level; citizens of a town have the right to access land and can make their farm anywhere in their town's bush, regardless of where their parents farmed or even where they farmed in the previous season. In Mana, land is claimed by extended families such that family members have the inherent right, based on their kinship ties, to farm a piece of the family's land. Even if absent from the land for 10 to 20 years, the land is still "for them."

⁶⁵ Use of the term "ownership" in this report refers to a family or individual who has a permanent claim to land or to a particular resource and has the right to transfer that claim to other members of his/her family (e.g., children). Ownership may come with restrictions on how the land/resource can be used or on transferring the land/resource to persons outside of the family (including prohibiting permanent alienation of land), with such restrictions often emanating from customary tenure systems. The term "own" likewise refers to the act of ownership.

In some clans, the abundance of land is a source of tenure security. Clan members in Nitrian Community, Motor Road, Upper Workor, and Saykleken informed us that there is plenty of land for everyone in the community, both for now and in the future. In Nitrian and Saykleken, there were many primary forests which community members could clear in order to assert permanent primary land rights. The perception that land rights are secure and that the community can rely on them to provide for itself over the long-term is present where there is little competition for land and natural resources. It suggests that these communities either do not anticipate external threats to their land rights or that their rights under custom give them the authority to fend off such threats. Unfortunately, neither of these scenarios is likely to be the reality in the future unless changes are taken to protect their rights.

8.1.2 Deeds and Tenure Security

Deeds often provide significant tenure security to the deed holders and, in some cases, to their extended families. In the clans where deeds were present, we found that there were fewer incidences of encroachment and/or disputes on deeded land.

“We bought the land from the government; we are the land owners now.”
– Nitrian Community Elder

Individuals with deeds issued in their names had concomitant ability to exclude their land from customary tenure which seemed to give them land tenure security. Most deed holders claimed they were not worried about encroachment because they had documentation to prove their claims to land. In Nitrian, where people claimed that a deed had been issued to the entire Nitrian Community, having that deed seems to reassure most member of Nitrian that they will perpetually manage and control the land, and that the government is no threat to their ability to do this. Yet, this was not the case for areas that were covered by one or two large deeds as we explain in section 8.2.2. Moreover, people who had illicitly obtained deeds also did not seem to have security of tenure because their claims to land were highly contested.

8.1.3 Life Trees

In some clans, such as Doblí, Ylan, Gbanshay, Tengia, Upper Workor, and Motor Road, life trees constitute a source of tenure security for those that have them. Once one plants life trees on a piece of land, typically no one can clear the trees or claim the tree products other than the person who planted them and his/her immediate family. Moreover, the rights to the land and the trees are perpetual and heritable. As one woman in Ding stated (in regards to rubber), life trees are “like a deed for us.” However, the security benefits are disproportionately enjoyed by men, who are primarily the ones who plant life trees. In cases where women planted trees or inherited land planted in trees (e.g., Ylan), women reported that these practices ensure that no one will take their land from them. In some clans, such as Ylan and Doblí, strangers are sometimes granted the right to plant life trees, which can reinforce their right to remain in the clan. In some clans, however, the legitimacy and permanency of the claim to land after planting life trees depends on who plants them. In Gbanshay, we heard of cases where borrowers planted trees but lost access to the land and trees after land owners contested their use of the land. Likewise, encroachers in Ylan have sometimes lost portions of land planted with trees during disputes resolution. We also heard of cases where people lost their claim to land/tree after family members disputed their use of family land.

8.1.4 Tribal Certificates

In each of the clans that we visited, families of individuals or towns that acquired TCs are considered landowners *under customary rules*. In these clans, the customary tenure system has incorporated TCs such that they are viewed as legitimate evidence of primary rights to land. Although TCs are not recognized by the state as evidence of land ownership, many individuals appear to be unaware of this. In Ylan, Gbanshay, Doblí, and Motor Road, some community members that farm on land under TCs claimed that they felt secure about their rights to land since they had documentation to prove their claims. Oftentimes, those without TCs are seeking to acquire them because they are worried that without them, they could lose their land. TCs are also seen as evidence that can protect one’s land from encroachment by neighboring farmers, towns, and clans. Whereas many people consider their TCs to be valid even if they acquired them many years ago, others assert

that they expire after three or four months, after which an extension or new TC must be obtained in order to proceed with surveying the land. Due to the confusion surrounding TCs and the rights that they entail, TCs are also explored under Sources of Tenure Insecurity.

“The Tribal Certificate is just an engagement. The deed is like a wife.”
– Member of Farm Cooperative, Gbanshay Clan

8.2 SOURCES OF TENURE INSECURITY

8.2.1 Documentation of Claims to Land

Except for Nitrian and Doblí, which claimed to have deeds issued in the name of the clan and district, respectively, very few indigenes in the studied clans have deeds for their land. The few indigenes who have deeds issued to them as individuals tend to be elites in the community, as is the case in Ylan. In Ylan, Upper Workor, Motor Road, and Ding, many citizens felt that the land that they claim through customary tenure regimes could be expropriated by the government or private investors at any time. To prevent this, many clan members are trying to obtain documents to secure their claims to land. For example, in Ylan, Little Kola, Gbanshay, and Doblí, we learned that many people or towns have obtained or are trying to obtain TCs as evidence of their claim. Where they have been unsuccessful thus far, some clan members are aware that there is a moratorium on the purchase of public land⁶⁶, and blame that for the delays. Others cite the cost and complexity of pursuing TCs as the reason they have not completed the process. Having noted this, it is important to clarify that not all clans we visited had fears of expropriation by the government. In Tengia, even though clan members regarded land as belonging to the government, they claimed that the government could not take it from them unless clan members chose to let them have it.

In cases where people have realized that TCs are not legitimate documents of land ownership, contested TCs are a source of tenure insecurity. In Gbanshay, Doblí, and Ylan, when land disputes occur, people who know that TCs do not confer legal rights use this to challenge the land rights of some TC holders. This has provoked clan members in Ylan and Doblí to pursue deeds to protect their claims to land. In Gbanshay and Doblí, community members reported several disputes that have occurred as a result of people, including borrowers, encroaching on land under TCs because they learned that the owners do not have legitimate rights to land under the TC. Remarking on the preliminary and less binding nature of TCs, one citizen of Gbanshay stated that, “The Tribal Certificate is just an engagement. The deed is like a wife.”

Likewise, in Doblí, and Ylan, some people reported that they feared they could be evicted from the land because they do not have legitimate documents to secure their claims, while others who claim to have bought land are threatening to evict people that have been living on the land for generations. For example, in Doblí, the research team learned that the self-proclaimed “landlord” can evict a person that does not follow the norms of the clan or that tries to buy land.⁶⁷ In these clans, people believe that claims to land needed to be secured by obtaining TCs and deeds, but very few people or towns have attempted to do this because of the complexity and expense of the process, which is prohibitive for most communities. As a result, many individuals in Upper Workor are calling for land to be converted into a Communal Holding at the town level, in which case the deed would be in the town’s name with the Town Chief acting as the trustee of the land on behalf of the entire community.

⁶⁶ Land that is not under a deed is considered public land by the GOL.

⁶⁷ According to clan members, the landlord is an adopted son of Botoe Barclay who is said to have deeded Fumah District and Doblí Clan. He is also the chief clan elder and makes all the major decisions on land allocation.

8.2.2 Scale of Ownership Claims

Our study reveals that, even when land is deeded, how rights are vested greatly influences land tenure security. Whereas both Dobli and Nitrian claimed to have communal deeds, in Dobli, there is great uncertainty as to whether the deed is issued in the name of the district or a former government minister. Meanwhile, a powerful leader designated as the “landlord” reportedly exerts great influence over access to land and has the power to evict clan members. Furthermore, clan members are uncertain about who has the deed. As a result, many people within the clan have acquired or are seeking to acquire TCs and deeds to defend their claims. By contrast, in Nitrian, where the deed to the community’s land is reported to be in the name of the community, people seem to feel much more tenure secure than Dobli citizens. We did not hear of any member of Nitrian community trying to acquire TCs or deeds to secure their rights to land.

Tenure insecurities in Dobli are compounded by the fact that the two different types of TCs have been issued to applicants, one by the GOL and another by the “landlord.” Members reported that when they have tried to use TCs from the landlord to obtain deeds, the TCs were rejected by government officials. Only the elite and outsiders have been able to obtain deeds in the clan. Other people that have tried to acquire deeds have been threatened with eviction by the landlord.

8.2.3 Concessions and Private Investors

In Nitrian, Mana, and Little Kola, community members were adamant that investors and concessionaires should not be given permission to use land held under customary tenure without first consulting and compensating community members. Yet, our visits with these communities – particularly Mana and Nitrian – showed that clan members are rarely consulted prior to licenses and concessions being granted. In Nitrian Community, members reported that there are no concessions in the community, and yet we later learned that various concessions within the community have been granted by the government. In one example, 240,000 hectares were granted to Golden Veroleum for an oil palm concession. The company is already improving roads in the area to facilitate access to the land, which will cover a significant portion of Nitrian Community. Community members did not mention this concession as a potential threat to their land rights, raising concerns among members of the research team that the government either signed the agreement without informing the community members, or that community members are aware of the concession but do not understand the implications of the concession in terms of their land rights.

In Mana, clan members feel insecure in their access and rights to the clan’s land and mineral resources. Several predicted that wealthier people – including Class B mining companies – will acquire all of the mining claims in the clan, leaving none for citizens, and may even acquire claims to the land used by clan members for farming. While clan members recognize that mining and logging concessions could bring employment benefits, the vast size of these claims means that concessions have the potential to displace settlements and customary landowners. Clan members realize that they are competing for land and claims with wealthier, more powerful interests, and that this has the potential to jeopardize their access to the resources on which their livelihoods depend. The growth of such concessions could prove to be the most formidable threat to the tenure security of members of Mana Clan and Nitrian Community.

Even in some clans without concessions or private investors, there is a sense of tenure insecurity based on experiences in neighboring clans. For example, in Little Kola, community members raised concerns about potential concessions in their clan, owing to their growing presence in neighboring clans and negative experiences with concessionaires of these clans. Reportedly, the Liberian Agricultural Company, which operated in Grand Bassa, forcibly removed more than 60 towns within one of its concession areas. In Motor Road, a timber company known as the Railroad Timber Company reportedly occupied clan members’ houses and promised to give them zinc roofs in return for logging their land. Clan members also reported that they destroyed the forests in the clan. According to them, no consultations were undertaken with the communities, who were afraid to challenge the loggers because they were armed with AK-47s and were (ex)-combatants. In the end, they left without providing zinc or paying rent on the houses they occupied. Many citizens of these clans are anxious to acquire deeds to their land, and hope that by doing so their land will be

protected from appropriation by concessionaires. However, most feel that they lack the resources to do so. Others believe that, with profits from rubber cultivation, they will eventually have the means.

And, yet, not all people we interviewed had problems with concessionaires or private investors. In Upper Workor and Tengia, some clan members felt confident that their land could not be taken away from them by private investors and, in Upper Workor, people are actually eager for investors to come to their clans, as long as agreements are made first between clan members and the investors. In Tengia, when asked whether community members had concerns about outside investors acquiring land, an elder responded, “No one can remove us from our land except the government or war.” In Saykleken, although there were some bad experiences with concessionaires, clan members also reported good experiences with some concessionaires and called for the government to send more to the clan.

“No one can remove us from our land except the government or war.”

–Elder from Tengia Clan

8.2.4 Government Claims to Land

The historical precedence of government claiming land held under customary tenure appears to have impacted communities’ sense of tenure security. For example, in Mana, Motor Road, Saykleken, Tengia, and Ding, some clan members expressed fear of government expropriation of land. In these clans, members expressed concern that the government could take their land, either to give to private companies as concessions, for government projects, or to develop as national parks. Commonly, clan members reported that “The land belongs to the government.” Some reported that their power to stop expropriations is weaker because they do not have deeds to the land.

“We don’t worry when people borrow our land. We only worry that the government will one day ask us to leave.”
– Elder from Tengia Clan

In Tengia and Upper Workor, some people were cognizant that government has compulsory acquisition authority, but since past land acquisitions have been to acquire land for services that benefit clan members (e.g., schools), many are not contemplating expropriations that are contrary to their own interests. Yet others in the same clans expressed concern that the government

might someday try to take their land. In Tengia, one Sectional Chief explained that the government could take their land because “We don’t have a deed.” Some members of Upper Workor Clan believe that a deed would help them have more bargaining power, especially if the government found minerals in the clan. Indeed, one means of gauging clan members’ sense of insecurity over land is by how often they expressed the importance of surveying and documenting their land rights.

The predicted redevelopment of the Tubman Military Academy (TMA) land has fueled a sense of tenure insecurity in Ding Clan. If the full 10,000 acres held under the TMA claim are developed, citizens residing on the land would be evicted and would lose their crop and life tree investments. Moreover, given the extent of TMA land that is also covered by either a deed or TC, infringement on people’s rights could further erode people’s faith in the legitimacy of statutory documentation of land rights. This is already increasing perceptions of tenure insecurity among clan members who, in some cases, have been blocked from harvesting their crops.

In Nitrian Community, the creation of the Nitrian Community Forest has resulted in both tenure security and insecurity. While some community members believe that if they conserve the forest, the government will not take it, others expressed fear that, despite their conservation efforts, the government could still expropriate the forest. Though community members believe that they have a deed to the entire community and therefore own the land, they were also told that the land and minerals belong to the government. Thus, many community members iterated the importance of surveying and documenting their rights to the forest to prevent expropriation. It is possible that tenure insecurity could have a negative effect on forest conservation.

If communities anticipate that they could lose their forests, this could negatively affect their incentives to sustainably manage forest resources.

In Motor Road, the extension of the northwestern boundary of the Sapo National Park and the subsequent creation of the three kilometer buffer zone around the park are contributing to tenure insecurity for clan members, who expressed suspicions that the FDA is seeking to take and profit from their land. Enactment of the three kilometer buffer zone would have precluded expansion of farms and settlements from land falling within the zone and shrunk the clan's available resource base for hunting, fishing, and gathering NTFPs. Furthermore, the FDA proposal to transfer the Upper Wedjah Community Forest to the other side of the car road has weakened the community's tenure security to the forest and bred uncertainty over who actually exercises control rights over it.

8.2.5 Deeds and Tenure Insecurity

In Little Kola, Ding, Ylan, Gbanshay, and Doblí, clan members are able to access land that is held under individual/family deeds and TCs registered in the name(s) of indigenes for seasonal farming and the harvesting of products from the bush. However, these communities could face some risk that descendants of those who acquired the deeds and TCs could eventually assert an individual claim to the land and remove it from the realm of customary tenure. For example, clan members in Little Kola continue to access land held under deed according to customary rules. One of these deeds is registered in the name of an individual and, recently, a descendent of this individual attempted to have the land resurveyed in her name, though it is unclear if the purpose of this was to remove the land from community use. Likewise, a few towns in Ding are held under a deed (most towns only have TCs). Despite these deeds issued in the name of lineage members, the possibility of these documents being used by their holders to assert exclusive rights to the land was not perceived as a source of tenure insecurity among clan members in Ding and Little Kola. Clan members did not seem to be concerned about losing rights to deeded land, maintaining that the deed holders are citizens of the clans, and that, since they have never sought to exclude clan members, they are unlikely to do so in the future.

8.2.6 Women's Tenure Insecurity

Women are doubly vulnerable to land tenure insecurity, as they may be insecure due to customary norms within their own communities and due to outside pressures affecting their communities as a whole. Though in all 11 studied clans we encountered support for women's access to land within the customary tenure system, the fluidity of women's land rights leaves them vulnerable and tenure insecure. For example, in Tengia Clan, some reported that if women return to their natal community, they have to ask their brothers for land. In Nitrian, community members reported that women do not have direct access to land, but rather can only access it through male relatives or Quarter Heads – who are also male. Although this does not mean that women in Nitrian do not have access to land, their position is precarious because they have to depend on a male to access land. Here, we also learned that men determine where a woman may farm. Moreover, women cannot inherit house spots, and single women do not have perpetual rights to house plots. In both Saykleken and Nitrian, women do not control or inherit land, nor are they allowed to plant life trees, which would give them primary and perpetual rights to land.

In some clans, we also observed positive trends in terms of women's land tenure security. For example, in Little Kola and Ylan, women exercise important control rights over land. In Ylan and Tengia, women have permanent rights to land parcels and plant life trees, which increase their land tenure security. Widows in Ding Clan exercise relatively secure use and control rights to land. For example, a widow who resides in her deceased husband's community may continue to access land there, may retain control over the house spot, and may often gain rights over tree crops that he planted or that they planted together. According to some Town Chiefs, a widow assumes control of the household land after her husband's death, even if she has no children.

“Even if citizens have deed to the land, people with power and money will run over the poor people.”

– Community member, Little Kola

8.2.7 Unclear or Poorly Defined Land Boundaries

Boundaries to land held under customary tenure are typically marked by soap trees and pathways, as well as by geographic features such as rivers, creeks, mountains, and valleys. Children learn about these boundaries from their fathers who show them where their claims end. Unfortunately, such boundaries are subject to changes over time and have been a source of tenure insecurity and disputes in these clans. For example, in Doblí, Gbanshay, and Ylan, community members reported that it is not uncommon for these kinds of boundaries to be crossed, especially by people that plant life trees. In Gbanshay and Doblí, women seemed to be especially vulnerable to encroachment of their land.

Unclear or poorly defined boundaries also affect land held under TCs. In Gbanshay, we saw TCs with land boundaries only defined on three sides of the property. This is contributing to holders extending their claims further back from the road. We were told that in the past, “people knew where to stop...there was a common understanding...but now people are running the limits.” Unclear boundaries and unpredictable claims have resulted in tenure insecurity.

8.2.8 Poorly Enforced Borrowing Terms

In many of the studied clans, it is common for people to borrow land for one or two farming seasons. The seasonal nature of borrowing rights is not necessarily a source of tenure insecurity; rather, this system is appropriate for the bush fallow cultivation system. Further, many communities have customary norms that support lending land to one’s neighbors. However, borrowing arrangements are becoming more insecure in areas subject to increasing land pressure, particularly in areas with growing interest in cultivating life trees. Likewise, borrowers are creating insecurity among perpetual right holders by planting life trees, which asserts perpetual rights to the land and, in turn, contributes to reluctance on the part of landholders to lend their land. In Little Kola, Saykleken, and Ylan, community members requested that their land be surveyed and deeded to prove their ownership and to prevent borrowers from asserting permanent claims.

8.2.9 Acquisition of Land by Elites

The acquisition of land by privileged Liberians is the primary source of tenure insecurity in Ding, Ylan, and Mana. In these clans, both past and present local authorities have been accused of using their power to facilitate the transfer of land rights to elites – both outsiders and well-connected indigenes – fueling tenure insecurity and land disputes. Even clan members with deeds and TCs fear that their land can be transferred to elites via deeds. Tenure insecurities are particularly acute in clans where outsiders have acquired deeds and used these to exclude communities from land they traditionally claimed under custom. We saw this particularly in Ding, Ylan, and Mana. In Ding, where community members have sought to acquire TCs and deeds (mainly at town-levels) to protect their own interests in land, some are concerned that even having such documentation will not protect them against the power of “big hands,” that is, wealthy outsiders. They feel that those with money and power can always find a way to acquire land. Reportedly, authorities have authorized land transfers – often with the suspicion that they are receiving bribes to do so – without consulting with Town Chiefs, elders, and citizens. Some authorities have even been accused of forging the signatures of other authorities on certificates authorizing land surveys, and of personally profiting from these land transactions. Speaking about acquisition of their land by some wealthy and former government officials, an elderly man from Ylan said, “When you don't have money, you are not respected; even your rights are not recognized.” In Ding, several youth felt that violence was their only weapon and reported using cutlasses to prevent surveys from being carried out on land claimed by local communities.

8.3 ANALYSIS

Many people are trying to protect their historical claims to land from investors, concessionaires, the government, and land borrowers. Whereas communities are eager to benefit from economic opportunities that investors or concessionaires may bring, they want their rights to be respected and to be accorded a decision-making role in whether and how outsiders gain access to land that belongs to the community.

The importance of documenting customary claims and clarifying statutory claims to land is strongly apparent when one looks at the main causes of tenure insecurity in the clans visited. Particularly in those clans experiencing increasing competition for land and mounting tenure insecurity, there is considerable demand for statutory forms of documentation to back up their claims to land – mainly in the form of deeds issued at town levels with Town Chiefs acting as trustees. This is viewed as the most effective means by which they can protect their land from acquisitions that neglect to benefit them. But for such deeds to provide citizens with meaningful tenure security, communities must be able to trust local authorities to stand behind these documents in the face of more wealthy and powerful interests. By themselves, neither deeds nor other forms of statutory documentation of land rights will be sufficient to engender the tenure security of clan members. Rather, the integrity of state-issued documents depends heavily on the integrity of the state authorities charged with upholding the rights these documents convey. Moreover, our findings indicate that the promotion of exclusive and alienable rights to land through deeds is not always the best solution for these kinds of communities and may not necessarily result in tenure security, especially since these communities depend greatly on flexible, diversified, and communal land tenure systems for optimal land and resource use.

Finally, land tenure security is necessary, but on its own it cannot guarantee improved and sustainable rural livelihoods. Measures to improve land tenure security need to be complemented by pro-poor policies that would reduce people's vulnerability to poverty and enable them to make best use of the land resource in their communities. Moreover, there is a need for the GOL to address disputes and tension that have arisen because of the existing land tenure insecurity.

9.0 COMMUNITY RECOMMENDATIONS

9.1 LAND AND RESOURCE RECOMMENDATIONS

During our interactions with community members in each of the 11 clans, we regularly explained the purpose of the study – to provide input into the land policy reform process in Liberia – and actively sought input from members of the community. As a result, we were able to gather numerous recommendations from clan members. Here, we outline some common recommendations that are related to land and natural resources. For clarity, we have specified which clan(s) offered each specific recommendation. The recommendations listed here do not necessarily reflect the recommendations of the research team.

9.1.1 Tribal Certificates and Deeds

- Processing Tribal Certificates (TCs) into deeds should be cheaper and simpler. (Gbanshay)
- The process for obtaining TCs and deeds should be devolved to local government authorities. (Gbanshay; Ylan)
- The process of obtaining TCs should begin with the local authorities and include elders, youth, and women leaders. (Ylan)
- Government should survey all land under TCs and provide deeds for the land. (Ylan)
- Government should survey and provide TCs or deeds for land claimed by families/towns/clans held under customary tenure. (Ding; Little Kola; Mana; Nitrian; Saykleken; Tengia; Ylan – the recommended geographic level of deed differed by clan)
- Government should replace documentation lost in war. (Tengia)
- Government should place cornerstones to mark boundaries, as boundaries are currently marked by soap trees, geographic features, or nothing at all. (Saykleken; Tengia)
- If land currently held collectively is to be transferred to individual ownership, the government needs to educate local people about the implications of this transfer. (Upper Workor)
- There should be a ceiling for land held under TCs and deeds so as to permit others to acquire land. (Gbanshay; Ylan)
- Government should demarcate and deed Nitrian Community Forest and Upper Wedjah Community Forest. (Nitrian; Motor Road)

9.1.2 Document Land Transactions and Sales

- If the government is to sell land to the people, it should make an arrangement whereby people can pay for the land in installments. (Upper Workor)
- Government should reduce the price of surveying land to enable every clan member to buy his/her land. (Dobli)
- All land transactions – including rentals and borrowing arrangements – should be documented and documents should be kept securely. (Gbanshay; Little Kola; Tengia; Upper Workor)

9.1.3 Protect Customary Rules and Rights of Ownership

- Government should carry out land reforms that will support the local people's ownership of land. (Ylan)
- Families living on and using land should be given first preference when land sales begin. (Upper Workor)

- The current land tenure system is working well and should not be changed. If, however, there is a need for change, the towns should receive TCs in town names (though some individuals would like land to be privatized and individually owned). (Upper Workor)
- Customary laws play a major role in promoting peace and harmony in the clan. The government should respect local people's rules for land and natural resources. (Ding; Upper Workor)
- Government should prevent local leaders from abusing their power and taking or selling land. (Ding; Ylan)
- Government should prevent land sellers and buyers from taking clan land without first consulting with the community and letting the people decide. (Ding)

9.1.4 Protect Women's Land and Resource Rights

- Protect women's rights to property so that they are not disenfranchised in cases of divorce or widowhood. (Mana; Tengia)
- Ensure that women's land rights are equal to those of men. (Mana)

9.1.5 Limit Acquisition of Land Done Irregularly or by Outsiders

- Strangers should not acquire ownership rights to clan land. (Gbanshay)
- Government should nullify all deeds that were obtained by former clan-level government officials who used their power to obtain land. (Ylan)
- Government should investigate the legality of deeds obtained by outsiders during the Tubman, Tolbert, and Doe administrations. (Mana)
- Government should revoke deeds obtained by outsiders when the land has not been developed for 10 years or more. (Mana)
- Ensure that companies work with and contribute to clans' development. (Mana)
- The government needs to consult local people before approving mineral extraction in the communities. (Upper Workor)
- If the government uses land, it should dedicate a certain percentage of the revenue from the land to people in the communities. (Tengia)
- Government or companies seeking land in the clan should consult citizens and negotiate terms of agreement with them. No force or intimidation should be applied. (Little Kola)
- Mining companies and concessionaires should compensate the community and/or contribute to local development. (Mana; Motor Road)

9.1.6 Support Local Governance Authorities

- Government should support local leaders. (Little Kola)
- All local leaders, especially the chiefs, should be paid by the government or the towns. This will give them an incentive to carry out their roles effectively and efficiently. (Dobli; Saykleken; Tengia; Upper Workor; Ylan)
- Government should provide law enforcement officers in the clan. (Dobli)
- Land matters should not be settled without consulting local authorities. (Upper Workor)
- Elections should be held on regular basis so that community members can select their chiefs and other authorities to manage their affairs. (Saykleken)

9.1.7 Encourage Dispute Resolution

- The resolution of land disputes should be handled locally by traditional authorities. (Ylan)
- Local leaders should be empowered to resolve land disputes. (Gbanshay)

- Uphold the local traditional dispute resolution process, such that disputes are referred to statutory authorities only when they cannot be resolved at the town level. (Little Kola)
- Government should set up dispute resolution centers in the towns. (Ylan)
- Set up a group to resolve land disputes locally. This group would travel to different towns and villages and help local leaders establish agreements on boundaries. (Tengia; Ylan)
- Empower the Norwegian Refugee Council to demarcate land boundaries and also resolve land disputes (Gbanshay)
- Make the justice system equitable and fair so that the poor and rich can both have a chance to win. (Nitrian)
- Government should help resolve ongoing boundary disputes between clans. (Dobli; Gbanshay)

9.1.8 Aid Local Agricultural Development

- Government should provide training programs to help clan members improve their agricultural activities. (Nitrian; Ylan)
- Women should be taught modernized ways of swamp farming. (Ylan)
- Government should provide seeds and farming materials to communities for farms and gardens. (Motor Road; Nitrian; Ylan)
- Government should provide loans so that local people can plant more life trees. (Saykleken)
- Government should promote food crop production so that there is a balance between rubber planting and food production. Some felt that landowners should be subjected to limits on production of cash crops. (Gbanshay)
- Government should provide job opportunities for the youth as a measure to alleviate rising pressures on land and to prevent further disputes. (Tengia)
- Government should help clan members better understand the weather changes so they can better plan their farming activities. (Nitrian)
- Government should help improve livelihoods by helping clan members start small businesses. (Nitrian)
- Government should rehabilitate deforested areas. (Ding)

10.0 POLICY RECOMMENDATIONS

In this chapter, we draw from the research carried out in 11 clans to provide suggestions for actions that the Government of Liberia (GOL) can take to strengthen the tenure security of rural communities who rely primarily on custom to secure their rights to land and natural resources. Our recommendations are structured around three principal objectives:

1. To provide legal recognition of customary land tenure and immediately protect rural communities from further challenges to their customary claims;
2. To develop an inclusive process for adjudicating and recording community based tenure claims in a manner that reflects local norms and values and provides equitable access to land for rural populations; and,
3. To reform local land and natural governance institutions so that they command social legitimacy and can be held accountable by their constituencies.

We begin with a discussion of legal reforms for consideration, and then present measures which could substantially protect the land rights of rural communities in a manner that is compatible with their tenure systems under custom. We also offer ideas for treating fee simple deeds to land located in areas traditionally claimed under customary tenure; reforming local authority structures for governance of land and natural resources to enable them to be more accountable to rural communities and better equipped to resolve land disputes; improving the effectiveness and durability of resolutions to land disputes; and enabling rural investment and biodiversity conservation. We conclude with proposals for additional measures to enhance women's land rights beyond recommendations embodied in the other sections.

10.1 LEGAL REFORMS

Existing statutory law governing real property rights in Liberia presents many barriers to securing the land rights of rural communities, including laws and provisions that are vague or ambiguous, outdated, contradictory, and often outright discriminatory and offensive. A comprehensive review of civil law governing land tenure by Bruce and Kanneh (2011) recommends adoption of a *Community Land Law* to substantially replace existing laws affecting the land rights of rural communities in Liberia, a recommendation that we endorse as critical to helping to remedy the many sources of tenure insecurity uncovered by our research. In this section, we provide a framework for elements that this law might seek to embody based on our findings.

Our research confirmed that communities in rural Liberia continue to face major threats to their land tenure security, which in turn threaten the fragile peace that Liberia has sustained for almost a decade. These tenure insecurities emanate in large part from the relentless subtraction of land from the customary realm, either through concession or via public land sales (primarily to outsiders, but also to local elites); conflicts between customary and statutory tenure; and discordant plural institutions for resolving competing claims that often lack adequate enforcement capacity.

It is critical that rapid actions be taken to stem the tide of threats to the customary land rights of rural communities and, as such, the moratorium on public land sales should continue. The moratorium has been useful in reducing the erosion of customary land rights by impeding the removal of land from those who claim it under custom and historic right and its transfer to elite hands in fee simple tenure. Nevertheless, more stringent enforcement of the moratorium and closing loopholes that have allowed some individuals to by-pass it are needed to make it more effective. Moreover, a similar moratorium should be instated on the granting of concessions – the primary means by which communities are disenfranchised of their land rights – until such time as the necessary measures safeguarding communities' rights are in place. These measures

include: 1) law that grants legal recognition to land claimed under customary tenure, 2) regulations that map out a process for systematically documenting the land rights of rural communities based on custom, and 3) enactment and completion of that process at a national level. The moratorium need not occur over the whole country before any investment/concessions can take place, but rather could be prioritized on a case-by-case basis in each specific area where investments/concessions are planned.

Bruce and Kanneh (2011) advise the GOL to consider a new Public Land Law that “defines public land and clearly distinguishes between public land and land held by local communities under customary land tenure.” Reforms to the Public Land Law could be coupled by a Community Rights Law that would substantially replace the Hinterlands Rules and Regulations and the Aborigines Law – if the latter is even still in effect. By drawing on the positive elements of these laws while abrogating the archaic, contradictory elements that infringe on *Community Land* rights, a Community Rights Law would provide explicit recognition of customary land rights as perpetual, heritable rights subject to the same legal protections as fee simple tenure, though not necessarily including rights of transfer and mortgage. Such a law might also define Tribal Reserve (first articulated, but never defined, in the Hinterlands Law) as land available for communities to exert collective, perpetual, heritable rights to land in accordance with custom, and which is inalienable unless removed by a member of the claimant community via a locally prescribed process to convert it to individualized fee simple tenure.

To maximize capture of all or most land currently governed under customary tenure systems, *Community Land* could potentially apply to all land falling outside designated urban zones that is currently not secured by a legitimately acquired fee simple deed or government claim (e.g., park, public university, military installation, roads, port) and not *presently* encumbered by an existing leasehold or concession granted by the government. *Community Land* would therefore be excluded from the public land realm, making it not only ineligible for public land sale, but also tempering the practice of government granting concessions without regard to whether the land is under customary claim(s). Clearly, special provisions would need to be made for existing leases and concessions on land that would otherwise fall under *Community Land* to ensure that current beneficiaries be allowed to retain rights under existing contractual terms. However, upon the date of contract expiry, such land could become automatically designated as *Community Land*, providing local communities an opportunity to exert customary claims.

10.2 DOCUMENTATION OF CUSTOMARY RIGHTS

In order to equip communities with the means to safeguard their customary land rights, we recommend that the GOL issue documentation that vests those rights in *communities*, not individuals. Such documentation would vest in communities rights on par with those guaranteed under fee simple tenures, minus the right of alienation. It is clear from the customary land tenure research described in this report and in other research carried out in rural Liberia that group tenure based on patrilineal and other community affiliations form the foundation on which customary land tenure systems in rural Liberia function. While war, economic opportunity, and the imposition of statutory law and authority structures have taken a toll on compliance with customary law, by and large these systems continue to command strong social legitimacy and, for most rural communities, are the only tenure systems that truly govern how people access and use land and natural resources. For these reasons, we recommend that the principal basis for documentation of customary tenure should be the unit within which primary rights to access land and natural resources are acquired and where the main locus of land and resource governance is housed – the core tenure unit. This would provide the necessary flexibility to vest and document rights in towns, quarters, extended families, or other communal structures based on what local communities identify to be socially legitimate.

The mechanics of how those land rights should be documented is complex given that Liberia not only has a long history of recording rights in the form of deeds, but also has law on its books governing title registration and may eventually move toward replacing deeds with a title registration system. Laws governing both deed registration and title registration allow for the registration of rights vested in groups. However, the systems are cumbersome and costly, and – at least for deeds – have proven to be out of reach for most rural

communities. Instead, we suggest that the government consider simpler approaches for recording the land rights of core tenure units based on low-cost demarcation methods (even if these do not offer state-of-the-art precision) and provide a simple certificate that describes the rights granted to the community plus a basic description of the physical boundaries and a sketch map of the claimed area. The certificate could also include “encumbrances,” such as secondary rights granted to neighboring communities to harvest certain natural resources. Demarcation should also involve a process whereby community rights can be recorded on a cadaster so that a graphic composite of community claims is available and can be used to inform the actions of government and potential claimants as well as serve as a source of evidence in case of disputes. Nevertheless, care would need to be taken to reflect “soft boundaries,” such as overlapping and fluid rights between communities where these exist, so as not to distort the tenure situation and potentially arouse community conflicts. Finally, vesting land rights in a community defined by the core tenure unit will necessitate that it be given a legal identity and that by-laws are in place that prescribe who can administer the rights of the collective and how they can do so.

We further recommend that the government weigh the option of *systematically* recording *Community Land* rights throughout the country at minimal or no cost to those communities apart from their time to participate in the process. While the costs and time involved in systematic regularization processes should not be underestimated – and substantial donor support would need to be mobilized to complement government resources – doing so is likely to offer the greatest protection to the land rights of rural communities by ensuring these rights are visible to the government and to potential competing claimants, including neighboring communities. In this regard, systematic recording of land rights could well ameliorate land conflicts between towns and clans, provided that the process would involve a highly inclusive sensitization and consultation process to determine the appropriate corpus for vesting of rights as well as a rigorous, participatory process for adjudicating boundaries with neighboring communities. Provision of evidence of rights might privilege oral testimony and other customary forms of evidence as proof of customary claim. Systematic regularization could either combine or possibly follow up with development of local “conventions” or by-laws for land and natural resource management as a means for reinforcing existing customary rules and building on those to improve land use practices.

The process piloted by IDLO (see Knight, Siakor, & Kaba, 2011) offers one possible process that might be employed or adapted, though a procedure for ensuring that claims are recorded and backed by the state would need to be built in. Once *Community Land* rights are documented, acquisition of *Community Land* by the government for public purposes would need to subscribe to law framing the government’s power of eminent domain, applying the same principles and rights as those for acquisition of rights held in fee simple. Systematic certification of customary land holdings within the *Community Land* could result in areas not falling under a customary claim at the completion of the process to revert to public land (possibly with the explicit approval of all neighboring communities), though further thought would need to be given to the implications and an appropriate process.

10.3 TRIBAL CERTIFICATES AND DEEDS

The prospect of a systematic regularization process designed to formalize rights under custom begs the question of what to do about existing statutory claims, namely Tribal Certificates (TCs), deeds issued for communal holdings, and fee simple deeds.

10.3.1 Tribal Certificates

The fact that TCs do not constitute legal documentation of land rights (only a right to pursue a deed) leaves them open for negotiation by local communities. In cases where these certificates have come to define the socially legitimate basis by which whole communities have sought to protect their land rights under custom, the areas under these claims can also form the basis for systematic certification of customary holdings in the name of the collective members of the core tenure unit. However, where these documents have been instruments to exclude members of the community who under custom would have had a historic customary

right to access land in that domain, the process would allow rights to such land to be locally renegotiated to identify the most socially legitimate and equitable option for vesting rights. Given that such negotiations are likely to be fraught with competing interests and disputes, it is suggested that NGOs and individuals with deep experience in mediating land disputes in Liberia be engaged.

10.3.2 Communal Deeds

For cases where land is previously claimed under an “aboriginal deed,” “tribal deed,” or other deeds for communal land holding, it may be harder to invalidate these where they fail to capture socially legitimate land and governance rights, unless it can be proven that they were improperly obtained. Nevertheless, in the case of deeds for entire clans or districts, there may be scope to clarify what rights these particular types of deeds embody, such that they uphold, or at least do not interfere with, the rights granted to core tenure units. It may also be possible to have deeds issued in the name of individuals transferred to the name of the broader community claiming rights. The names on the new deeds should be those of the localities and not individuals.

10.3.3 Fee Simple Deeds

It will likely be necessary to protect the rights of fee simple deed holders, even if the land under deed was previously claimed by the community under customary tenure. However, our research indicates that many such deeds may not be authentic or may have been improperly acquired. A process whereby communities are informed of what had been the legal process for deed acquisition and are provided with a low-cost, accessible mechanism to challenge the validity of certain deeds could be warranted. Where the deed holder is deceased and the deed has not been registered in the name of one or more heirs, a probate mechanism should be put in place to authenticate ownership and time limits could be imposed for descendants to transfer the deed into their names, after which the land would revert to *Community Land* and be available for one or more communities to claim based on evidence of their customary rights. The GOL may also want to consider taxing the fee simple deed holders based on the size of their properties in order to discourage retention of unproductive land and speculation. Assessments of collection and enforcement capacity plus expected net revenues from enactment of such a measure would need to guide decisions on whether to pursue it.

10.4 RIGHTS VESTED IN HOLDERS OF COMMUNAL RIGHTS

10.4.1 Rights of Permanent Transfer

The customary tenure systems that we encountered in our research do not provide rights to alienate land via sale or mortgage, though it is possible to give land to one’s heirs (and less commonly to strangers who come to settle in the clan) and lending of land is common. Moreover, tenure vested in entire communities is not conducive to the inclusion of permanent transfer rights, as this has the potential to not only deprive current community members of their primary source of livelihood, but also to deny rights to future descendants of members of the core tenure unit. As Unruh (2008) explains, customary rights to land in Liberia are seen to be vested not only in living members of the lineage, but also in one’s ancestors and in those yet to be born. We therefore recommend that *Community Land* rights be vested in the entire community (not individuals) and not be subject to alienation, mortgage, or prescription. Vesting inalienable group rights also poses far less financial and administrative burden on the state, a critical factor for a government stretched to meet a host of competing needs.

10.4.2 Rights to Convert to Individual Tenure

While group tenure vested in core tenure units may be the most appropriate means to recognize rights held under custom, it is not necessarily appropriate for all members of rural communities, especially in the wake of social and economic changes. Opportunities for wealth accumulation, improved economic status, or introduction of instruments for managing risk may lead some community members to prefer individualized tenure. Law should provide for the ability of individuals and households to remove their claim from the broader community via a process sanctioned by the broader community, which would enable the person(s) to

apply for fee simple tenure. This right could also extend to whole communities, whose members might collectively decide to convert to individualized, fee simple tenure.

10.4.3 Rights to Administer and Govern

Certification of communal land holdings should provide for governance and administration rights. In other words, it should specify which authorities or bodies have rights to make tenure rules, alter them, enforce them, sanction those who break the rules, and resolve disputes over land and natural resources – and define the processes surrounding application of these rights. One of the advantages of bestowing rights to communities is that their embedded tenure systems can continue to thrive according to established customary rules. So, those empowered to exercise governance rights under current customary norms would continue to administer rights of access to land and natural resources – whether those rights are temporary or permanent – and would uphold and enforce local tenure rules and resolve disputes between community members. This approach has several advantages. It is decentralized and removes a critical burden from the state to have to administer individual land holdings and provide for subsequent registration. However, it is not without its risks. Experience from other countries, has shown that the legitimacy of tenure authorities and their accountability to their constituencies can be critical to the success of such models. At the same time, efforts to replace customary authorities with civil authorities have fomented their share of legitimacy pitfalls, as even Liberia’s own experience demonstrates. Proposals for tenure governance are discussed in more detail in the sections that follow.

10.4.4 Equitable Rights

In the interest of promoting human rights and greater social justice in Liberian society, it is critical that norms of equity guide provision of rights to community members. The 1984 Constitution provides that all persons are equally entitled to certain rights, including the right to possess and protect property, “irrespective of ethnic background, race, sex, creed, place of origin or political opinion.” In granting land rights to core tenure units, the rights of women to land in their natal communities should mirror the rights of male members of that community, whereas rights of women to land in their husbands’ communities should be equal to the rights of men in their wives’ communities. Likewise the rights of those who are poorer and more vulnerable should be no different from the rights of more privileged and wealthy individuals. The government, in collaboration with community members, should establish institutions that ensure broad representation of different groups in the communities (traditional authorities, women, youth, migrants, etc.) and should have the mandate to intervene in cases where rules and action by community governance structures contravene equity principles embedded in the Constitution.

10.5 SUPPORTING RURAL INVESTMENT

A major challenge facing countries opting to recognize and record customary land rights is how to ensure land is made available to support the needs of investors. An alternative paradigm to the concession model for rural investment would allow communities to voluntarily lease their land to investors for fixed periods. With proper support (e.g., provision of paralegal services), companies and communities could negotiate leasing terms that enable communities to benefit from these transactions as well as protect both their rights and the rights of investors. One means to help ensure that the government can provide support and work in the interest of communities to secure fair contracts, would be to require communities to share with a designated government agency a fixed percentage of the rent they receive from leaseholders. This would potentially provide incentives to government agencies to help communities negotiate market value rents and enforce agreements between communities and investors by compensating the agency for their services.

Despite the win-win-win appeal of these models, experience demonstrates that significant asymmetries of power and knowledge between communities, investors, and government have frequently left communities on the losing end of the deal, especially where affordable, competent, and impartial justice is not readily available to them. With this in mind, we recommend that the government institute community awareness programs to educate communities about leasing contracts and the value of their land assets while imparting skills for

effective negotiation. Moreover, high standards of transparency and robust accountability systems would be necessary to mitigate incentives for collusion and corruption by investors, government authorities, and even community authorities at the expense of communities.

10.6 GOVERNANCE AUTHORITIES

To ensure responsiveness to community needs, equitable implementation of laws, and transparency in local dispute resolution, it is critical that *Community Land* governance authorities be socially legitimate actors with deep knowledge of customary rules and norms. Thus, we recommend that authorities governing land and natural resources be based at the level of the core tenure unit, as determined by the communities. These authorities should be representative, and can be pre-existing entities – such as elders, Family Heads, Quarter Chiefs, and Town Chiefs – or can be a new set of authorities charged with land and resource governance, either working in tandem with other authorities or independently charged with land and resource governance. One such possibility is locally-elected, representative councils that would be responsible for: administering and enforcing rules; working with their communities to develop new rules; and resolving disputes over land and natural resources. Preexisting local authorities would not be precluded from serving on these bodies if selected to do so by their communities. Depending on the preferences of the community, the authority of these chiefs and/or councils may go beyond land and natural resources. In any case, to ensure social legitimacy, communities should determine the format of their land and resource governance institutions, as well as be involved in a consultative, community-driven process to develop the rules (by-laws) that it will use to govern. However, national law would need to frame the process by which communities would determine their land tenure governance institutions.

Whether communities opt for individual authorities, representative councils or a combination of both, local governance authorities should be recognized by the government and vested with the rights and responsibilities for governing land and resources. These would include developing new rights and rules for land and natural resources; adapting existing rights and rules; enforcing those rules; resolving land and resource disputes; and allocating unclaimed land, including farming plots, house plots, and areas for planting life trees.

To ensure more equitable representation, we recommend that the government promote stronger integration of women and youth as governance authorities over land. In the studied clans, a few women and youth served as governance authorities. However, where women were in positions of authority, their power was often truncated by traditional gender roles. Similarly, youth sometimes struggled to have their voices heard, fueling a sense of exclusion and resentment. While increasing the number of women and youth as governance authorities will not immediately change the stereotypes associated with their ability to govern, doing so will create an environment whereby behaviors can gradually change over time. The government could promote women and youth as governance authorities by implementing representative body quotas on land governance councils; these representatives should be elected or otherwise chosen in a manner viewed as socially legitimate in eyes of community. Further, the government could develop programs to train and mentor female and youth leaders and implement campaigns that shift mindsets around women and youth as strong and responsible leaders.

Finally, we recommend that Paramount and Clan Chiefs be removed from land and natural resource governance where they are not deemed to be the appropriate leaders of the community-recognized tenure unit. In the studied clans, we found that Paramount and Clan Chiefs rarely served as legitimate representatives of the core tenure unit. Their lack of legitimacy over land matters stems from their association with the government: these authorities are not indigenous to most parts of rural Liberia and were introduced by the government to support their indirect rule. Further, there have not been chieftaincy elections since 1987, meaning that some chiefs who do not represent the interests of their constituents have been serving in positions of power for decades. Thus, we recommend that Paramount and Clan Chiefs not have a role in land and natural resource governance, except where they are identified by communities as the leaders of the core

tenure unit. Instead, this role could be more effectively fulfilled by locally legitimate authorities – Town Chiefs, elders, and/or a representative council.

10.7 DISPUTE RESOLUTION

The authority to resolve land and natural resource disputes should also be vested in the locally-chosen authorities at the level of the core tenure unit, whether these authorities are the same as the bodies that would administer and enforce rules, or separate. Akin to other governance responsibilities, this authority would be vested in a representative council or other local authorities. We recommend that the government provide legal recognition for these dispute resolution bodies, clarify the chain of appeal, and support mediation, rather than adversarial justice. In regards to the chain of appeals, the process should be clarified up to the level of the courts. However, we recommend that the ability to use customary law (with some stipulations, e.g., restrictions on “Trial by Ordeal”) to resolve disputes be supported. If disputes are taken to the courts, the courts should recognize and make determinations with respect for customary law,⁶⁸ a capacity that is already backed by Article 65 of the Constitution.

In disputes with outsiders or between tenure units, the first step should be mediation by representative councils, after which disputes should follow the normal chain of appeals. However, when a company or the government is a party to the dispute, local courts might be an appropriate first line of resolution. If the courts are to protect community claims on an equal footing with the claims of companies or the government, there is a need for investment in the justice system to ensure that it is impartial, accessible, and efficient.

10.8 CONCESSIONS AND PROTECTED AREAS

Like fee simple deeds, communities should be empowered to challenge the validity of existing concessions (e.g., through provision of legal education and assistance). If concessions are found to have been acquired irregularly, they should be renegotiated. For all other concessions, once the period for the existing concession expires, we suggest that the land return to *Community Land* and that customary claimants be given the opportunity to acquire a certified communal holding (or expand an existing one) based on the evidence of their customary claim to the land.

Protected Areas might follow a different process with preexisting protected areas excluded from the Tribal Reserve. However, the government could consider promoting FDA-community co-management arrangements that include representatives from neighboring communities on the protected area’s governing body. Likewise, consideration should be given to prioritizing community members for employment opportunities and structuring revenue-sharing agreements with adjacent communities. Further, we recommend that the process for creating new protected areas be based on consultation and negotiation with communities, co-management governance models, preservation of local subsistence rights (and potentially certain commercial use rights) within the broader protected area, and compensation for lost rights to land and natural resources.

10.9 WOMEN’S LAND RIGHTS

Though customary rules protect and support women’s rights to a certain degree – particularly in their natal communities – investing in social interventions is critical to changing belief systems and behaviors that limit women’s land rights. One potential social intervention would be to educate women about their rights under statute, while organizing women to advocate for their rights to land at the community level. Another option would be to strengthen laws to protect women’s rights in their natal and marital communities. The government could also work with local governance authorities to reinstate traditions of communal labor to support widows or introduce these where they have not previously existed. This would enable widows to

⁶⁸ Except where these contravene the laws of Liberia.

make productive use of land and thereby reduce the potential for evictions. Finally, interventions could bolster traditional social obligations around protecting widows and ensuring that women have the right to return to their natal communities.

Figure 10.1: Summary of policy recommendations

<p>Legal Reforms</p>	<ul style="list-style-type: none"> • Continue the moratorium on public land sales. • Institute more stringent enforcement of the moratorium and close loopholes that have allowed some individuals to by-pass it. • Instate a moratorium on the granting of concessions on case-by-case basis until measures are in place to protect communities' land rights. The moratorium need not be placed over the whole country before any investment/concessions can take place, but rather could be prioritized on a case-by-case basis in each specific area where investments/concessions are planned. The measures that could be put in place include: <ul style="list-style-type: none"> ○ A law that grants legal recognition to land claimed under customary tenure; ○ Regulations that map out a process for systematically documenting the land rights of rural communities based on custom; and ○ The enactment and completion of that process at national level. • Consider a new Public Land Law that “defines public land and clearly distinguishes between public land and land held by local communities under customary land tenure” (Bruce and Kanneh, 2010). • Consider a Community Rights Law that provides explicit recognition of customary land rights as perpetual, heritable rights subject to the same legal protections as rights granted in fee simple. • Under Community Rights Law, define ‘<i>Community Land</i>’ as “land available for communities to exert perpetual, heritable rights to land via customary law, which is inalienable unless removed by a member of the claimant community via a prescribed process to convert it to fee simple tenure.” • Consider applying <i>Community Land</i> to all land falling outside designated urban zones that are currently unencumbered by legitimately acquired fee simple deeds, government claims, or existing leaseholds or concessions.
<p>Documentation of Customary Rights</p>	<ul style="list-style-type: none"> • The principal basis for documentation of customary tenure should be the unit within which primary rights to access land and natural resources are acquired and where the main locus of land and resource governance is housed – the “core tenure unit.” The documents should be those of localities, not individuals. • Consider simpler approaches for recording the land rights of core tenure units based on low-cost demarcation methods along with a certificate that describes the rights granted to the community and a basic description of the physical boundaries and sketch map of the claimed area. • If feasible, demarcation should involve a process whereby rights can be recorded on a cadaster so that a graphic composite of community claims is available and can be used to inform the actions of government and potential claimants, as well as evidence in case of disputes. • Certificate could also include “encumbrances,” such as secondary rights granted to neighboring communities to harvest certain natural resources. • Consider systematically recording <i>Community Land</i> rights throughout the country at minimal or no cost to those communities apart from their time to participate in the process. • In recording <i>Community Land</i> rights, privilege oral testimony and other customary forms of evidence as proof of customary claims. • Combine or follow up with the development of local “conventions” or by-laws for land and natural

	<p>resource management to reinforce existing customary rules and build on those to improve land use practices.</p>
<p>Tribal Certificates and Deeds</p>	<ul style="list-style-type: none"> • Where Tribal Certificates (TCs) have come to define the socially legitimate basis by which whole communities have sought to protect their land rights under custom, use areas under TCs to form the basis for systematic certification of community holdings. • Where TCs have been used to exclude members of the community who historically had customary rights to access land in that domain, renegotiate claims to identify the most socially legitimate and equitable option for vesting rights and document those new claims. • Engage NGOs and individuals with deep experience in mediating land disputes to mediate negotiations around TCs. • Clarify rights embodied by deeds for entire clans or districts, such that they uphold, or at least do not interfere with, the rights granted to core tenure units. • Transfer deeds issued in the name of individuals to the name of the broader community claiming the rights. The names on the new deeds should be those of locality, not individuals. • Institute a process whereby communities can challenge the validity of inauthentic deeds and/or deeds acquired through irregular means. • Introduce a probate mechanism that would require heirs of deed holders to transfer land into their names. If they fail to do so, the land should revert to <i>Community Land</i> and be available for one or more communities to claim based on evidence of their customary rights.
<p>Rights Vested in Holders of Communal Rights</p>	<ul style="list-style-type: none"> • Vest inalienable group rights in communities, but provide for the ability of individuals and households to remove their claim from the broader community via a process sanctioned by the broader community, which would enable the person(s) to apply for fee simple tenure. • Enable communities to govern land held under group tenure according to their customary rules. • Support women's rights in their natal communities, such that their rights are equal to those of men. • Support women's rights in their husband's communities, such that their rights are equal to those of men in those communities. • Provide for governance and administration rights in the certification of communal land holdings.
<p>Supporting Rural Investment</p>	<ul style="list-style-type: none"> • Where appropriate, replace concessions with leaseholds issued by rural communities and facilitated by government. • Support communities to negotiate fair leasing terms with investors seeking land in exchange for government receiving a fixed share of rents. • Institute community awareness programs to educate communities about possible benefits and pitfalls of leases. • Encourage high standards of transparency and robust accountability systems to mitigate incentives for collusion and corruption undertaken by investors and government authorities at the expense of communities.
<p>Governance Authorities</p>	<ul style="list-style-type: none"> • Grant recognition to governance authorities at the level of the core tenure unit; vest the rights and responsibilities to govern land and natural resources within that core tenure unit. • Facilitate establishing new authorities (e.g., councils) for land and natural resources where communities deem this appropriate. • Enable communities in collaboration with the government to determine the formats and by-laws for land and natural resource governance. • Promote the integration of women and youth as governance authorities over land, such as through

	<p>representative quotas, capacity building of women and youth leaders, and campaigns aimed at casting women and youth as competent leaders.</p> <ul style="list-style-type: none"> • Remove land and governance authority of Clan and Paramount Chiefs, except where they are deemed the appropriate authorities of core tenure units.
Dispute Resolution	<ul style="list-style-type: none"> • Vest governance authorities selected by core tenure units with the authority to resolve local land disputes. • Strengthen the authority and legitimacy of the dispute resolution hierarchy to deal with land disputes between communities and outsiders. • Reinforce the ability of administrative and judicial dispute resolution authorities to apply customary law, thereby bolstering their legitimacy.
Concessions and Protected Areas	<ul style="list-style-type: none"> • Renegotiate irregularly acquired concessions in the <i>Community Land</i> area. • Mandate that, upon expiry of existing concessions, land be returned to <i>Community Land</i> to enable communities to exert community rights and have them documented. • Promote co-management and co-governance arrangements between FDA and communities in protected areas. • Require that new protected areas are negotiated with local communities before they are established, and that communities are properly compensated for any rights lost.
Women's Land Rights	<ul style="list-style-type: none"> • Invest in social interventions that influence attitudes and behaviors limiting women's land rights, including rights education, mobilizing women to press for changes to customs. • Strengthen laws to protect women's rights in their natal and marital communities.

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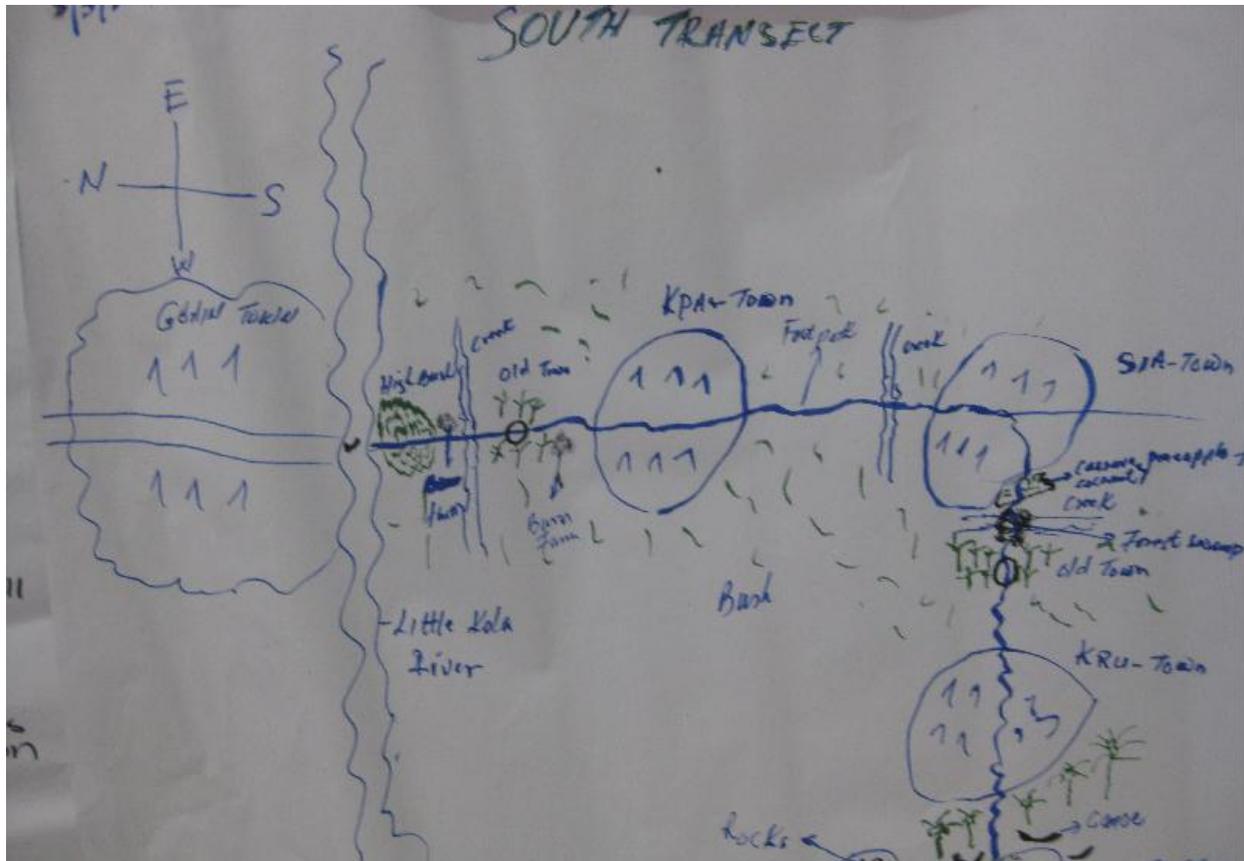
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ANNEX I: RESEARCH SCHEDULE, TENGLIA CLAN, LOFA COUNTY

DATE	TIME	ACTIVITY
March 18, 2011	09:00	Depart Gbarnga
	15:00	Arrive at Foya
	21:30	Team Planning Meeting
March 19, 2011	08:00	Depart Foya
	9:00	Arrive at Foya Tengia
	9:10	Protocol with Clan Representatives
	9:15	Introduction
	10:30	Clan Map Venn Diagram
	14:00	Focus Group: Women's Livelihood Activities Men's Seasonal Labor Calendar
	14:30	Lunch
	15:00	Transect Walk to Women's Fishing Place
	16:00–19:00	Team Restitution
March 20, 2011	09:00	Transect Walk to Sacred Mountain Women's Seasonal Labor Calendar
	13:00	Transect Walk to Liberia-Sierra Leone Boundary
	14:00	Lunch
	16:00–19:00	Team Restitution
March 21, 2011	09:00	Historical Profile
	10:30	Historical Matrix
	12:00	Conflict Matrix
	14:00	SSI with Lower Tengia Sectional Chiefs SSI with School Principal
	15:00–18:00	Team Restitution
March 22, 2011	09:00–14:00	Team divides into SSI groups: Elders of Konosu Youth Leader of Foya Tengia Clan Chief Clan Chairlady
	14:00	Lunch
	15:00–20:00	Team Restitution

DATE	TIME	ACTIVITY
March 23, 2011	09:00–11:30	Community Restitution
	12:00	Depart Foya Tengia
	19:00	Arrive at Zor Zor
March 24, 2011	08:00	Depart Zor Zor
	15:00	Arrive at ARD Office - Prepare to Write Report
March 25, 2011	09 :00–17:30	Writing Report
March 26, 2011	08:30–17:30	Writing Report
March 28, 2011	08:30–17:30	Writing Report

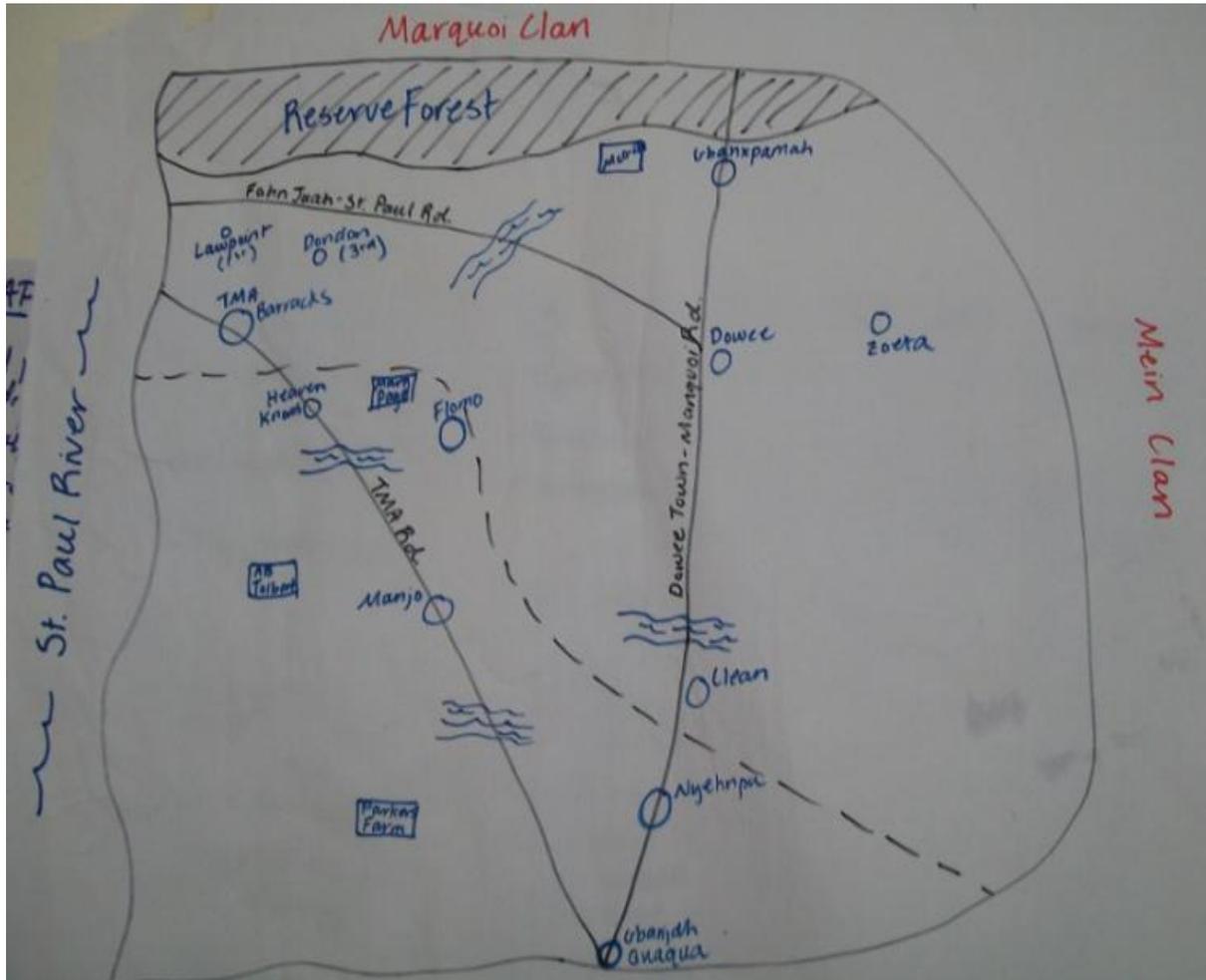
ANNEX 2: SOUTH TRANSECT, LITTLE KOLA CLAN, GRAND BASSA COUNTY



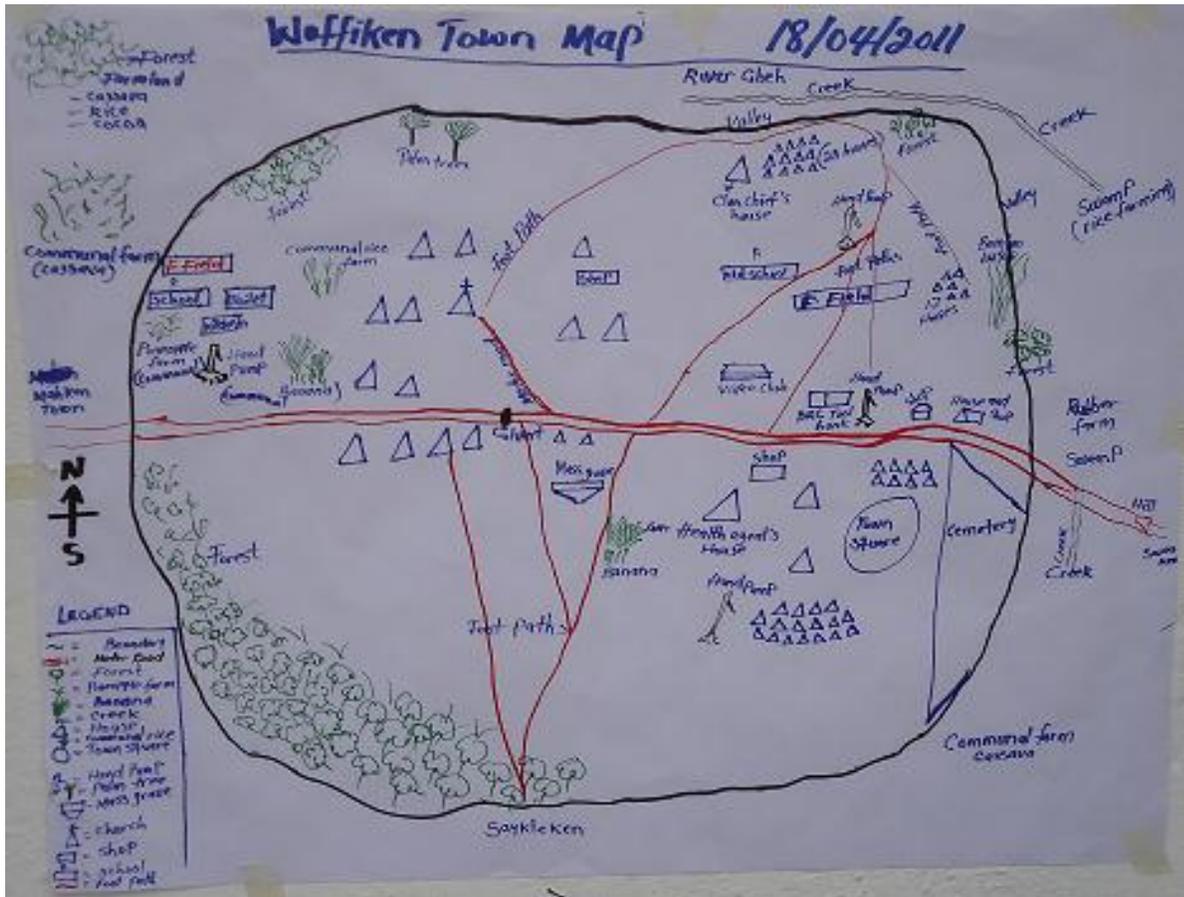
ANNEX 3: NORTHEAST TRANSECT, DOBLI CLAN, BONG COUNTY

Variables	Mawah Town	Lowland	St. Paul River	Lowland	Hill	Sugar cane mill	Slope	Lowland	Hill	Slope	Creek	Sugar cane mill
Soil	Sandy Loamy	Sandy Clay Loamy	Sandy Clay	Loamy Clay	Loamy	Loamy	Loamy	Loamy	Loamy Grains	Loamy Grains	Loamy Clay	Loamy
Vegetation	Grass Potato Leaves	Cocoa Banana Rubber Palm Trees	Rubber Palm Trees	Banana Rubber Palm Trees Sugarcane	Banana Rubber Palm Trees Sugarcane	Banana Rubber Palm Trees Sugar- cane Corn farm	Rubber Palm Trees	Rubber Palm Trees	Cassava Trees	Kola Orange Palm Trees	Palm Piassava Cotton Trees	Mango Palm Trees Sugarcane
Livestock	Dogs Chicken Ducks	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Wild Life	Birds	Birds	Fish Crocodile Birds	Birds Squirrels	Hawk	Birds	Birds	Birds	Birds	Birds	Birds	Birds
Land Use	Settle- ment Building Houses	Cocoa Rubber Banana Farming	Fishing Drinking Bathing Transportati on	Banana Rubber Sugarcane Farming	Banana Rubber Sugarcane Farming	Building farm hut Building sugar cane mill	Rubber Farming	Rubber Farming	Cassava Farming	Kola Orange Farming	Washing Drinking Fishing	Building farm hut Building sugar cane mill
Tenure	Deeded	Deeded	Deeded	Deeded	Deeded	Deeded	Deeded	Deeded	Deeded	Deeded	Deeded	Deeded

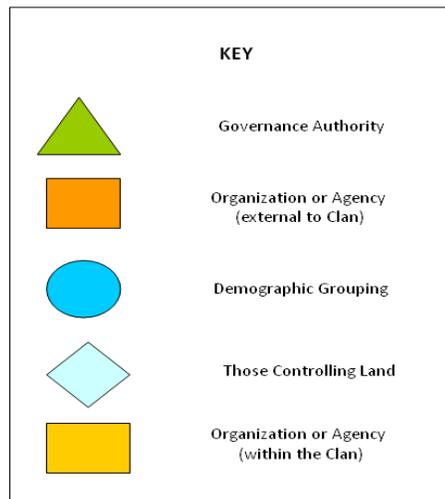
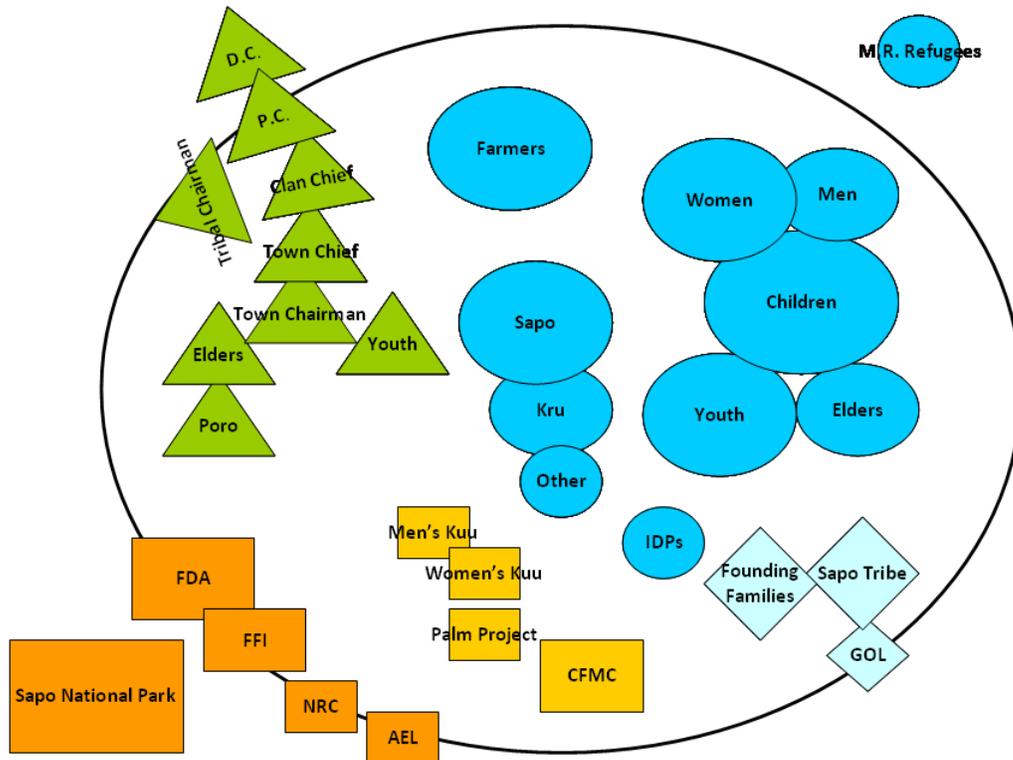
ANNEX 4: CLAN MAP, DING CLAN, MONTSERRADO COUNTY



ANNEX 5: TOWN MAP, SAYKLEKAN CLAN, RIVER GEE COUNTY



ANNEX 6: VENN DIAGRAM, MOTOR ROAD CLAN, SINOE COUNTY



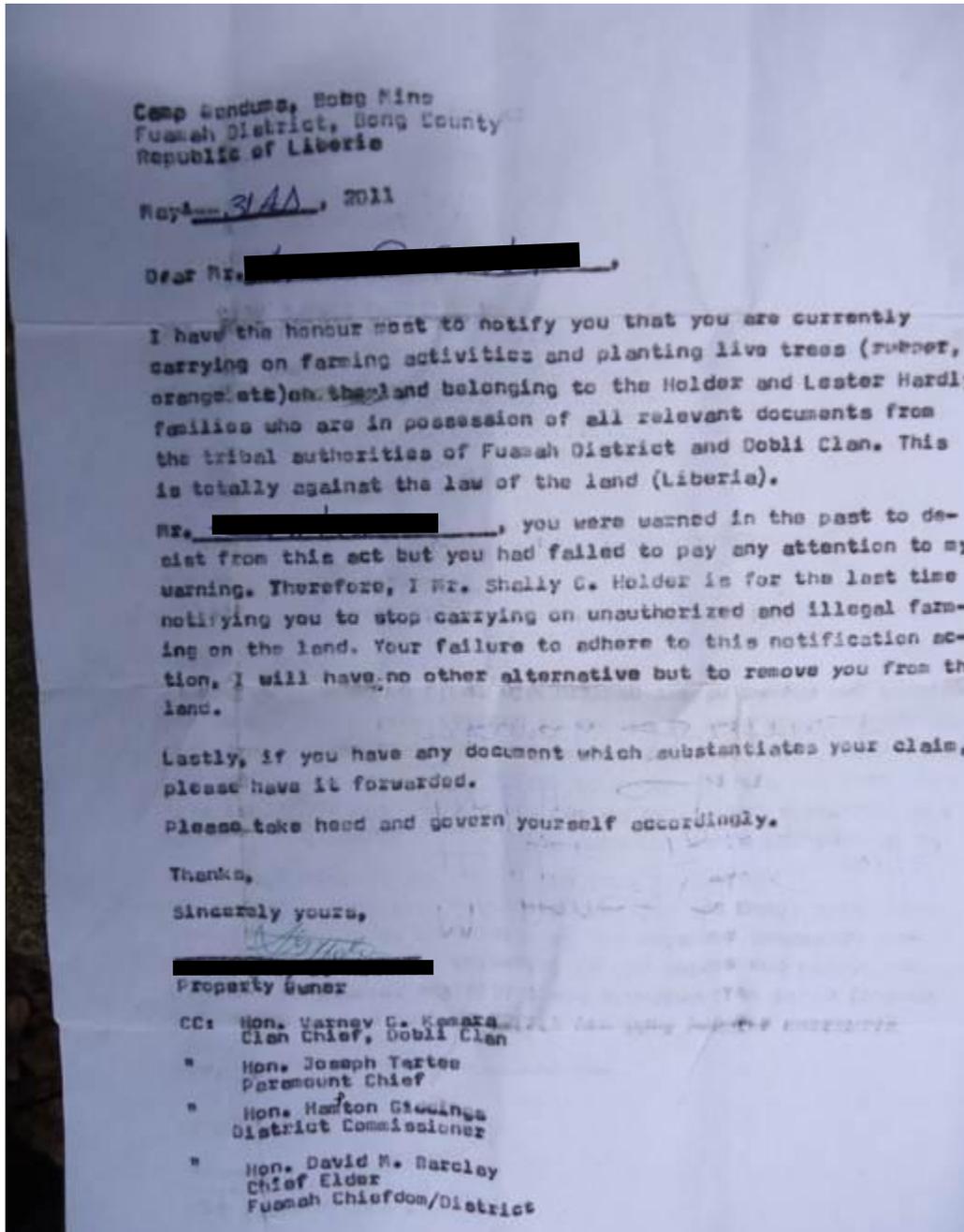
ANNEX 7: HISTORICAL MATRIX, YLAN CLAN, NIMBA COUNTY

	Tubman Era 1944–1971	Tolbert Era 1971–1980	War Period 1989–2003	Present 2011	10+ years 2021+
Population	●●●●●	●●●●●●● ●●●	●●●●	●●●●●●● ●●●	●●●●●●●●●● ●●●
Rubber Farming	●●●●	●●●●●	●●●●●	●●●●●●● ●●●●●	●●●●●●●●●● ●●●●●●●
Upland Rice Farming	●●●●●●●●● ●●●●●●●●●	●●●●●●●●● ●●●●●●●●● ●●●●●	●●	●●	
Swamp Rice Farming	●●●●●●●●● ●●●●●●●●●	●●●●●●●●● ●●●●●	●●	●●●●●●● ●●●	●
Cocoa Farming	●●●●●●●●●	●●●●●●●●● ●●●●●●●●● ●●	●●	●●●●●	●●●●●●●●●●● ●
Land Disputes		●●	●	●●●●●●● ●●●●●●● ●●●●●●● ●●●●●●● ●●	●●
Fallow Period	●●●●●●●●● ●●●●●●●●● ●●●●●	●●●●●●●●● ●●	●	●●	●●
Deeded Land	●●●●●●●	●●●●●●●●● ●	●●●●●●●●● ●	●●●●●●● ●●●●●●● ●●●●●●●	●●●●●●●●●●● ●●●●●●●●●●
Compliance	●●●●●●●●● ●●●●●●●	●●●●●●●●● ●		●●●●●	●●●●●●●●●●● ●●●●●●●●●●●
Forest Resources	●●●●●●●●● ●●●●●●●●● ●●●●●●●●●	●●●●●●●●● ●	●●●●●●●		
Women in Leadership	●●	●●●●	●●●●●●●	●●●●●●● ●●●●●●● ●	●●●●●●●●●●● ●●●●●●●

ANNEX 8: HISTORICAL MATRIX, UPPER WORKOR CLAN, LOFA COUNTY

	Tubman 1944–1971	Tolbert 1971–1980	Doe 1980– 1990	War 1990– 2004	Present 2011	10+ years 2021+
Population	●●●●●	●●●●●●● ●	●●●●●●● ●●●●●	●●●	●●●●● ●●●●● ●	●●●●●● ●●●●●● ●●●●
Value of money	●●●●●●● ●●●●●●●	●●●●●●● ●●●●	●●●●	●●●	●●	●
Vacant land	●●●●●●● ●●●●●●●	●●●●●●●	●●●●●	●●●●	●●●	●●
Land conflict				●●	●	●
Upland rice farming	●●●	●●●●	●●●●●●		●●●●● ●●●●●	●●●●●● ●●●●●●
Palm oil production	●●	●●●●	●●●●●	●●●●●●	●●●●● ●●●	●●●●●● ●●●●
Coffee production	●●●●●●●	●●●●●●● ●●●●●●● ●	●●●●●● ●●●		●●●●	
Deeded land		●●●	●●●●		●●●●● ●	●●●●●● ●●●●●● ●●●●●● ●●●●
Communal farming	●●●●●●● ●	●●●●●●●	●●●		●●●●● ●	●●●●●● ●●

ANNEX 9: DOBLI DISPUTE LETTER



ANNEX 10: TRIBAL CERTIFICATE FORM, BONG COUNTY

REPUBLIC OF LIBERIA
BONG COUNTY

CLAN _____ CHIEFDOM _____
DISTRICT _____ COUNTY, R. L. _____

TRIBAL CERTIFICATE

THIS IS TO CERTIFY that _____
has/have selected _____ Acres of Public Land
Within the _____ Clan _____ Chiefdom, Bong County
R.L. on the _____ hand-side of the _____ Road Commencing
from _____ Block and adjoining _____
directly opposite _____
The said parcel of land is unencumbered and the tribal Authorities
join in asking the President of Liberia to grant _____ permission
to retain and operate thereon, the necessary requirement in the sum
of (\$ _____) _____ dollars in keeping with
Tribal Customs and Interior Regulations having been complied with.

BY THE TRIBAL AUTHORITIES:

Issued in the Office of the
Clan Chief, this _____ Day
of _____ A. D., 20 _____

_____ TOWN CHIEF	_____ ELDER
_____ TOWN	_____ ELDER
_____ SECTIONAL CLRK	_____ CLAN CHIEF
_____ CLAN	_____ CLAN
_____ CHIEFDOM CLERK	_____ PARAMOUNT CHIEF
_____ CHIEFDOM	_____ CHIEFDOM
_____ DISTRICT COMMISSIONER	_____ LAND COMMISSIONER, BONG CO. R. L.

_____ DISTRICT

APPROVED: _____
SUPERINTENDENT, BONG COUNTY, R. L.

ANNEX II: TRIBAL CERTIFICATE FORM, FUAMAH DISTRICT

FUAMAH DISTRICT
LOWER BONG COUNTY
REPUBLIC OF LIBERIA

TRIBAL LAND CERTIFICATE

THIS TO CERTIFY THAT WE THE REPRESENTATIVES OF THE TRIBAL AUTHORITIES OF FUAMAH CHIEFDOM AND DISTRICT, LOWER BONG COUNTY, REPUBLIC OF LIBERIA HEREBY AGREE TO PERMIT MR./MADAM _____ TO

PURCHASE _____ ACRES OF FARM LAND WITHIN OUR TRIBAL RESERVE FOR FARMING PURPOSES. HE/SHE HAVING COMPLIED WITH ALL OF THE PEQUIREMENTS OF THE TRIBAL AUTHORITIES.

THIS PARCEL OF LAND IS LAYING AND SITUATED ON THE _____ HAND SIDE OF THE ROAD LEADING FROM _____ TOWN TO _____ TOWN IN _____ CLAN, FUAMAH CRIEFDOM AND DISTRICT, LOWER BOND COUNTY.

THE PURCHASE IS TO BE MADE FROM THE LIBERIAN GOVERNMENT KEEPING WITH THE LAND LAW OF THIS REPUBLIC.

GIVEN UNDER OUR HANDS IN THE OFFICE OF THE CLAN CHIEF OF _____ CLAN. FUAMAH CHIERDOM AND DISTRICT LOWER BONG COUNTY THIS _____ DAY OF _____ YEAR _____.

_____ ELDER	_____ CLAN CHIEF
_____ ELDER	_____ PARAMOUNT CHIEF
_____ CHIEF ELDER	_____ DISTRICT COMMISSIONER
_____ SECTIONAL CLERK	_____ LAND COMMISSIONER

ANNEX 12: TRIBAL CERTIFICATE, GBANSHAY CLAN, BONG COUNTY

OFFICE OF THE CLAN CHIEF
 GBANSHAY CLAN JORQU. CHIEFDOM
 GBARNGA DISTRICT, C.P.L.H.

TRIBAL CERTIFICATE

This is to certify that [redacted] (name) has selected THREE (300) acres of Public farm land containing _____ chains frontage and _____ chains deep within the Gbanshay Clan, Jorquellie Chiefdom, Gbarnga District, Central Province, Liberia, on the Left side of Gbanshay road, bordering from Creek Yeain-yah block and adjoining Yannay-gbarneh block directly opposite Keanmoe Donkpoh parcel of land or block. The said parcel of land is unencumbered and the tribal authorities join in asking the President of Liberia to grant her permission to retain and operate thereon.

The necessary requirements in the sum of \$5.00 (forty five dollars) (in words) in keeping with tribal customs and Interior Regulations having been complied with.

Issued in the office of the Clan chief of the Gbanshay Clan this 18th day of July A.D. 1962

BY THE TRIBAL AUTHORITIES
Jorquellie CHIEFDOM

Nahmah Eborlo Hixson
TOWN CHIEF

Eshonage
SECTIONAL CLERK

Gbanshay CLAN

John C. Kpofodee
CHIEFDOM CLERK

Jorquellie CHIEFDOM

Yankparwelo Hixson
ELDER (TOWN)

Don-Kpoh Hixson
CLAN CHIEF, Gbanshay Clan

PARAMOUNT CHIEF
CHIEFDOM

APPROVED: [Signature] DISTRICT COMMISSIONER [Signature] DISTRICT

ANNEX 13: SEASONAL CALENDARS, MANA CLAN, GRAND CAPE MOUNT COUNTY

MEN

	Dry Season					Rainy Season				Dry Season		
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Upland Rice	Engage young bush				Plant, Weed, Fence				Drive birds, Harvest			
	Brush/Fell				Drive birds				Brush Hard Bush			
Cassava	Engage young bush		Plant, Fence									
	Brush/Burn		Clean-up									
	Harvest											
Eddoes	Brush	Burn, Plant, Harvest	Clean-up									
		Fence		Plant								
Palm Oil	Harvest											Harves t
	Brush	Burn		Transpla nt	Fence							
Rubber	Harvest											Harvest
	Brush											
Mining												
Pit Sawing												
Charcoal												
Labor	••••• ••	••	•	•	••	•	•	••	••• •	••• •	••• •	•••

WOMEN

	Rainy Season				Dry Season							Rain
	Jun	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May
Mining	River										River	
	Swamp							Swamp				
	Hill										Hill	
Gardens	Harvest			Clear Burn	Plant		Harvest			Clear Burn		
Upland Rice	Fence, Weed			Scare birds		Brush hard bush Harvest			Fell	Burn		
Cassava	Harvest							Brush Burn	Plant	Harvest		
Burn Charcoal												
Fishing												
Labor	●●●● ●●●●	●●● ●●●	●●● ●●●	●●● ●●● ●	●●● ●●● ●●	●●● ●●● ●	●●●● ●●●● ●	●●●● ●●●● ●●● ●	●●● ●●● ●●● ●●●	●●●● ●●●● ●●●● ●●●● ●●●	●●● ●●● ●●● ●	●●● ●●● ●●●

ANNEX 14: COMMUNITY FOREST BY-LAWS, MOTOR ROAD AND NITRIAN CLANS

MOTOR ROAD CLAN

Draft of Constitution and the By-law presented to the acting leadership of the CF, on Sunday, March 22, 2007, in Funnel Town, at 2:45 p.m.



J. J. J. J.

**DRAFT
CONSTITUTION AND BY-LAWS
OF
UPPER WEDJAH COMMUNITY FOREST ASSOCIATION**

CONSTITUTION

**ARTICLE ONE
PREAMBLE**

We the citizens of the Upper Wedjah Chiefdom, Juarzon Statutory District, Sinoe County, Republic of Liberia, in order to give adequate support to the communities in Upper Wedjah Chiefdom and to be identified as the Upper Wedjah Chiefdom Community Forest Development Association, and in order to save and guard the forest as well as to promote and encourage development in our communities, do hereby organize ourselves into a body.

**ARTICLE TWO
NAME**

The association shall be called Upper Wedjah Community Forest Association, here after known as the "Association".

**ARTICLE THREE
GOAL AND OBJECTIVE**

Section I: Goal

The goal of the Association shall be to petition the Liberia Government to set aside for its exclusive use a given piece of forest land of a defined size and geographic location, to be managed and used as such as to ensure increased social, cultural, economic and environmental benefits for its current membership and for future generations.

J. J. J. J.

Section III: The emergency meeting shall be called by the Chairman or the General Assembly.

Section VI: Quorum: - The quorum for the Association shall consist of sixty percent (60%) of the members.

ARTICLE TEN

LOCATION AND SIZE OF THE COMMUNITY FOREST

Section I: Geographic location and Size: - The Upper Wedjah Community Forest is located at four (4) kilometer east of Geelor. It is approximately two thousand (2000) hectares or five thousand (5000) acres in size.

Section II: Future increase of the Community area as described in ARTICLE TEN, Section I of this Constitution. Knowing fully well that thousands of our citizens now refugees in camps in and out of Liberia would be returning home when peace is perfectly restored, in addition to the expected population increase from birth, an increase in the current population of this community is quite likely. We shall therefore in due time request the appropriate offices of Government for an increase in the size of the community forest in the future in relation to the population increase. There shall be benchmark information on the community's population so that reliable data are obtained for this purpose.

BY-LAWS

ARTICLE ONE **COMMITTEES**

Section I: Number and categories of committees:
There shall be four (4) committees of the Association:

Section II: Benefit Sharing Committee

Section III: Forest Protection Committee

Section IV: Disciplinary Committee

Section V: Planning and Management Committee

ARTICLE TWO **RIGHT OF ACCESS**

No person shall at anytime, accept with the consent of the head of the General Assembly and subject to conditions as the community may determine:

Section I: Hunt, capture or destroy animals in the community forest.

Section II: Collect forest products from community forest.

Section III: Be in position of animals protected by law.

ARTICLE THREE **PROTECTION OF AMENITIES**

No person shall at anytime:

Section I: Hunt, Capture or destroy wild animals by using chemicals, any artificial light of flora with the forest.

Section II: Pollute any water within the forest.

Section III: Farm within the forest and etc.

Section IV: Carry out mining in the community forest

ARTICLE FOUR
OFFENCES

Section I: Offenders of the action above shall be sanctioned by the General Assembly and the Disciplinary Committee of the association.

Section II: Any person who goes against any provision above shall be fined the amount of three hundred US Dollars (USD300.00).

ARTICLE FIVE
AMENDMENTS OF THE CONSTITUTION AND BY-LAWS

The Constitution and By-Laws shall be amended by 60% vote of the active membership of the Association in a meeting convened for that purpose. Notices will be sent out to all members 2 weeks in advance of this meeting.

NITRIAN CLAN

INTRODUCTION

We, the people of Nitrian Community, Sinoe County, having organized ourselves into a community forest management body in accordance with the Community Rights Law of October 2009, for the sustainable management of our forest resources, do hereby establish these rules for the wise use of our forest resources, protection of our forests, biodiversity, and environment, in order to improve our collective livelihood.

PART I: Purpose

- 1.1. To set up guidelines for the management and use of our forests
- 1.2. To use our forests for the general benefit of the Nitrian Community
- 1.3. To take care of our forest resources so that we will use them from time to time
- 1.4. To take care and use our forests in line with the Community Rights Law of 2009
- 1.5. To help the Community Forest Management Body to check and control the use of our forests

PART II: Ownership of Community Forests

- 2.1. The people of Nitrian Community including men, women, children and those yet unborn generations shall be the owners of all the forests within the community.
- 2.2. Individual ownership of any resources shall be recognized provided such ownership is either traditionally acceptable or is in accordance with these rules and regulation.
- 2.3. Group, family or quarter ownership of any forest resources shall be on the basis of acceptable customary practices rectified by the following conditions:
 - a. A family shall be recognized as primary owner of a particular farm land provided they were the first to access the land.

- b. A family or individual shall be recognized as owner of a farm land provided the land was inherited or given to that family or individual by the primary owner.
- c. A group such as a community-based organization shall acquire forest land through agreement with the owner of the land and with the approval of the CFMB.
- d. All forest land owned by a group, family or quarter shall be registered with the CFMB.

PART III: Nitrian Forests

The following shall include the manageable forests of Nitrian Community:

- 3.1. Kpontuken Forest
- 3.2. Nitrian Forest
- 3.3. Nyangbay Forest
- 3.4. Temkpo Forest
- 3.5. Tuzon Forest

PART IV: Uses of Nitrian Community Forests

- 4.1. Kpontuken Forest shall be used and managed for farming, production of crushed rocks, hunting and plantation.
- 4.2 Nitrian Forest shall remain reserved for managed hunting, fishing, NTFP collection but farming is prohibited.
- 4.3. Nyangbay Forest shall be used for the collection of thatch, monkey van and rattan, and hunting.
- 4.4. Temkpo Forest shall be used for pit/chain sawing and logging.
- 4.5. Tuzon Forest shall be a reserved and conserved forest because of its sacred areas such as Flenon and Zorklogbalee.

PART V: Nitrian Forest Resources

To the best of our knowledge, Nitrian Community forest resources include, but not limited to, the following:

- 5.1. Trees
- 5.2. Thatch
- 5.3. Rattan
- 5.4. Bitter Root
- 5.5. Wide Animals
- 5.6. Waters
- 5.7. Fish
- 5.8. Monkey Vines
- 5.9. Bush Palm
- 5.10. Xylophia
- 5.11. Bamboo

Part VI: Uses of Nitrian Forest Resources

To the best of the community's knowledge and normal practices, the uses of the community forest resources shall be, but not restricted to, following:

- 6.1. **Trees:** logs, constructions, shade, medicine, fire wood, timber, canoe making, furniture and charcoal production
- 6.2. **Thatch:** roofing
- 6.3. **Rattan:** Constructions, making sifters, fanners, chairs, basket, kenja and furniture
- 6.4. **Bitter Root:** Food, furniture
- 6.5. **Monkey vines:** designing baskets or furniture, construction, making fishing basket
- 6.6. **Wide Animals:** Food
- 6.7. **Xylophia:** Medicine and spice
- 6.8. **Bush Palm:** Food
- 6.9. **Fish:** Food
- 6.10. **Rivers, Creeks and Streams:** Drinking, washing and fishing

PART VII: Rules on Resource Use

7.1. Trees

a. Standing Rules

- Trees shall not be felled in the forest for the purpose of fire wood and charcoal production without the prior approval of the CFMB.
- A community member or group shall have the right to produce charcoal for personal use free of charge.
- A community member or group who produces charcoal for commercial purpose shall pay a fee of 10 percent of the bags of charcoal produced.
- A non-community member or group who produces charcoal for commercial purpose shall pay a fee of 20 percent of the bags of charcoal produced.
- All commercial producers of charcoal shall register and sign a memorandum of understanding with the CFMB.
- Xylopia tree shall not be felled as a means of harvesting Xylopia.
- A community member or group cutting sticks for building a house shall be allowed the cut the quantity required for the completion of the house free of charge if the house is intended for the use of such the member or group.
- Any person cutting sticks for commercial purpose shall sign an agreement with the CFMB.
- No person shall grow trees that produce traditional chemicals such as doebou and tokodea that are illegally used for fishing.

b. Penalty

- A community member or group who produces charcoal for commercial purpose without registering with the CFMB and paying the required production fee shall pay a fine of 500 LD and the fee.
- A non-community member or group who produces charcoal for commercial purpose without registering with the CFMB and paying the required production fee shall pay a fine of 500 LD and the fee.

- Any person who cuts sticks for commercial purpose without an agreement with the CFMB shall pay a fine of 500.00 and all sticks cut confiscated.
- Any person found cutting down Xylopia tree as a means of collected Xylopia shall pay a fine of 300.00 LD.
- Any person found growing fishing chemical producing trees shall be fined 500.00 LD.

7.2. Thatch

a. Standing Rules

- A handful of thatch shall contain 45 leaves of thatch.
- A bundle of thatch shall contain 45 handfuls.
- A community member or group shall have the right to harvest thatch for personal use free of charge provided the bundles don't exceed the amount required to complete a house.
- Any person or group collecting thatch for commercial use shall register with the CFMB and sign an agreement with the CFMB.

b. Penalty

- Any person found violating these rules shall pay a fine of 300.00 LD.

7.3. Rattan and Monkey Vines

a. Standing Rules

- A bundle of rattan shall contain six pieces at a maximum length of 30m per piece.
- A community member or group shall have the right to access rattan and monkey vines for personal use.

- The amount of rattan collected for personal use shall not exceed the quantity needed for that purpose.
- A community member or group accessing rattan or monkey vines for commercial use shall register and make an agreement with the CFMB.

b. Penalty

- Any person or group found breaking the above rules shall pay a fine of 100.00 LD if for personal use and 200.00 if for commercial use.

7.4. Bitter Roots

a. Standing Rules

- A bundle of bitter root intended for either construction or furniture making shall contain three pieces at the length of 20m per piece.
- A bundle of bitter root intended for either food shall contain three pieces at the length of 15cm per piece.
- A community member or group accessing rattan or monkey vines for commercial use shall register and make an agreement with the CFMB.

b. Penalty

- Any person or group found breaking the above rules shall pay a fine of 100.00 LD if for personal use and 200.00 if for commercial use.

PART VIII: Threats to the Forest and Its Biodiversity

These rules shall deal with the follow major threat to our forest and its biodiversity:

- 8.1. Farming
- 8.2. Hunting
- 8.3. Fishing
- 8.4. Settlement
- 8.5. Logging
- 8.6. Mining

PART IX: Reduction of Threats

9.1. Farming

a. Standing Rules

- Farming shall not be allowed in virgin or old growth forests.
- There shall be no farming in reserved and sacred forest.
- Farming shall be done on old farm land.
- Any farmer shall brush only the spot that can be fully used for a given season.
- No one shall brush any area without planting on it.

b. Penalty

- Any person found farming in the protected area or reserved forest shall be taken to court und FDA Protected Area Law.
- Any person found brushing a land without fully planting on it shall be fined an amount of 500.00LD.

9.2. Hunting

a. Standing Rules

- There shall be no hunting in reserved forest as classified under these rules.
- There shall be no commercial hunting in Nitrian Community
- There shall be no hunting or killing of the following wide animals:
 - Chimpanzee
 - Elephant
 - Buffalo (bush cow)

- Antelope
- Hippopotamus
- Leopard
- Monkey
- Pangolin
- Eagle
- Boa-constrictor
- There shall be no trapping in the old growth forest.
- There shall be no fence trapping except around the farm.
- All hunters within the community shall register with the CFMB

b. Penalty

- Any person found hunting or trapping in the reserve forest shall be fined an amount of 1,500.00 LD
- Any person found engaging in commercial hunting shall have his gun confiscated or pay the fine of 5,000.00 LD
- Any person found killing any of the above wide animals shall be taken to court under the wide life protection law.
- Any person found doing fence trapping his/her trapping fence destroyed and shall pay a fine of 1000.00 LD.
- Any person found using unregistered gun shall pay a fine of 2,000.00 LD.

9.3. Fishing

a. Standing Rules

- No one shall use doebou and tokodea as a way of fishing.

- No one shall use dynamite as a way of fishing.
- No one should use mosquito nets in fishing.
- There shall be no water trapping.

b. Penalty

- Any person found using doebou, tokodea, dynamite and mosquito nets to kill fish shall be fined 100.00 LD.
- Any person found setting water traps shall be fined 100.00 LD.

9.4. Settlement

a. Standing Rules

- There shall be no new settlements established in the forest or on individual farms.
- Any person living in a satellite village shall be required to build his/her house in the town.
- There shall be settlements on farm lands provided the dwellers of these settlements have life trees or tree crops on their farms.

b. Penalty

- Any person found disobeying these rules shall be asked to abandon the settlement and fined 2,000.00 LD.

9.5. Logging

a. Standing Rules

- The CFMB shall represent the community in negotiations and signing of all contracts for logging within the community.
- Any person possessing a chain saw within the community shall register the saw with the CFMB.

- Any community member or group engaged in subsistent chain sawing shall pay five percent share of on the planks produced.
- A non-member of the community engaged in subsistent chain sawing shall pay ten percent of the products.
- Any community member or group engaged in commercial chain sawing shall pay ten percent share of quantity of planks produced.
- A non-community member or group engaged in commercial chain sawing shall pay 25 percent of the products.

b. Penalty

- Any logging contract signed without the participation of the CFMB shall be rejected by the community.
- Any community member or group failing to register his (her) or its chain saw before operating it shall pay a fine of 2,500.00.
- A non-community member or group failing to register his (her) or its chain saw before operation shall pay a fine of 5,000.00 and have all products confiscated.

9.6. Mining

a. Standing Rules

- There shall be no mining activities in reserved and sacred forest.
- Any person or group obtaining mining license from the Ministry of Lands, Mines and Energy shall sign a memorandum of understanding with the CFMB for benefit sharing.
- Any prospecting shall be approved by and jointly done with the CFMB.

b. Penalty

- No one or group shall be allowed to do mining in the community without reaching a mutual agreement with the CFMB

PART X: Amendment to the Rules

10.1. These rules shall be amended from time to time depending on changes in time, quantity, discovery and use of forest resources.

10.2. Any member of the community shall have the right to recommend changes in these rules.

10.3. An amendment shall be passed by 2/3 of the membership of the Community Assembly and approved by the Executive Committee and the CFMB.

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