

# Implementation of Customary Land Recognition and the Land Rights Act: Independent Research Findings

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## Summary:

This report draws on independent research in 23 communities across four clans that have begun the ‘5-step’ process of Community Self-Identification and customary land recognition as mandated in the Land Rights Act. Communities are undertaking this process with the support of local CSOs, with the oversight of the Liberian Land Authority, and with funding from donor partners. This report may provide evidence that could be useful for all of these actors in seeing what is working well and where potential sticking points are for implementing customary land recognition.

We found that while self-identification at level of clan does reflect the ways in which **some** communities already saw their land, but, for other communities the self-identification at the level of clan **was less strongly correlated with how people talked about identity and belonging**. In turn, this influences **how people want to govern their land**, and how they see relations between deeds for ‘the community’ in relation to other deeds they already have. There is also an inter-related factor of the **material interests** that people have within and outside of the community. In some cases, **elite capture** seems to undermine or threaten the process. This is likely to have an **outcome both on the risk of conflict**, as well as on **who can derive livelihoods benefits** from land and who cannot. Finally, in terms of women’s rights, there is considerable variation across communities. While in some communities women clearly enjoy access to land, in others there is a disconnect between the sensitization people have received on women’s land rights, and **what happens in practice**.

## Introduction

The Land Rights Act (2018) reflects years of concerted effort by government, civil society, and donor partners to reform land governance in Liberia. The Law (LRA) strikes a remarkable balance between formalizing pre-existing customary land governance in communities to give more formal, statutory rights to communities, and addressing discriminatory practices, particularly through the explicit inclusion of women. As a result of the ways that the LRA focuses on the land rights of local communities, and on making land governance in communities more inclusive and transparent, it has attracted a great deal of attention, both from civil society groups in Liberia, and in the international community. In turn, several international donor agencies provided funding for pilot programs to assess potential ways of implementing Community Self-Identification and customary land recognition for the issuance of deeds to communities.

As an academic researcher, I am interested in this process precisely because of the balance that the LRA strikes. In particular, I am interested in how the work for implementation relates to the aims of the LRA to recognize a new legal category of land (customary land) which is based on longstanding/common practice (that is, to formalize the already existing category of customary land). Related to this, the LRA clearly sees an imperative to ensure that all members of the community enjoy secure land rights, and equal access/protection. This also supports a motivation that security and equal access should decrease land-related conflict and increase the potential of communities to derive economic benefit from their land.

These aims of the LRA are inter-related, for instance, it assumes that in communities with a clearer understanding of land rights, the number of conflicts will reduce. Likewise, it assumes that a clearer understanding of land rights and more formalized land governance could have a positive effect on increased agricultural productivity on the basis that greater tenure security may incentivizes farmers to invest more into their land. There is a further assumed correlation between the inclusion of women in land governance and a positive effect on both dispute resolution and on socioeconomic indicators. In this sense, these aims of the LRA should not be seen as perfectly separable. As such, the aim of my research is to consider how methods of formalizing community land governance in Liberia are functioning, and how they fit with the aims of the LRA.

In particular, based on the design of the process for community self-identification and recognition of customary land in the community, I am interested in four aspects of recognizing customary land that relate to both the processes and the outcomes. Firstly, how does it reflect the ways people already think about the composition of the community and the rights and authorities over land? Secondly, how will it help to clarify and formalize governance and authority to make decisions for community land (also relative to other categories of land such as private land)? Thirdly, how does the process interact with economic interests and livelihoods activities? Finally, how does it reflect the aim of inclusive land rights and by increasing the knowledge of women's rights and ensuring their participation in land governance?

Academic researchers have mixed results when investigating the effects of land tenure formalization on matters of dispute resolution, gender inclusivity, local governance, and economic development. The questions underpinning this project relate to the wider debates on how customary tenure can be formalized to protect communities' rights while also paying heed to the ways in which structural inequalities function, and how some actors might seek to capture processes of formalization (Peters 2004; Jacobs 2002; Berry 2017; Collins and Mitchell 2018; Moyo 2008). Research indicates that participatory, bottom-up models of community land registration may advance the rights of marginalized people (Knight et al. 2012), but there are knowledge gaps in how these processes are perceived by power brokers in the community, outside the immediate community, and within state-level institutions where institutional mandates for land authority changes.

The research project is broadly interested in the connections between formalization, wider statebuilding processes (particularly those that aim to increase gender equality) and resource pressure in the context of commercialization. I designed the research project from a combination of review of existing academic literature, analysis of policy debates and reports, and preliminary discussions with key stakeholders (2018-2019) in the period before I started the main phase of data collection (2021).

In brief, my research found that while self-identification at level of clan does reflect the ways in which some communities already saw their land and the ways in which land is governed, for other communities the self-identification at the level of clan **was less strongly correlated with how people talked about identity and belonging**. In turn, this influences **how people want to govern their land**, and how they see relations between deeds for ‘the community’ in relation to **other deeds** they already have, or deeds they aspire to have. There is also an inter-related factor of the **economic interests** that people have within and outside of the community. In some cases, **elite capture** seems to undermine or threaten the process. This is likely to have an **outcome both on the risk of conflict**, as well as on **who can derive livelihoods benefits** from land and who cannot. Finally, in terms of women’s rights, there is considerable variation across communities, wherein in some communities women clearly enjoy a clear and guaranteed access land, in others there is a disconnect between the sensitization people have received on women’s land rights, and **what happens in practice**. Outside of the immediate communities, my research also seems to suggest that the influence of ‘outside stakeholders’ and of county-level governance **often undermines** the aims of the LRA, either through a lack of understanding of the process, lack of capacity in the county level LLA offices, or, in some cases, through capture of the process.

## **Background on pilots**

There are a number of donors funding work on customary land recognition, the largest being the Tenure Facility (24 communities), USAID (36 communities), and the European Union (31 communities). Other donors, such as IDH (Sustainable Trade Initiative) fund projects in a smaller number of communities. Several local implementing partners run these projects. Three of the principal implementing partners are Sustainable Development Institute (39 communities) Parley (18 communities) and Foundation for Community Initiatives (8 communities). Based on information from key-informants, in most cases, communities are supported through the necessary steps for customary recognition by a single donor project, however, there is also cross-over from programs funded by different donors, insofar as two projects sometimes funded different stages of the customary land recognition process through different CSOs at different moments. Additionally, in 2022, the World Bank funded a project wherein the LLA was responsible for implementing the steps of the process in 4 communities.

At the time of my research, guidelines for the process of customary land recognition (including the first step of Community Self Identification) had been published both by the Liberian Land Authority and the USAID Land Governance Support Activity (LGSA) (Liberian Land Authority 2019; USAID and Liberian Land Authority 2020). These guidelines were developed with the implementing partners under guidance by the Liberian Land Authority. The guidelines are compatible with each other and both include the same Five-Step process for customary land recognition, starting with **Community Self-Identification**. The second step is for communities to set-up **bylaws & governance structures**, including establishing a Community Land Development Management Board (CLDMC). In the third step, communities **identify and map their boundaries** with other communities. The LLA is responsible for the fourth step, in which they perform a **confirmatory survey**. Finally, the CLDMC provides the LLA with all the documents for the process and works with LLA to **receive a deed**. Sustainable Development Institute developed the method for the first three steps of the model. Within the donor-funded projects, the focus has been on supporting communities to get through steps 1-3, after which point the LLA is responsible. The ‘standard’ for the process includes five common steps across all projects, and while there is

some variation in how the steps are followed, in principle, all communities are required to complete the same five steps before being eligible to have a deed issued by the LLA.

The aims of the projects project reflect the goals of the LRA in several ways, such as: helping communities self-identify, sensitizing communities about their rights to land, and including specific sensitization on women's land rights; helping communities harmonize and demarcate their land boundaries and improving dispute resolution and land governance in communities, namely through the establishment of Community Land Development Management Boards (CLDMCs).

## **Methodology**

The findings presented in this report are the result of six weeks of research carried out by the lead author and a research team comprised of Kou Gbaintor-Johnson and Regina George of the Center for Action Research and Training (CART). In the two years prior to starting research in the communities, I had multiple meetings with representatives of government (Liberian Land Authority, Ministry of the Internal Affairs) with the NGO partners (SDI, FCI), and with international partners (USAID, Lantmäteriet, the Swedish Embassy, World Bank). I spoke with all of these representatives again once I started the research in November 2021. For the purpose of this research, I focused on two CSOs (SDI and FCI) and their work in four clans. To include some variation in the stage of the process, we selected three clans where the Tenure Facility funded the project and one where USDAID/LGSA funded the project.

Over the six-week period, as a research team we visited 23 towns across four clans (Nyanpoh Clan in Sinoe, Dorbor Clan in River Cess, Doe Clan in Grand Bassa and Vavala Clan in Lofa). In three of the four clans, we visited all towns in the clan. In the fourth clan, the size and geographic spread meant we were only able to visit six of 18 towns (Doe Clan, Grand Bassa Country). In each community, we met with the town chief, and, wherever possible, met with the members of the CLDMCs living in that town. After this, we conducted individual interviews with members of the community who were not on the CLDMC. The sampling for the individual interviews was purposive, because we sought to speak to variety of people, including men and women, people born and not born in the town, youth and elders. In total, we conducted 138 individual interviews, 56 with women and 82 with men. We also spoke with representatives of local government in all counties, including county Superintendents, county representatives of the LLA, the Assistant Superintendents for Development, one District Councilor and mayors of the county capital cities. In total, we conducted 25 of these key-informant interviews.

In 2022 we returned to 20 (of 23) communities to follow-up and validate our findings. This had a two-fold purpose of determining what, if anything, had changed in the previous 12 months, and also to check the overall reliability and generalizability of the findings contained in this report. In order to do this, I employed a cartoon artist to draw 5 main findings in picture form, to use as a tool to check with communities about what we found. Unfortunately, we were unable to return to Sinoe due to the road conditions. The Folke Bernadotte Academy funded all stages of this independent research under an open, competitive grants scheme.

## Findings

In this report, we focus our findings on the first three steps of customary land recognition (CSI, establishing governance structures, and boundary harmonization). We considered these processes in relation to four aspects the LRA. Firstly, how the processes reflects the ways people already **think about the composition of the community** and the rights and authorities over different types of land in the community. Secondly, how it will help to **clarify the land boundaries**, and subsequently how it will formalize the **governance of community land** within those boundaries. Thirdly, how it reflects the aim of **inclusive land rights and protection** by increasing the land the knowledge of women's rights and ensuring their participation in land governance. Finally how all of these aspects in turn have an **influence on conflict reduction and livelihoods activities**.

### *Level of community identification*

The principle of Community Self-Identification suggests that the 'level' at which the community identifies should be the result of how communities see themselves and decide to come together, and any 'sub-units' at the next lower level should agree to be part of the wider unit's customary land. In principle, this should be a further point of reflection throughout the process of Community Self Identification, including in relation to discussing what other types of land ownership claims (i.e. Tribal Certificates, private deeds, etc.) exist inside the land of the wider intended unit.

The communities in the Tenure Facility funded project are identified at the level of clan. This is also true for several of the communities funded by USAID projects, including the clan we visited in Lofa (Vavala). However, throughout our meetings and discussions with individuals and local leaders, it is not evident that this is always the most accepted or most 'natural' way that people understand their land in relation to their identity and ideas about land ownership. In two of the four clans this does seem to be a clear and meaningful way of community identification, and there is a strong correlation between people's feelings of affinity, belonging, and land ownership with the clan. This can be seen in how people talk about what is required to be able to access land (for instance, in expressions that the land is for the clan, and they are part of the clan, so this is how they get land). It is also seen in people's discussions of what makes them strong and how unity as a clan is the preferred way to protect their interests and rights against encroachment. In Dorbor Clan (River Cess) and Nyanpoh (Sinoe) this clan-level feeling was strong, and consistent amongst respondents across all of the sub-units (towns). In these clans, people 'easily' discussed land as 'clan land.'

This stands in contrast to the two remaining clans. In Doe Clan (Grand Bassa) and Vavala Clan (Lofa) we consistently encountered either a **distinctly ambiguous** feeling about the clan, or, a very strong **affiliation with a sub-unit**. In both of these clans, respondents across all towns discussed belonging and land ownership is discussed in terms that are **not correlated to the clan**. In these clans, very few people discussed 'clan land' even when we prompted them to talk about it. For example, when asked a question such as '*Who is the land in Doe Clan for?*' people consistently responded that the land in their town was for their town. In particular, Doe Clan seemed the least cohesive, several respondents in Doe clan claimed that they did not know what clan they were in. One told us that 'I think this Doe Clan came about in the city' (referring to Monrovia). This opinion/feeling could indicate that the clan is seen as being an administrative unit put in place by central government, which may in turn affect how people feel about the land being 'for the clan.'

The variation in how people think about belonging, land governance, and the process of self-identification between communities in this study suggests that it is important to remember that the principle of community self-identification in the Land Rights Act is clear what this should be determined by communities, rather than a single guiding principle of ‘which’ unit to identify at.

### *How people want to govern land*

Feelings of affinity and belonging to a community unit are closely related to **how people want to govern land**, whether that unit is a clan, a town, or a quarter. This is also connected to and how they see relations between deeds for ‘the community’ in relation to **other deeds they already have**, or deeds they aspire to have.

This is also relevant to the dual objectives of the LRA to recognize the already existing forms of land governance that are based on ‘longstanding and common practice’ as well as the objective to ensure equal access to and protection of land for all members of the self-identified community.

For the objective to recognize the longstanding and common practices of land governance, the ‘steps’ of Community-Self Identification and setting up by-laws and governance structures seem to be suitable. People generally reported that decisions about how to govern land, how to access land, where people should go with land problems, etc, were implicitly or explicitly explained as ‘this is what we have always done.’ Very few people mentioned the CLDMCs unless we asked about them specifically, but everyone had a clear explanation for how land matters were decided in the community, who to go to, and what the processes are for different land matters.

In terms of awareness of the CLDMCs and their function, this seems to be stronger in communities where there is some sort of ‘problem’ CLDMCs are working to solve, either with neighboring communities or with elites. This could be seen, for instance, in Dorbor clan where the functioning and mandate of the CLDMC is generally clear to most respondents in all towns. This may have a relation to issues of elite capture faced by the clan (see discussion in next session). In other communities, awareness of the CLDMC was more scattered, but in almost all communities, at least one person mentioned the CLDMC when asked about things like ‘who is doing land business here’ or ‘where would you carry a land problem.’ However, this was also sometimes described as the ‘SDI group people’ or ‘the FCI group people.’

In our interviews with CLDMC members in 2021, and in our 2022 clan-level meetings, there are indications that CLDMCs are not holding regular meetings. For instance, while in 2021 it seemed that Dorbor Clan CLDMC has met a few times during that year, by the time of our follow-up research, they said they had not met in one year. In Doe Clan, members of the Community Assembly said that they had not been called by the CLDMC for a CA meeting since elections had been called.

Awareness of the CLDMC was weakest in Nyanpoh, where almost no individual respondents reported knowing what/who the CLDMC is. The CLDMC’s mandate in the LRA and the published guidelines for establishing the CLDMCs emphasize that CLDMCs should be involved in the processes of setting up bylaws and boundary harmonization, and that their future mandate for management of community land should be done in a way that does not overstep the already existing sources of authority in communities. No respondents, including

key power brokers such as town chiefs or landlords, made any mention of open conflict between the CLDMC and the already existing sources of land authority. However, some CLDMC respondents mentioned that they are sometimes ‘passed over’ by key power brokers.

The work done by CSOs seemed to introduce a few changes in matters of land governance and resource management. This is perhaps most obvious in relation to ideas people had about ‘saving’ a particular resource for ‘future companies.’ People made this claim mostly in reaction to being asked what they had learned from the CSO project, and often elaborated that they had been taught or told by CSOs that they should reserve ‘the hard forest’ in case a future investor comes.

One pervasive finding relates to how people want to govern land relative to ideas about ownership rights and the ‘unit’ of ownership. As suggested in the previous section, feelings of affinity towards ‘clan-level’ ownership were mixed. Particularly in Doe and Vavala clans, people frequently reported that the reason to get a clan deed was to cut the land inside after getting the clan deed to divide between towns and/or sections. In the 2022 follow-up research in Vavala, some respondents also mentioned that having a town deed would give them the opportunity to ‘cut’ their own family or personal land inside the town land. At the same time, others expressed that they did not want to cut town deeds out of a future clan deed, based on a fear that this could bring division. How this plays out could have important consequences in terms of things like boundary disputes, the functioning of land governance (such as in cases where CLDMCs were set up at level of clan), and decisions about natural resource management, particularly in relation to the possibility of future concession companies.

Additionally, in Doe and Vavala, one aspect that was consistently raised in relation to land governance is that of ‘other’ deeds that already exist inside the clan land. In some communities, respondents who claims to have an ‘other’ deed said either that they had not reported this to the CSO, or, that they did mentioned it, and were told either by the CSO, the LLA, or a leader in the community to ‘wait’ until after the clan had a deed to make clear where their own deed was. These other claims were mixed between being claims to have a Tribal Certificate, or claims to a private deed. Almost everyone who claimed to have a private deed (or a tribal certificate) stated that they had this for ‘decades.’

After the first stage of research in 2021, my assessment was that there has been insufficient attention to other kinds of land claims during the 5-step process (and in the guidelines for the process). The guidelines dictate that the LLA needs to verify other deeds that people claim to have. However, throughout the research, this was consistently unclear to all respondents, including those who had other kinds of claims, as well as to members of the CLDMCs and other key stakeholders. Based on conversations I observed on the topic of ‘other kinds of deeds,’ my assertion is that the lack of clarity within communities about what will happen with ‘other deeds’ is having implications for the wider 5-Step process. For instance, in Doe clan, where some sections claimed that the ‘entire land’ of their section was already under another kind of deed, this could help to explain the degree of ‘fracturing’ in a clan-level affinity to having a clan deed. Even in communities who do not claim to have their land under deed already, the debates around ‘own section deeds’ may be driving a sense that the end of the customary land recognition process should result in a deed for each section (or town).

It is a positive step that in 2022 the LLA is developing regulations for how to manage this process, and I would hope that there is subsequently clear and concerted attention to sensitization and application of these regulations particularly in the communities that have

already started the 5-Step process. In conclusion, when comparing the responses from 2021 to 2022, it seems that the CLDMCs are becoming more disengaged from their roles and the ‘5-Step’ process, and that a sense of wanting ‘only’ a clan deed (rather than individual town deeds) is even less prevalent than it was last year.

### *Women’s rights*

There are a number of ways women’s land rights can be understood, so we start this section with an explanation of how we asked several kinds of questions related to different aspects of women’s land rights. At a ‘most basic’ level, we asked every individual how they access land. We did not ask this in terms of ‘accessing land as a man/woman’ but we are able to compare the responses across men and women. Responses to this question tell us a number of things about how land is governed, but we can also see from them if/how differences arise in how women access land versus how men access land. For instance, we could determine if more women than men report difficulties in getting or if getting land requires that they use different connections/social ties in the community. This can, for instance, give some indication about the relative security of land rights, and whether men and women have different security in their access to land.

Secondly, we also asked all respondents if women and men have the same right to *talk about* (put their mouth inside) land business. This question is less a matter of whether access to land is secure, and instead an indicator for if, how, and where women are able to discuss land business. It is therefore a partial indicator of if/how women exercise decision-making power about land in the community, and, crucially, if land is seen as something that women should be able to discuss.

Our results suggest that there is considerable variation across clans and communities. The variation is most evident in relation to the question of whether women and men have an equal right to talk in land business.

### Men and women accessing land

Overall, both women and men responded that they were able to access land when they wanted to. There are differences in the process for accessing land – for instance, in Nyanpoh Clan, both men and women seemed surprised that we were asking this question, and responded that they ‘just went and farmed.’ The equal confusion at the question, and ease with which people described going to farm in Nyanpoh does not indicate that there are any significant differences in how men and women access land, or their sense of security over being able to access land freely. In Dorbor clan there was a more clear and distinct process for people to access land for farming, but here also we can see very little difference between the responses of men and the responses of women to this question. In both Doe and Vavala clans, where people expressed less affinity to the clan and more to a sub-unit (either the town or quarter), there is an even more formalized process for getting access to land, and here greater gendered dynamics emerge. The most obvious is that requesting land from the person responsible for the ‘sub-unit’ (town or quarter landlords) means that both men and women alike were asking for land from a male landlord, reflecting how this kind of decision-making power is seated with men.

In most communities there was no discernable difference between men and women in what they needed to do to get land from a landlord, and both men and women seemed to express



relative security in access. There is a gender difference in two notable ways. Firstly, while it was not the most dominant response, some women in communities in Doe and Vavala did express that they had to ask for land, and that they were ‘shown’ where they farm, while men in those same communities said they could inform the landlord and then farm where they wanted. This is a subtle, but important difference.

Secondly, in Vavala clan in particular, there is a clear difference between men who trace their patrilineal descent to the landlord on one hand, and on the other hand, women and men who trace only matrilineal descent to the landlord. Some elements of this difference are most relevant to the right to ‘talk about land business’ as I will show in the next section, but one finding also suggests a difference in ability to access land for *tree cash crops* wherein men related to the landlord through their fathers enjoyed different abilities to plant tree cash crops than women and men related to landlords through their mothers. In the follow-up research in 2022, we were able to further validate this finding, for instance in Vavala. where it was confirmed that in the few cases where women were harvesting cocoa, that this was from trees they had inherited, while men have the right to plant new trees. However, it is also clear that this is not true across the country, because in the follow-up meetings in Dorbor, there was a lively discussion about why people in some other parts of the country would stop women from planting cocoa.

#### Men and women ‘talking land business’

Women who reported that they could easily access land for farming did not necessarily report that women have the same right to talk about land as men. This disparity is spread throughout the four clans, but generally, women were less likely to respond that they could talk about land in Doe and Vavala. Most women in Nyanpoh and Dorbor said they also had a right to talk about land. This same response, and the differences between clans holds true for men responding to our questions about women’s rights to talk. However, in Nyanpoh and Dorbor it is notable that in some communities where the majority of men said that women could talk about land, sometimes women said they were not able to talk ‘the same as men.’ In Doe and Vavala there was consistently between men and women saying either that talking land business was entirely for men, or, that women could talk in some land business. When we followed up by asking which land business women could not talk, both men and women said that women could not talk land business ‘in the bush’ and that the issues most likely to be taken to ‘the bush’ if there was palava.

#### *Economic interests: elite capture and whose livelihoods?*

The **economic interests** that people have within and outside of the community are a cross-cutting factor across the above issues of community identity, governance, and women’s rights. In some cases, **elite capture** seems to undermine or threaten the wider process of customary land recognition. This is likely to have an outcome both on **the risk of conflict**, as well as on **who can derive livelihoods benefits** from land and who cannot.

#### Economic and other interests, and communities’ livelihoods

The economic interests within communities relate to findings in the prior sections on how people want to govern land and women’s rights. These economic interests are generally entrenched *prior to* the CSO-led process of customary land registration, for instance, in

communities where individuals make to claims to ‘other deeds’ there is a clear interest maintain those deeds. Their legal right to do so is protected under the LRA once the LLA can validate the deed. This does not *per se* pose a problem for recognition of customary land, provided the process is clear and transparent to the wider community. However, a concern could arise if the process of validating and documenting other land claims within the community becomes an opportunity to exclude land users who had previously enjoyed use rights from that land.

Another example of ‘interests’ that are prior to the 5-Step process relates to the particularity of ‘Nephew’ business in Lofa (Vavala Clan). The preexisting practices of allowing ‘Nephews’ (sons of women who come from the families of landlords) to access land, seems to become both more contentious and more exclusionary as community rights become formalized. This is evident in how boundary disputes across clan boundaries as well as between communities inside the clan are described as being caused ‘by nephews’ who ‘did not understand that the land was given to use for farming, but it is not for them.’ As with the prior example of other deeds, it is not a problem *per se* of giving land to nephews for farming but not to own (or even ‘nephew towns’ – towns that are treated/seen as being in a nephew relationship to the neighboring ‘uncle town). The issue only arises in *how* the process of recognizing customary land *may* exacerbate these tensions and create opportunities for some landlords or towns to use the process of demarcating boundaries to claim that land under use ‘by nephews’ should be returned ‘to the uncles.’ These uncle/nephew disputes seem to be a main source of tension between Vavala and other clans, as well as to a lesser degree, inside Vavala. The means through which these disputes are resolved will have important implications for how ‘community membership’ is defined and understood if the process formalizes the exclusion of ‘nephews’ (or ‘nephew towns’) from community membership.

### Economic interests and elite capture

The issue of elite capture during the process of recognizing customary land is a very serious concern. This can occur in multiple ways, such as when an elite with links to the community (for instance someone who claims to be from the community or whose parents are from the community) interferes in the process in some way, or supports one side or another during a boundary dispute within the community. One example of how this may be problematic comes from the so called ‘Development Associations’ made up of Monrovia-based community members. In some cases these Development Associations can provide positive support and benefit to the community during the ‘5-Step’ process, (such as through providing material support, helping the community to read and understand legal documents, encouraging the community to carry out the whole process, etc). However, based on interviews with members of several Development Associations, there are also indications that these associations are supporting conflict, encouraging the individualization of land claims, re-enforcing divisions between sections of the clan, and in some cases, are doing so in complete ignorance of what the LRA says. For instance, a representative of one Development Association (unnamed) spoke to me about how he was encouraging people in the community to get new Tribal Certificates.

Elite capture can also occur when influential and powerful members of the community facilitate the entrance of other elites into the community’s land without the consent of the (whole) community and by-passes the newly established CLDMC. Not only does this undermine the objective of having CLDMCs involved in processes to decide about granting concessions, such as for logging, but it also risks the livelihood opportunities for the whole

clan. As such, elite capture poses a serious risk to the core objectives of the LRA. If CLDMCs are extremely well-organized and supported by the CSO or other stakeholders outside of the community, there is a greater likelihood that they will be able to effectively resist attempts at elite capture during the process of customary land registration. However, this should not depend on the individual CLDMC and instead needs to be tackled at the national and county levels. During our research we encountered several instances where elites had either successfully taken land without the approval of the community, or where the community was in a sustained struggle against this. In some instances, we understood that this was occurring with the (tacit) knowledge of county-level governance, and where the elites involved were connected to national government.

## Conclusion

In many communities, it was clear that respondents are very enthusiastic about the ‘5-Step’ process and about the prospect that the end result can be a legal deed for their land. Many respondents also spoke with happiness about what the process of CSO engagement had done for them, such as in making them more aware of their rights, including women’s rights to land, as helping to develop by-laws that govern resource use (such as by-laws that govern common resources like forests and waterways). In communities where the boundary harmonization with one or more of their neighboring clans has resulted in signed MoUs, respondents reported being pleased to have this boundary formally recognized and agreed upon. While not all respondents were aware of the CLDMCs, members of the CLDMC reported feeling pride at being on the committee, and were happy that their communities chose them as representatives. These positive responses should be seen as great achievement of the LRA and of how CSOs, the LLA, and donors are helping to support communities in getting recognized, legal rights to the land they have longstanding and sustaining ties to.

There are issues in some communities which seem to be preventing the process from meeting this full potential. Some of these issues seem to be related to prior/pre-existing things in the communities, and others seem to relate to how the ‘5-Step’ process was implemented. Namely, it is not clear from the research that all clans have a clear and cohesive idea of wanting to self-identify as a clan. It is a little difficult to discern if this is primarily a result of pre-existing affinities to other ‘sub-units,’ or to other kinds of land claims that exist inside the clan boundary (such as private deeds), or to how the process was conducted. This was most starkly an issue in Doe clan, but there are also many people in Vavala clan who expressed that the land was primarily ‘for’ particular towns rather than ‘for’ the clan.

The mixture of knowledge of the CLDMC’s purpose and the engagement between the CLDMC and the community members is not unexpected, and is not a problem *per se* but the total lack of awareness of the committee and what it does in some communities suggests that sensitization on the role of the CLDMC has been uneven and that many people in the communities do not have much awareness of the CSOs project. For instance, in Nyanpoh clan, where there are a relatively small number of towns and where there is a strong sense of clan-land affinity, only one of the communities reported having been visited during the project, and while many people felt strongly that it would be good for Nyanpoh to have their own deed, very few people outside the visited town knew what this meant, what it would entail, and what the process was. This seems to suggest that in some instances, while there is implicit buy-in for what the end result will be, the ownership for and knowledge of the ‘5-Step’ process sits with the CSO and the CLDMC.

My initial findings also seem to confirm what other research has found in other contexts regarding the implementation of laws that aim to increase or enhance women's rights to land and women's decision making around land. The projects should be applauded for their awareness raising about women's rights, but the further step of translating this into practice is extremely difficult. It is a good sign that people say that now women can talk about land business when it is discussed in the town barrie, and this is surely a sign that people are beginning to think about women's land rights in a more expansive way. However, if this means that men still take difficult, contentious, or particularly 'important' land matters to 'the bush' then we can see how men can find ways to limit women's participation in practice. It is also important to highlight again that in Lofa, ideas about who can and who cannot speak about land business extend to 'nephews' who are excluded on the basis of matrilineal descent. It is therefore key that issues of inclusion/exclusion are not just spoken about in terms of men/women, but in terms of what kinds of social relations and ties are used to include or exclude people.

Outside of the immediate communities, my research also seems to suggest that the influence of 'outside stakeholders' and of county-level governance often undermines the aims of the LRA, either through a lack of understanding of the process, lack of capacity in the county level LLA offices, or, in some cases, through capture of the process.

## **Recommendations**

### **For donors**

Donors should consider how best to prioritize funding that will facilitate the completion of the '5-Step' process in communities that have completed up to 'Boundary Harmonization' but who are still waiting on the 'confirmatory survey.' This support could include further sensitization for CLDMCs on the forthcoming LLA regulations for verifying and validating other deeds, and support to county-level LLA offices to do this in cooperation with CLDMCs.

Subsequently, any funding for 'new' communities should be directed at a holistic and complete process of customary land recognition rather than partial implementation of some of the five-steps.

One factor that seems to correlate with women's inclusion in decision-making is women's robust and meaningful participation in income-generating agriculture. As such, one possible means to increase women's inclusion in decision-making could be to include funding for women's livelihoods activities as part of the customary land recognition process wherever possible.

### **For government**

Once the regulations for Tribal Certificate validation are in place, the implementation could prioritize communities where CSOs have worked to get community to certificate stage.

Continue to ensure that county-offices are aware of, and fulfilling their mandate to support the recognition of community land, and that there is a clear and transparent process for processing incoming requests for confirmatory surveys (first-come-first-served).

The on-going trend of people using power/influence to sell or lease land that is part of communities' intended customary land claims is extremely worrying. It also risks the

objectives of the LRA and the positive reputation the LLA has worked to develop. All legal measures to prevent this should be taken, and communities should receive support from the LLA to redress when people in positions of influence attempt to buy/sell or lease large tracts of the community's land.

### **For CSOs/NGOs**

Consider waiting to start 'new' communities until the regulations for private deeds and Tribal Certificates are in place and functioning, so that these regulations can be a central point of the initial entry into the community and a clear point of reference during the discussions of what level the community wants to identify at.

During the process of setting up CLDMCs, it may be useful to expand the process of capacity-building and empowerment of the CLDMCs, to help ensure that the committees are able to identify and self-initiate tasks related to land management without being prompted by CSOs.

### **Additional recommendation:**

During the research, it became clear to me that sometimes it is Monrovia-based members of the communities that are the least informed about the LRA, and also at times the ones who are using influence to gain access to land or to give land to others. It may be worth considering the potential value of a sensitization campaign on the provisions of LRA related to customary land directed at people in Monrovia who are active in their 'clan/town Development Associations'

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