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LAND DISPUTE RESOLUTION PROCEDURAL GUIDE

LIBERIA LAND CONFLICT RESOLUTION PROJECT

OCTOBER 2013

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DISCLAIMER

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ACRONYMS AND ABBREVIATIONS

ADR	Alternative Dispute Resolution
CBO	Community-Based Organization
CDR	Collaborative Dispute Resolution
CNDRA	Center for National Documents and Records/Archives
COP	Chief of Party
COR	Contracting Officer's Representative
GIS	Geographic Information Systems
GPS	Global Positioning System
IT	Information Technology
LCC	Land Coordination Center
LCP	Liberia Crusaders for Peace
LCRP	Land Conflict Resolution Project
M & AC	Mediation & Arbitration Committee
M&E	Monitoring and Evaluation
MOU	Memorandum of Understanding
NGO	Nongovernmental Organization
NRC	Norwegian Refugee Council
PMP	Performance Monitoring Plan
TCC	The Carter Center
UN	United Nations
USAID	United States Agency for International Development

PURPOSE

This manual is intended to serve as guidance in the resolution of land-related disputes in Liberia and is a component of assistance provided by USAID’s Land Conflict Resolution Project (LCRP) to the Liberia Land Commission. It has been prepared for Land Coordination Center (LCC) staff, and local dispute resolution practitioners who work in collaboration with the LCCs.

Land Coordination Centers are charged with promoting coordinated, effective, efficient, and timely resolution of land disputes; providing some degree of standardization of administrative procedures; assisting disputants to select and making referrals to appropriate dispute resolution institutions, providers, and procedures; coordinating accessibility of support services to component institution/systems and users of the network system; and promoting, encouraging, and facilitating institutional learning to make changes at institutional, procedural, policy, or legal levels, which will improve the resolution of land disputes.

Dispute resolution practitioners are individuals in communities who serve as mediators, arbitrators, or facilitators of customary processes to resolve land disputes. This guidance is focused on the peaceful resolution of disputes by the use of several procedures—negotiation, mediation, arbitration, and customary conflict resolution methods and procedures. The major emphasis, however, is on the voluntary resolution of disputes using mediation.

ROLES & FUNCTIONS OF LAND COORDINATION CENTERS

The functions and mandates of the Land Coordination Centers are outlined below. These are then explained in further depth in Section 2.

Coordination, Education and Early Warning

- Promote linkages and coordination among and between various system partners and service providers.
- Enhance public education and increase awareness of potential or actual disputants about the range of procedural choices to resolve land disputes and how to access them.
- Educate the public and potential disputants about land law—customary and statutory—as means to prevent disputes, and prepare parties to engage in productive dispute resolution initiatives.
- Develop a land conflict early warning system and prevention strategies to anticipate and respond to potentially volatile disputes.

Case Management

- Establish uniform case intake process, forms, and registration procedures.
- Develop prototype procedures for case investigation, conflict analysis, and resolution strategy design.
- Provide guidelines, forms, and assistance as needed to network partners and service providers to help parties and intermediaries draft and record agreements in the form of Memoranda of Understanding (MOUs).
- Encourage and facilitate, as appropriate, legal review of agreements prior to the signing of a final MOU.
- Provide, as appropriate, a representative from the Land Coordination Center to attend agreement confirmation ceremonies.
- Promote the use of closure rituals by Land Coordination Center system partners and service providers to help parties recognize the end of the dispute.

Provision of Advice and Assistance to Disputants, and Case Referral

- Counsel parties on procedural alternatives for dispute resolution.
- Provide assistance to disputants to select the appropriate method to resolve their dispute.
- Refer disputants to appropriate system partners and service providers that can provide legal advice, counseling, and/or other assistance to prepare them to understand and effectively advocate for their interests.
- Refer disputants and their disputes to appropriate network partners and service providers who provide third party dispute resolution assistance.

Convening Assistance

- Provide convening assistance if parties are reluctant or refuse to participate in a dispute resolution process provided by network partners or service providers.
- After consultation with the LCC National Coordinator, convene a special mediation body and process to handle cases that involve a large number of parties; cross clan, district, or jurisdictional boundary issues; or those that may involve potential or actual violence, which Land Coordination Center staff do not believe can be resolved by system partners or service providers.

Capacity Building

- Prepare Land Coordination Center system partners and service providers to brief parties on effective dispute resolution attitudes, procedures, and skills to promote settlement.
- Provide introductory and advanced culturally appropriate land dispute resolution training for third party intermediaries.

Monitoring and Institutional Learning

- Monitor, observe, and coach service providers working in network partner institutions to ensure quality control of procedures and personnel.
- Monitor and evaluate dispute resolution processes and outcomes.
- Monitor the path of dispute resolution, and ensure that an appropriate sequence and hierarchy of procedures are followed.
- Provide oversight and monitoring of parties' compliance with agreements or third party decisions.
- Encourage community leaders and members to use peer pressure to promote compliance with agreements or decisions.
- Provide oversight of maintenance of land dispute settlement records at the Land Coordination Center level, and at county and national levels.
- Create a county land dispute resolution database to which all network partner systems will contribute.
- Collect, analyze, and document "lessons learned" to identify patterns, trends, and structural sources of conflicts that can be addressed, remedied, or prevented through changes in law, rules, regulations, or dispute resolution procedures.

Technical Assistance

- Arrange for or provide credible and impartial demarcation or survey assistance at various phases of the mediation process.

I.0 IDENTIFICATION OF LOCAL DISPUTE RESOLUTION PRACTITIONERS

One of the early tasks of Land Coordination Centers is to develop a roster of people to whom individuals or groups involved in a housing, land, or property conflict can go to for dispute resolution assistance. The roster is a publically available list of respected individuals or groups that reflects the demographics of a community (age, gender, community membership, and so forth), that provides potential users with choices for who to call upon for help.

The roster includes respected individuals or groups who can provide a range of services to help resolve disputes. Some of them include:

- ***Conflict advisors or coaches*** who help people in conflict to understand what is causing their dispute and choose the best possible way or ways to resolve it.
- ***Negotiators*** who help prepare people in a dispute to communicate and advocate for their needs and interests more effectively, or work directly with them to do so during a dispute resolution process.
- ***Mediators***, individuals who are neutral and impartial, who facilitate talks between people in dispute and help them develop voluntary and mutually acceptable agreements.
- ***Arbitrators***, mutually acceptable individuals who are asked by parties in a dispute to listen to their views and suggest either a non-binding recommendation on how their differences could be settled, or make a binding decision.
- ***Customary authorities*** who use customary dispute resolution procedures, which often involve procedures that are similar to mediation or arbitration, to help parties resolve their differences.
- ***Civil society dispute resolution providers***, national or international groups that can provide dispute resolution assistance—usually advice, coaching, or mediation—to help people reach voluntary agreements.
- ***Government officials***, who may provide either mediation or arbitration assistance.
- ***Surveyors***, providers of technical assistance, who may identify and clarify land in dispute, delineate or survey boundaries, and provide formal documentation to go into agreements.
- ***Court administrators or judges*** who can help people use the government’s judicial system to resolve their conflicts.

This roster is one of the resources provided to community members seeking assistance in resolving their land issues. Development of an initial roster can be completed by following the process described below.

1. Identify and contact potential individuals, groups, organizations, or government agencies in the area that are currently or likely to be involved in land-related issues and/or dispute resolution. Three entities to consider are:
 - a. Traditional authorities-local leaders in the area. They frequently serve in some capacity in resolving disputes and they are also likely to be aware of others who serve in this role.
 - b. Local governmental officials. This may include members of the judiciary, police, land surveyors with the Ministry of Lands and Mines, or others as appropriate.
 - c. International organizations and nongovernmental organizations (NGOs) operating in the region. Examples of these entities include the United Nations (UN) and its agencies, such as UN-HABITAT; international NGOs, such as the Norwegian Refugee Council (NRC) and The Carter Center (TCC); or contractors of international aid agencies, such as Tetra Tech, that work with USAID.
 - d. Local NGOs or community-based organizations (CBOs) working on peace and conflict issues, land or natural resources management, or on topics related to resettlement and refugees.
2. Interview individuals or representatives of identified entities who have informal or formal authority and demonstrated capacities and skills to assist individuals or groups to resolve differences in a peaceful, fair manner.
3. Conduct a participatory mapping exercise with a cross-section of community members who represent the local demographics of the area. (Keep in mind community membership, language, age, gender). This can be a useful tool and process to cross-check the reputation, capacities, and skills of identified and potential future dispute resolvers. Questions for discussion by participants in the mapping exercise include:
 - a. Who is affected by decisions regarding land use, land allocation, or decisions regarding the disposition of property?
 - b. Who makes the above decisions?
 - c. Who is capable of blocking decisions regarding housing, land, and property?
 - d. In cases where there is a dispute over land, housing, or property, who in your community is involved in resolving it? How do they get involved?
 - e. Who is not currently helping to resolve disputes, but has the qualities and capacities to do so in the future?
4. Once a list has been assembled of credible individuals or groups involved in resolving disputes in the targeted area, they should be screened by the LC, LCC staff, and appropriate partners, using the process criteria outlined in the text box on the next page. The screening should be used to identify appropriate candidates to participate in a future Collaborative Dispute Resolution Training Program.
5. During the dispute resolution training program, participants should be observed by LCC staff and trainers to identify trainees who have the following qualities and skills:
 - Demonstrated commitment to treating parties equally regardless of their gender, age, status, family or community membership, nationality, etc.;
 - Being honest, incorruptible, and free from undue external influences;
 - Maintaining a neutral relationship with disputing parties, and avoiding speech or actions that might indicate a bias toward one of them;
 - The capacity to be impartial and unbiased regarding issues in dispute;
 - Being open minded and willing to hear and consider disputing parties' concerns and interests;
 - Committed to finding or building agreements or, if necessary, making recommendations or decisions that are fair, reasonable, implementable, and which comply with national laws; and

- Understanding of procedures and skills that help people in dispute find or build mutually acceptable agreements.
6. Participants in the training program who demonstrate the above qualities and skills should be included in the LC/LCC roster of qualified practitioners in the area where the LCC is operating. If at some time in the future the Land Commission decides to proceed with a formal certification process for roster members, it will develop a process for updating the list.

**Process for Identifying Appropriate Participants
for a
Collaborative Dispute Resolution Training Program**

The LC/LCC should convene and facilitate a Community Meeting (supported by LCRP) in the targeted district. The purpose of the meeting is to identify potential participants in a future Collaborative Dispute Resolution Training Program. The purpose and dates of the upcoming training session should be presented. Community meeting participants should be asked to identify and nominate potential candidates who will be screened by the LC and LCC, and if accepted, asked to participate in the future training program.

A subsequent LC/LCC Screening Meeting should be convened approximately one week before the training program is scheduled to begin. LC, LCC, and LCRP representatives should form panels to interview prospective candidates for the training program. Interviewees should be asked to talk about themselves and their experiences helping others resolve conflicts. Interviewers should listen for responses to the following questions, with others, as appropriate, being asked.

- a. Why are you here? What do you know about the Land Commission's land dispute resolution program?
- b. Who nominated you as a potential participant in the training program? Why do you think they did so?
- c. What is the importance of using cooperative procedures to respond to and resolve land disputes?
- d. Have you ever been personally involved in a land dispute? What did you do? How did you handle or resolve it?
- e. Has anyone ever invited you to help them handle and resolve a land dispute? Tell us about it. (Look for what they did to help get a resolution.)
- f. Has anyone asked you to help them handle or resolve any other kind of dispute? Tell us about it. (Look for what they did to help get a resolution.)
- g. Has someone ever taken you to court over a land issue or dispute? Tell us about it. (Look for their views about judicial dispute resolution procedures and alternative resolution processes.)
- h. How long do you think a person who is trying to help disputants resolve a land dispute stay involved with a case? One month? One week? Two years?
- i. Have you ever taken part in a conflict resolution or land dispute training course before? When and what type?
- j. Are you the type of person who could help others resolve their dispute? Why?
- k. The training session is for five days. You would have to be here the whole time. Is this possible for you to do?
- l. After the training session, the LCC Coordinator or the Case Intake Officer may contact you and ask whether you will help resolve land disputes that come to the LCC office. How much time would you have available to help resolve these disputes?

- m. What would you be doing if you were not at the training session? (The purpose of the question is to learn what kind of work the interviewee does, and whether he/she would really be available to attend the training session and later provide dispute resolution assistance.)
- n. Now that you know something about the program, in your own words, what will you do in the future if you take part in the training?
- o. Note takers should create a form for each candidate and take notes on questions asked by panel members and responses of interviewees regarding their experience, availability, position in the community, and any additional details.
- p. It is important that the screening process result in the selection of a cross-section of community members representative of the ethnic, religious, gender, age, and social make-up of the communities in which they will be providing dispute resolution assistance. Status of the communities in which they are working.
- q. Panels should reconvene, review the notes taken by their note takers, and share their conclusions about candidates and their appropriateness for participation in the upcoming training program. The LC, LCC, and LCRP should select 25 people to participate in the training program. LCC staff should notify candidates who have been selected to participate by phone or text message. They should also inform those who were not selected of the LC, LCC, and LCRP decision.

I.1 MEDIATION & ARBITRATION COMMITTEES

Where appropriate, the LCCs may be requested by the Land Commission to establish Mediation & Arbitration Committees composed of qualified practitioners who have been through collaborative dispute resolution training and are roster members. Local Mediation & Arbitration Committees can help promote broader facilitation and access to dispute resolution services beyond the physical locations of LCCs, and can also enhance the likelihood that parties will be able to easily contact and utilize the services of local practitioners.

1. As of December 2013, the Land Commission is still refining the official roles and functions of these Committees. Dr. Christopher Moore, our Technical Advisor to the Land Commission, made the following recommendation to the LCs for potential roles and functions of these Committees: provide case intake services in situations where the LCC is located a significant distance from parties in dispute and is not easy to access for assistance.
2. Receive cases from the LCC.
3. Determine the appropriate mediator, arbitrator, or customary leader to be assigned to cases.
4. Assign cases to practitioners, taking into account the fit with the parties in terms of age, gender, religion (as appropriate); lack of bias in terms of gender, age, or their relationship to one or more parties; their ability to be objective; potential substantive knowledge, as appropriate, about the issue/dispute; and required skills to handle the level of conflict and emotions involved in the dispute. Be the initial repository of records of dispute resolution sessions.
5. Record in written form all agreements or non-agreements reached by parties.
6. Serve as a liaison with the LCC.

2.0 CASE MANAGEMENT

2.1 CONDUCTING CASE INTAKES

When one or more parties (the initiator(s) or Party A) come in person to the Land Coordination Center or contact it by phone, the LCC Intake Officer responding to the contact should explain the role of the Center and open a file using the Case Intake Form (see Annex A). The Case Intake Form consists of a number of questions to gather contact information and details about the type of land dispute, which owns or has use-rights to the land; relevant documents (Tribal Certificates, titles, deeds, and so forth) of the relationship between the parties who are in dispute; and the desired outcomes for settlement. As a part of the intake process, the Intake Manager should ask the following questions and others as appropriate:

1. *Who do you have this dispute with?*
2. *What is your relationship to this party?*
3. *When did this land dispute start?*
4. *Who are you representing?*
5. *What is happening with your land/property now?*
6. *Which of the following best describe the land/property?*
7. *Who have you reported this case to before?*
8. *Do you want the Land Coordination Center to start a process that may help to resolve this dispute?*

It is important that during the intake process the LCC Intake Officer should model the behaviors of an interested, fair, neutral, and impartial intermediary. He or she should:

- Pay attention to the person or group requesting assistance (do not get lost in taking notes);
- Adopt a concerned but neutral manner toward the initiator (do not take sides);
- Demonstrate interest in the issues in dispute and possible outcomes suggested by the initiator, while avoiding being biased toward them; and
- Practice active listening of the party's emotions to help better understand and start to work through them, and reframe positions in terms of the initiator's interests.

The Case Intake Form (Annex A) is intended to help gather relevant information and later serve as a tool for tracking and monitoring cases. Its use should not interfere with establishing rapport with the party and gathering relevant information.

At the completion of the case intake interview, the LCC Intake Officer should record and register the case. All cases, regardless of whether they result in both or all parties participating in a specific dispute resolution process should be registered. Once a case is recorded and registered, the LCC Coordinator will authorize the LCC GIS/Data Entry Officer to enter it as a new case in the database where it will be assigned a code. Information that has been recorded will also be inserted in the Case Referral Form (Annex B) and later, as appropriate, in a Case Management Form (Annex C).

If the initiator(s) (Party A) agrees to have the LCC assist them to resolve their dispute, the Intake Officer should contact the other party or parties (the respondent(s) or Party B) to explore whether he, she, or they are interested in having the LCC provide dispute resolution assistance.

2.2 CASE CONFERENCE

After the intake interview with the initiator(s) (Party A), the LCC Coordinator should fill out an Invitation Letter (see attached) for each of the other involved parties (the respondent(s) – Party B respondents) that asks them to participate in a Case Conference that will be conducted either at the LCC office, or at a location chosen by the respondent. The purpose of the Case Conference is to obtain additional information on the dispute from the respondent (Party B) and explore their interest and willingness to participate in a future dispute resolution process. The Invitation Letter should be delivered to the other parties either by a LCC staff member or an appropriate and trusted messenger.

If the respondent agrees to participate in the Case Conference, they will meet with an LCC Intake Officer who will be involved in collecting information about the dispute from them. If after the Case Conference the respondent(s) (Party B) agrees to participate in the same dispute resolution process preferred by the initiator(s) (Party A), the Intake Officer will contact the initiator(s) (Party A) and inform them that there is an agreement on the dispute resolution process that will be used. The LCC Intake Officer may then provide all parties' disputants with a list of intermediaries to choose from or make a referral to a specific third party.

If the parties do not yet agree on a mutually acceptable dispute resolution process or intermediary, but are willing to explore them further, the LCC Intake Officer may conduct a further Case Investigation to help the parties decide how to proceed, or refer the case to a specific intermediary on its Roster or a Mediation & Arbitration Committee to do so. More will be said about this process in the section below.

2.3 CASE INVESTIGATION

The Case Investigation phase, also commonly known as fact finding, is focused on uncovering more information about the key issues in dispute, further exploring the interests of both parties and assessing what dispute resolution process might be appropriate. As noted above, it can be conducted by an LCC Intake Officer assigned to a specific intermediary or referred to a Mediation & Arbitration Committee. (If it is sent to a Mediation & Arbitration Committee, it will assign one or several of its members or respected members of the local community to conduct a further case investigation.)

Some of the information about the dispute will already have been gathered from the initiator during his or her initial interview and from the respondent in the Case Conference. The goal of the Case Investigation is to gather more specific information that will help the parties and intermediaries know how to proceed.

The attached Case Management Form (Annex C) and Case Follow-Up Form (Annex D) outline a number of areas for further inquiry for both parties. Some of them include:

- What are the key issues that the respondent and the initiator individually or both want to have resolved?
- What is the history or dynamics between or among the parties that will make the dispute easier/harder to resolve?
- What interests do the respondent and other parties want to have addressed and resolved? (Consider their *Substantive Interests* – specific tangible outcomes they want to achieve; *Procedural Interests* – their preferences for the process to be used to resolve their dispute; and their *Psychological/Relationship*

CASE MANAGEMENT FORMS

1. **Case Intake Form.** This is used to officially open the case.
2. **Case Referral Form.** This is used to refer the case to a dispute resolution practitioner.
3. **Case Management Form.** This is used to gather additional information on the details of the case.
4. **Case Follow-Up Form.** Records the process and outcome used by the dispute resolution practitioner in attempts to resolve the situation between the disputants.
5. **Case Log.** Used to keep a manual log of files as they are entered into the LCC database.

Interests – how they want to feel about themselves or others involved in the dispute during and after it is resolved, and what kind of future relationship, if any, they will or want to have with them.)

- How flexible are the parties concerning their initial proposed solutions or desired outcomes of the dispute?
- Are the parties willing to talk face-to-face to try and resolve their differences? Are there structural factors that will make the dispute easier/harder to resolve (for example, the direct possession or availability of land, financial resources of each of the parties, or connections with other influential parties)?

In addition to obtaining the above information, the LCC Intake Officer, the intermediary who has been assigned to the case, or the Mediation & Arbitration Committee verifies that all parties that may be involved in a dispute resolution process have the authority to make a decision and settle the dispute. For example, if someone is representing a family in a land dispute, it needs to be clear that the representative has the authority to speak for, negotiate, and enter agreement on behalf of the family. If the representative does not have the required authority, the Intake Officer, intermediary, or Mediation & Arbitration Committee should work with that person to identify how a binding decision will be made by the party.

2.4 COUNSELING AND REFERRAL

The Land Coordination Centers serve as referral and resource centers for a range of dispute resolution procedures and service providers to resolve housing, land, and property conflicts. After conducting a thorough Case Investigation, the LCC Intake Officer, an intermediary who has been assigned to the case, or a Mediation & Arbitration Committee should again explore with disputants possible procedural options available to them for dispute settlement and assist parties to decide which forum and procedure to use. They should provide information about the range of dispute resolution procedures and service providers that are available and discuss with them some of the following issues and questions:

1. **Nature of the dispute** – *Is the dispute about current conflicting interests or does it have deeper causes (a long and difficult history, limited resources, structural problems that affect parties and potential outcomes, psychological barriers, etc.)? If the case is complex, with a high potential for violence, or with tensions between communities, then the LCC, an assigned intermediary, or the Mediation & Arbitration Committee should refer the case to the Land Commission to determine an appropriate course of action. This enables the LCC and local dispute resolution service providers to serve as an integral part of an Early Warning System.*
2. **Legal frameworks and parameters** – *What is the legal framework (statutory or customary law, terms of a contract or common practice) that establishes parameters for the dispute resolution process and outcomes of the dispute?*
3. **The level of development of disputants' differences and interactions** – *Is the dispute suppressed and not yet been raised; is it developing but has not reached a point where parties have strong emotions, polarized views, or taken adversarial actions; or is it fully developed, recognized by all disputants, and they have polarized views and have taken confrontational actions?*
4. **Relationships between or among disputants** – *Do parties have a past or current relationship; was/is it positive or negative and what kind do they want in the future?*
5. **Information and documentation** – *Do disputants have adequate and accurate information needed to make informed and wise decisions, or is relevant data missing and parties need to figure out ways to get it?*
6. **Balance of power** – *Do disputants have similar sources and amounts of power and means of influence, or are there significant differences so that one is more powerful or weaker than the other?*
7. **Good faith participation** – *Are disputants willing to make their best efforts to find a mutually acceptable solution to their dispute or is one or more unwilling and wants to use the dispute resolution process to manipulate or take undue advantage of the other?*
8. **Disputants' capacities to advocate for their interests** – *Do parties have the knowledge and skills to advocate effectively for their interests, are they a special needs group (women, youth, elderly, disabled, etc.) or do they need advocacy help?*

9. **The disputants and process** – *Can parties implement effective dispute resolution procedures on their own, or do they need assistance from a third party to settle their dispute?*
10. **Disputants and third parties** – *When disputants need intermediary assistance, do they need help to bring parties together for negotiations, aid in gathering accurate information, process support to improve negotiations (such as provided by a mediator), provide third party recommendations for settlements or a decision by an authoritative decision maker?*
11. **Disputants’ will and authority to reach voluntary agreements** – *Do parties have the will and/or authority to reach voluntary settlements, or do they need a third party decision to break a deadlock?*
12. **Disputants’ capacity and willingness to follow through on agreements** – *Are parties willing or unwilling and do parties have the capacity to implement or comply with the terms of a voluntary settlement or third party decision?*

2.5 DETERMINING WHICH CASES ARE APPROPRIATE FOR DIFFERENT DISPUTE RESOLUTION PROCEDURES

Cases are likely to involve a wide range of issues, including disputes over documentation, housing, land grabbing during and after the war, boundary disputes, payment of rental fees, inheritance disputes, women’s rights to land, legal parameters for land ownership or use, and so forth.¹ Some cases may be more appropriate for one dispute resolution procedure than another. Listed below are some criteria to help LCCs, intermediaries assigned to conduct further investigation of a case, or Mediation & Arbitration Committees—in consultation with involved parties—to decide on an appropriate dispute resolution procedure and make a referral to a mutually acceptable intermediary.

2.5.1 Refer for Negotiation

Negotiation is a communication and problem-solving process between two or more people that is focused on developing a mutually acceptable agreement to solve a problem or resolve a dispute or conflict. If after talking with all of the parties involved in a dispute, LCC staff or members of a Mediation & Arbitration Committee think that disputants may be able to resolve their differences on their own with only minimal substantive input from them, such as information on land law or rights, or suggestions for procedures disputants might use to conduct unassisted negotiations and how they can use them effectively, they may suggest that the parties try once again to directly resolve their differences without third party help. They should also inform parties that if they are not able to reach an agreement, they can return to the LCC or the Mediation & Arbitration Committee for a referral to another dispute resolution process and dispute resolver.

Additionally, if LCC staff or a Mediation & Arbitration Committee thinks that one or more parties are not capable of representing and advocating for their interests, they may encourage them to contact a person who can coach them on how to do so, or participate with or for them as a negotiator.

2.5.2 Refer to Mediation

Mediation is a dispute resolution process in which a trusted, fair, and mutually acceptable third party, a mediator, who does not have authority to make a binding decision or impose an outcome, helps parties in dispute to negotiate a mutually acceptable agreement that resolves a conflict. The Land Commission is committed to promoting mediation as the procedure after parties have tried negotiation to resolve land disputes and have been unable to reach agreements. Disputants and their disputes may be referred to a mediator for assistance if they have some of the characteristics listed in the Table 2.1: Factors that Influence the Success of Mediation, that make them more likely to reach resolutions of their differences through this process.

¹ See (Vinck, Pham, & Kreutzer, 2011) for an analysis of the frequent types of land disputes in Liberia.

Table 2.1: Factors that Influence the Success of Mediation

Consideration	Mediation is more likely to be Successful if:	Mediation is less likely to be Successful if:
1. Each Party's Best Alternative to a Negotiated Agreement (BATNA)	One or more parties can meet more of their interests through a negotiated process with the assistance of a third party	One or more parties can more effectively meet their interests through another process such as avoidance, continuing to maintain the existing situation, or getting a favorable decision from a third party decision maker (arbitrator, customary authority, or judge)
2. Relationship between the parties	Parties have an ongoing relationship that is important for them to maintain	Parties do not have an ongoing relationship that is important for them to maintain or do not want one in the future
3. The issues in dispute	Parties agree on the issues to be addressed and resolved	Parties disagree on the issues to be addressed and resolved
4. Parties' needs and interests	Parties have some common overarching needs and/or interests; they are different, complementary, and not mutually exclusive, or links and trades to satisfy needs and interests that parties value differently might be made on diverse issues	Parties have mutually exclusive needs and interests and a "win" for one requires a "loss" for the other
5. Documentation or witnesses	Both or neither party have compelling statutory or customary documentation or witnesses	One party has compelling statutory or customary documentation or witnesses
6. Parties' use of other procedures	Parties have used only one or two other dispute resolution procedures to help resolve their differences	Parties have used two or more dispute resolution procedures (which may indicate forum shopping), have filed their case with a statutory court, and want a judgment because they think they can win or the issue is a matter of principle
7. Power balance between parties	Parties have similar or different sources of power, but relatively equal levels of influence on each or on a potential third party decision maker	One party has significantly more power and level of influence than another and/or the capacity to strongly influence a third party decision maker
8. Willingness to talk/settle	Parties are willing to talk and try and reach a mutually acceptable agreement	The parties unwilling to talk, try to settle their differences or prefer the status quo
9. Deadline for settlement	If there is time pressure or a deadline that influences benefits, costs, or risks to parties for reaching/not reaching an agreement	There is no time pressure or deadline that influences benefits, costs, or risks to parties for reaching/not reaching agreement; time significantly favors one party
10. Consequences for settling or not settling	There are compelling positive and negative consequences for both parties for reaching an agreement	There are no compelling positive or negative consequences for one or more parties to reach an agreement

2.5.3 Refer to Arbitration

Arbitration is a private and voluntary dispute resolution process in which disputing parties collaborate and agree to submit issues in dispute to a mutually acceptable and trusted third party for either a nonbinding recommendation or binding decision on how to resolve them. Parties generally make a decision on the kind of outcome they want from the intermediary before the process starts.

Arbitrators may be independent, respected private intermediaries or customary authorities who are using an arbitration-like process. Commonly, independent arbitrators work either as solo intermediaries or on panels with three to five members.

LCCs can help disputants who want to use arbitration to identify an appropriate person or assemble a panel in several ways. LCCs can refer disputants to its roster of third parties from whom the parties can choose an intermediary or panel. If, however, disputants cannot reach an agreement on an appropriate person or panel, the LCC can facilitate a selection process. The LCC staff should request a list of names from each disputant that he or she thinks would be an acceptable intermediary. Each disputant should submit an odd number of candidates. Upon receiving and assembling both lists, the LCC staff should ask each disputant to alternate striking out the names of unacceptable intermediaries until the agreed upon number is reached—generally one, three, or five. (An odd number of panel members are desirable in the event that the intermediaries have to vote to break a tie among them on the right course of action or outcome of the dispute.)

Parties in dispute may be referred to arbitration to resolve their differences when they:

- Have in the past or are currently unable to reach an agreement negotiating on their own, or with the help of a mediator;
- Are comfortable with an adversarial dispute resolution process;
- Are not concerned about or want a decision in which one or the other is determined by the intermediary to be right or wrong or guilty or innocent;
- Want either a non-binding recommendation on what they should do to resolve their dispute or a binding decision by a third party; or
- Are more concerned about a substantive resolution than reconciliation.

2.5.4 Refer to a Customary Authority or Process

Customary dispute resolution is widely practiced by traditional authorities in Liberia. Acting either as individuals or as members of groups of chiefs and/or elders, respected leaders listen to parties' disputes and assist them to resolve their differences. Because Liberia has many diverse communities, there is no one way that customary dispute resolution is practiced. Listed below are some characteristics that may be found in customary processes.

Some Characteristics of Customary Authorities and Customary Dispute Resolution

Customary authorities:

- Often conduct adjudicative procedures similar to those used in arbitration or a government court. When deciding cases, they frequently seek solutions that all parties to the dispute are likely to accept and that help reconcile disputants;
- May also mediate or use a process that combines mediation and arbitration to settle disputes. Initially, customary authority may mediate. However, if parties fail to reach an agreement on the merits of one or another's case, the third party makes a decision on merit. The customary authorities and parties may then return to mediation to address and try to resolve issues related to any harm that has occurred. If the parties cannot agree on harm that has been done or consequences to redress it, the customary authority may make either a non-binding recommendation or a binding decision on consequences and/or punishment;

- May also facilitate parties making, receiving, and accepting apologies, which are quite common in customary Liberian dispute resolution processes;
- Often conduct fact-finding or case investigation by talking with disputing parties and encourage them to gather relevant data, documents, and witnesses before customary dispute resolution procedures;
- On occasion, may provide services similar to those of an ombudsperson or ombudsman. They may accept a case, conduct a case investigation, and shuttle between disputants to settle the dispute without the parties ever meeting face-to-face. Customary authorities may involve more people in dispute resolution than is often the case when a dispute is perceived to be only between individuals. Participants may include extended family or clan members, other chiefs, elders, or the broader community. These parties may play roles as moderators of emotions, option generators, persuaders, or witnesses. They may also be involved in encouraging voluntary compliance to or enforcement of agreements or decisions;
- Generally apply customary law or common cultural practices as standards, criteria, or guidelines for their deliberations. They may also take broader interests—those of the wider family, clan, or community—into consideration when assisting parties to resolve disputes; and
- Depending on the circumstances, may also apply statutory law to guide their deliberations. On occasion, they may need to reconcile differences between statutory law and customary law and common practices. When contradictions occur, the government expects customary authorities to follow statutory law.

Disputants and their dispute may be referred to a customary authority to assist them to resolve their differences when:

- Issues in dispute are customary or traditional matters;
- Parties are comfortable with and prefer a customary dispute resolution process to others that are available;
- Trusted and mutually acceptable customary authorities are available to take the case;
- Parties may want non-binding advice or a decision on how their differences can be resolved;
- Restoring or maintaining the relationship between the parties and/or offender and his or her community are important; and
- An apology has or will be made, and reconciliation is one of the parties' goals.

When making a referral to a customary authority, the LCC Intake Officer, the parties, and the customary authority should be clear about the kind of process that will be used—more of a mediation approach, a third party non-binding recommendation, or a binding decision. Parties should also know that if they are not satisfied with the outcome of a customary process at a lower level, such as at the court of a quarter or town chief, they can appeal their case to a clan or paramount chief, the Courts of the District Commissioner or County Supervisor, and ultimately, the Minister of Internal Affairs and the president.

It should be noted that while customary authorities may have the authority to make a decision, they must either rely on the willingness of parties to comply with them or the norms and public opinion of the local community to enforce them.

2.5.5 Refer to a Government Official

Issues involved in the resolution of some disputes fall under the authority of government officials. This may be a mayor, District Commissioner, County Superintendent, or personnel of one of the national ministries. If during a Case Investigation, the LCC Intake Officer, an intermediary assigned to do an investigation, or a Mediation & Arbitration Committee discover that specific government officials should be involved in helping parties voluntarily resolve their differences, or are legally authorized or required to make decisions on issues in question, the investigators should either request their involvement in the dispute or refer the disputants and dispute to them for a decision.

2.5.6 Refer to a Government Court with a Judge or Jury

Not all disputes can be resolved using collaborative processes. Sometimes parties are unable to reach agreements even with the help of a third party. When this occurs, and they need a binding decision by an authoritative decision maker with powers to enforce them, they may need to turn to government courts for dispute resolution assistance. Decisions made by a government judge or a jury often carry more weight than decisions made by other decision makers such as customary authorities or arbitrators.

When needed or appropriate, LCC staff members may advise one or more parties to take their case to court. Recommendations to take a dispute to court may be considered when issues in dispute involve or are covered by statutory law.

2.6 ASSIGNING CASES TO PRACTITIONERS

The following considerations should be kept in mind by LCCs or Mediation & Arbitration Committees when considering appropriate dispute resolution procedures and assigning specific cases to practitioners:

- *Does the practitioner have a relationship to the parties that might bias his or her interactions?*
- *Is the practitioner impartial toward issues in dispute, and not biased toward any parties' interests or preferred outcomes?*
- *Does the practitioner have an appropriate level of substantive knowledge of issues and disputes to provide needed assistance?*
- *Does the practitioner have the capacity to handle strong emotions if the case is addressing sensitive matters?*
- *Will the parties feel comfortable with the practitioner and his or her characteristics (gender, status, age, religion, ethnicity, and so forth)?*
- *Will the dispute require the involvement of multiple dispute resolution practitioners, and if so, how will they be selected and involved?*

Additionally, after making a case assignment or referral, the LCC Intake Officer should send or bring a copy of the Case Referral and Case Management Forms to the intermediary assigned to follow up on or take the case, or the appropriate Mediation & Arbitration Committee.

3.0 PROCEDURES FOR RESOLUTION BY MEDIATION

Because mediation is one of the most important dispute resolution procedures promoted by the Land Commission for the resolution of housing, land and property disputes, this section presents a brief description of a mediation process used by many practitioners. It should be noted that this procedure may be implemented by dispute resolution practitioners in a variety of roles, such as independent mediators or customary authorities. Customary leaders may decide to use mediation to help disputants reach mutually acceptable agreements rather than a customary process where the intermediary makes a decision for them, which may or may not be satisfactory for those involved. While this section of the Procedural Guide is focused on presenting a mediation process that can be used by dispute resolution practitioners, it is equally important for Land Coordination Center staff. The latter need to understand the process so that they can explain it to disputants as one process that may be used to resolve their differences. Additionally, LCC staff who have a deep understanding of the procedure can help them better monitor the quality of the process and provide appropriate support, as needed, to practitioners.

Once parties have agreed to participate in mediation, either through discussions with the LCC Intake Officer, an intermediary assigned to conduct a case investigation, or at a conference of a Mediation & Arbitration Committee, the process will be briefly explained to all concerned once again. It is important that parties know that the goal of the mediation process is to help them talk with the assistance of an impartial and neutral party, and find or build a mutually acceptable agreement. After the process has been explained, the LCC staff member, intermediary, or the Committee will request that all parties sign or make their mark on an Agreement to Mediate. After completing the Agreement to Mediate, the parties will begin discussions with each other, which may happen immediately or later at a mutually acceptable time.

Described below are procedural steps used by mediators and disputants to:

- Learn more about the people, their relationships, the history of the dispute, and issues they want to talk about;
- Describe the issues or problems to be resolved in a mutually acceptable way;
- Identify and clarify the interests of each party that they want to be met in a satisfactory agreement;
- Generate several possible options that satisfy the parties' individual and common interests;
- Evaluate the options to determine which ones best meet the parties' interests;
- Modify and refine options to better meet the parties' interests;
- Reach a final agreement on each issue in dispute;
- Formalize the agreement;
- Clarify the steps for implementing the agreement (what, when, where, and how); and
- Reach closure, conduct appropriate rituals, and end the conflict.

Mediators facilitate joint meetings and may call for and hold private ones with each of the parties if they are needed. In many mediation procedures, the parties remain together for the majority of their discussions. There are, however, situations when parties may need to meet separately for consultation with the mediator, to have a cooling off period if feelings have become intense, to talk among themselves if more than one person is on a “side,” or to discuss topics of concern with others interested in the outcome of the dispute. During these individual and private meetings (also called a caucus), the mediator can probe for what a party would like or need to resolve the dispute, and conduct reality testing on what is possible. Before holding private meetings, the mediator and parties should be clear about the level of confidentiality of information discussed in them.

Details on how joint meetings are conducted by a mediator are described below.²

STAGE I: OPENING

The focus of the first mediation session, or Case Conference, is on introductions, outlining the process, affirming the parties’ agreement to mediate, and helping them to share background information on the dispute. Before beginning, or at the first session, the parties and mediator(s) should discuss and reach agreement on the degree of confidentiality of the process and its outcomes. The beginning of the process starts with the Mediator’s Opening Statement.

A. Mediator Opening Statement. The mediator’s opening statement introduces the mediator and the parties, and defines the mediator’s role, his/her/their relationship of impartiality to them, and his/her/their impartiality or lack of bias about issues to be discussed. It also briefly outlines the steps for discussion and problem solving that will be used, agreements on confidentiality, and the potential use of private meetings (caucuses).³ To conduct an effective opening statement, the mediator(s) should:

- (1) Thank everyone for coming.
- (2) Tell participants your name.
- (3) Ask each party what they would like to be called.
- (4) Describe mediation:
 - a. A way for people to voluntarily resolve conflicts.
 - b. The parties involved—each side—decides what will happen and any agreements that will be reached, not the mediator.
- (5) Describe your role:
 - a. Not a judge.
 - b. Not to decide who is right or wrong.
 - c. Listen to each side.
 - d. Help them identify and think through many different ways to settle disputes.
- (6) Describe the steps:
 - a. Each person will have a chance to describe what they want to talk about (the issues or problem) and share their view.
 - b. Each person will share what would be important to them or that they need (their interests) in an acceptable outcome or solution.
 - c. Each person will suggest ways (options) that the problem could be solved. Explain that private meetings (the caucus), if needed, may be asked for by the people who are involved or the mediator.

² For more detailed information about the mediation and negotiation process, please see USAID’s “Land Conflict Resolution Training & Certification Program.”

- d. Explain confidentiality and its limits. For the mediator, this commonly means not sharing information that the party has told you in private, such as in a caucus, or sharing information about what went on in the mediation with people who are outside of the process. Generally, the only exception for the mediator not maintaining confidentiality is if a crime has been committed or serious emotional or physical harm is imminent.
 - e. Answer any additional questions about the process.
- B. Agree on Meeting or Discussion Guidelines.** The mediator asks the parties to agree on guidelines they will follow that will promote more respectful and productive talks. Potential guidelines include allowing each party to talk and minimize interruptions; agreeing on time limits for meetings and times for each person to talk; affirming that parties can call a private meeting with the mediator, to talk among themselves if more than one person on a “side” is involved, or to others they want to consult with (such as family members or friends); turning off phones and so forth. This is an important step, as it begins the mediation with a procedural agreement between parties. To identify and get agreement on Meeting or Discussion Guidelines:
- (1) Ask the parties or suggest some guidelines.
 - (2) Ask for agreement to guidelines that parties have identified.
- C. Parties Opening Statement.** The mediator invites each party to briefly (2-5 minutes each) introduce him/herself and briefly summarize their objectives for the mediation and the issues or topics they want to discuss. To help parties make an effective opening statement:
- (1) Ask each of them to clearly state the issues or topics they want to talk about.
 - (2) Ask each of them to briefly describe some of these interests that would be important to them in a satisfactory solution.
 - (3) Request that at this time, they hold off making suggestions on specific solutions.
 - (4) Reflect back to each party what you hear.
 - (5) Restate what has been said removing toxic language and focus on clarifying each party’s views and interests.
 - (6) Ask open-ended questions—ones that cannot be answered by “yes” or “no”—to clarify what has been said or get more information.
 - (7) Summarize what each party has said.
- D. Agree on Points of Discussion.** Based on the parties’ opening statements, the mediator should restate and get agreement on the issues the parties want to discuss. If appropriate, they may be listed on a flip chart. The mediator should:
- (1) List all of the issues or topics that the parties have raised in their opening statements.
 - (2) Describe the issues in a neutral and impartial way that does not indicate that one party’s topic or interests are more important than another’s.
 - (3) List issues in an order that will help promote effective dialogue.
 - (4) Gain parties’ approval of the issues to be discussed.

STAGE II: DISCUSS

- A. Suggest an Issue to Start the Discussions.** Suggest a topic that parties might begin talking about. The mediator should consider suggesting one that is:
- (1) Important to the parties;
 - (2) Seems to be less controversial;
 - (3) One that there might be some agreement on; and
 - (4) One that will be the foundation for agreement on other issues.

Once parties experience making progress on an easier issue, they will build their confidence to handle more difficult ones.

- B. Help the Parties to Better Understand the Issue and Their related Interests.** Spend time talking about the issue that has been accepted for discussion. The mediator should:
- (1) Ask a party to begin and explain their view in more detail (Say, “Tell me what happened...”).
 - (2) Ask open-ended or clarifying questions to try and uncover each party’s interests related to the issue. Say or ask: Can you tell us more about it?
 - a. I am confused, what did you mean when you said “x”?
 - b. How long have you known each other?
 - c. How did you get along before this?
 - d. What is important to you in an acceptable solution?
 - (3) Restate what you hear.
 - (4) Restate and get confirmation of accurate listening and understanding of each party’s interests.
 - (5) Restate the problem to be resolved in terms of meeting both parties’ interests (“We will be looking for several possible solutions that will meet your (Party A’s) interests (describe them), and at the same time meet your (Party B’s) interests (describe them). Is that right?”)
- C. Ask Parties for Ideas for Solutions or Options that might meet their Individual and Joint Interests. The mediator should:**
- (1) Encourage parties to identify more than two options. Use brainstorming—suggesting multiple ideas before evaluating them—if appropriate.
 - (2) Ask parties to avoid evaluating options until several have been identified.
 - (3) If appropriate, write them down on a flip-chart, but do not identify who suggested each option.
 - (4) Summarize the options that have been identified.
- D. Note options that parties identify, but do not rush to solutions/agreement.** Make note of ideas, but encourage parties to resist jumping to solutions until they have thoroughly explored the issues and options.

STAGE III: DISCUSS AND AGREE

- A. Evaluate Options.** The mediator should lead a discussion on the various options that the parties have identified. He or she should:
- (1) Discuss each option and evaluate it for how well it:
 - a. Satisfies each individual party’s interests.
 - b. Satisfies the parties’ joint or common interests.
 - c. Complies with relevant laws (statutory or customary), rules, or regulations.
 - d. Conforms or is compatible with common practice.
 - e. Can be implemented by the parties.
- B. Select and Reach Agreement on Options that are Mutually Acceptable.** Look for where parties do or might agree. Do not let them eliminate an option just because they disagree with a part of it. The mediator should:
- (1) Identify where he or she sees the parties agreeing on the solution to an issue, and restate the agreement.
 - (2) Ask parties whether they could agree on an option with a minor modification, and ask what that might be. If the modification is acceptable, restate the agreement.
 - (3) Ask parties whether they might link one or more issues and trade satisfaction of the interests they value differently in each of them. (“If you would do this on this issue, I will do this on this one.”)
 - (4) Ask parties whether a “package agreement” might be developed in which all parties’ interests, with any potential gains or losses fairly shared, by the total settlement.

- (5) Restate and confirm agreements on individual issues as they are reached.
- (6) Summarize and restate agreements on all issues and get confirmation of parties' acceptance of them.

STAGE IV: FORMALIZE AGREEMENT

- A. Draft a Written Agreement.** Summarize progress made and write it down. Keep it short and simple. Put in appropriate names of parties, date of the agreement, and what each is doing or exchanging. Number each issue and the agreement(s) reached to resolve it. This can be done by the mediator, his or her assistant, a community member who is literate, or an LCC staff member who is observing the settlement. The mediator and parties should:
- (1) Test and confirm that what has been agreed to and written down is accurate. (The mediator should read back what has been written and get the parties' verbal agreement of its accuracy.)
 - (2) Parties should discuss how they will handle any issues on which they did not reach agreement (such as having a customary authority, an arbitrator, or a judge make a decision for them.)
 - (3) Parties should affirm the content of the written agreement, and then sign or make their mark on the written agreement.
 - (4) The mediator should discuss with the parties how the agreement will be implemented. If it can be executed immediately by an exchange between the parties, this should occur now. If parties have to do something over time, clear timeframes and what each party will do should be specified.
 - (5) Parties should discuss what they will do if there are problems implementing the agreement, and agree to return to mediation before taking any other actions.
 - (6) Parties should discuss and agree on the extent of confidentiality of the agreement.
 - (7) Conduct any appropriate closure rituals—apologies, statements that a party will follow through on the agreement, shaking hands, or eating or drinking together.

3.1 FORUM SHOPPING – BENEFITS AND COSTS

On occasion, disputing parties may choose to sequentially use multiple dispute resolution forums, approaches, or procedures. Described below in Box 1: Forum Shopping, are some of the impacts—both positive and negative—of this process.

Box 1: Forum Shopping

Forum shopping* - The exploration, selection, and use of multiple dispute resolution forums, approaches, and procedures by a disputant or disputants.

Pre-dispute resolution forum shopping is generally a wise idea. It can help disputants make wise and informed choices regarding an appropriate intermediary, forum, and process. Forum shopping can be a very important factor for citizens' access to justice because multiple and different forums and procedures can:

- More or less be effective or desirable to resolve specific kinds of disputes;
- Provide disputants with an option for appeal, review, and possible reconsideration of a previous unacceptable outcome or decision; and
- Promote accountability of dispute resolvers, as those who are seen as corrupt, inefficient, or expensive are less likely to be contacted or used.

Forum shopping can occur before a dispute resolution initiative starts, or after an unsatisfactory outcome has been reached. Post-dispute resolution forum shopping can have either positive or negative consequences. Positive consequences include:

- Greater access to justice; and
- Access to an appeal process if an agreement or decision is considered to have been coerced or unfair.

Potential negative consequences of forum shopping:

- More powerful parties may use multiple appeals to wear down a weaker one because of the time, financial costs, and energy required to continue the appeal process;
- Disputants moving sequentially from one forum and procedure to another, purely because they do not like the outcome that has been obtained, can result in a waste of energy, time, and resources—for the “shopper” and prospective future service providers; and
- Forums can become overburdened with appeals.

*This section is based on: C. Moore *Housing, Land and Property Handbook on Collaborative Dispute Resolution*. Oslo, Norway, 2011, pp. 128 – 129.

Forum Shopping (Continued)

However, if a dispute resolver or process used previously was corrupt, biased, or resulted in a grossly unfair outcome that does not follow humanitarian principles or national law, disputants need to have access to an appeal process.

Potential Indicators of Negative Forum Shopping

- A disputant says or indicates that they want to “wear away” the resistance of another party;
- A disputant has taken a dispute to two or more intermediaries and wants to take it to yet another; and
- There are significant differences in power and resources of parties, and the stronger one wants to take the dispute to another forum or third party which the weaker one cannot afford.

Possible Responses to Negative Forum Shopping

Explore with the party who seems to be engaged in negative forum shopping:

- Whether the issue in question is a matter of principle, one for which they insist on getting a right-wrong or guilty or innocent verdict, and what other alternatives might be possible to meet their needs and interests;
- Potential or actual costs (financial, time, negative impacts on their relationship with other involved parties, etc.) of taking their case to another forum and process;
- Potential benefits of taking their case to another forum or process, and whether gains really outweigh possible costs;
- Potential risks, such as getting another unfavorable outcome or opinion, of taking their case to another forum and procedure;
- Hardships they may be imposing on the other party or parties; and
- Community perceptions about their proposed action and how it might impact their or their families’ reputation.

LCCs, intermediaries, or Mediation & Arbitration Committees conducting Case Investigations or facilitating dispute resolution processes should help promote positive forum shopping—seeking the best forum, approach, procedure, and when needed, third party—to help address a disputant’s claims and meet their interests, while avoiding negative use of the practice. However, if it appears that a party engaged in negative forum shopping is doing so to harm or take advantage of a weaker party, the LCC may:

- Refuse to participate in the process and make a referral to another forum or process; and/or
- Meet with the weaker party, inform them about the plans of the stronger party, and explore the procedural choices that they have. The LCC may also refer them to individuals or organizations that can provide legal or advocacy assistance.

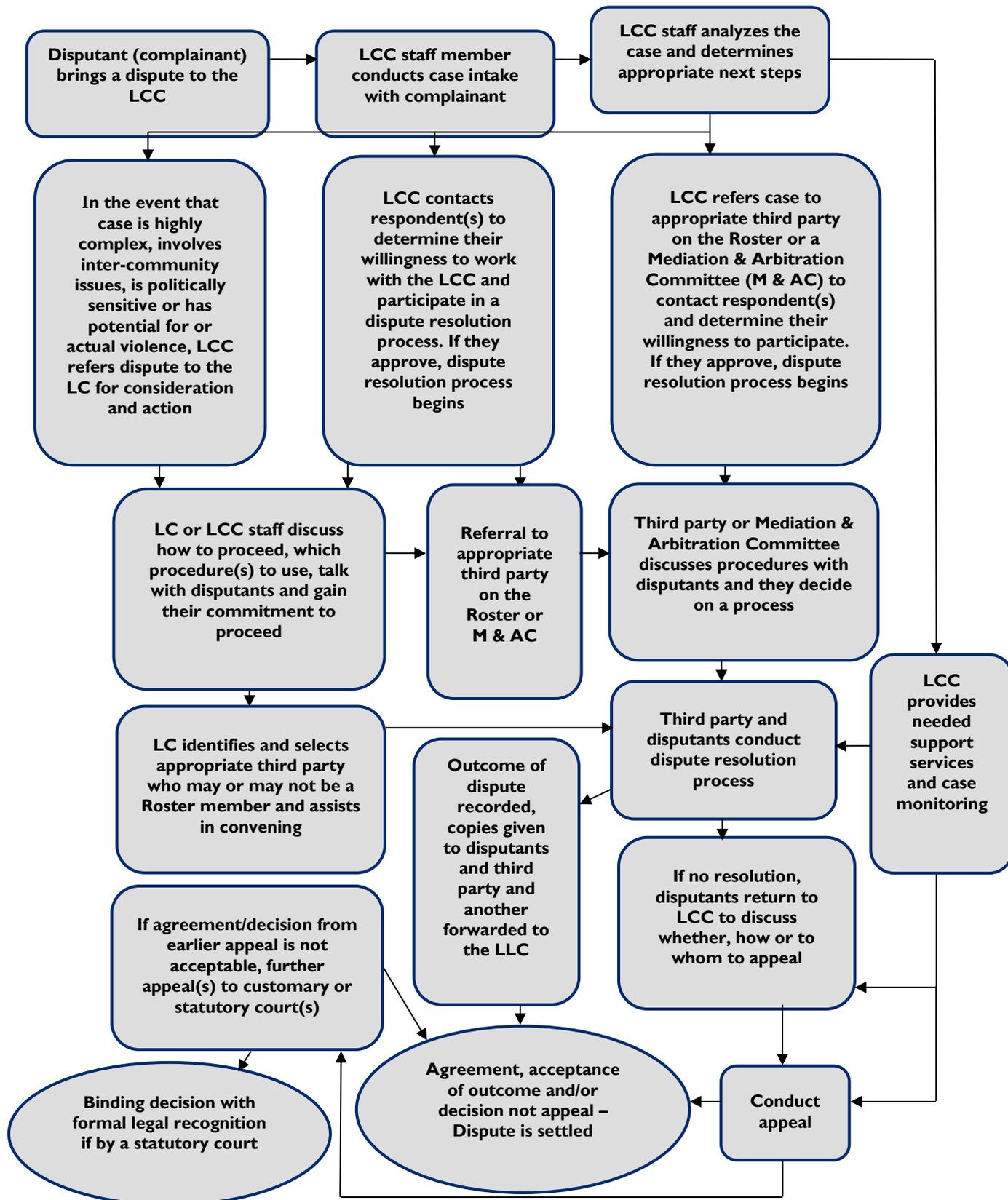
3.2 AGREEMENTS

3.2.1 Case Management by LCCS

LCCs are responsible for the management and oversight of cases from the time of intake to their conclusion. The procedures that are to be followed by LCCs are detailed in Figure 5: Case Management by LCCs (see next page). Several key points for intervention and activities of LCC Staff include:

- **Conducting the case intake with the initiating party** (the initiator or Party A). Gathering enough data to decide how to proceed with the case, respond to the other party or parties (the respondent(s) or Party B), and record the Case.
- **Analyzing the case, deciding how to proceed and determining where and to whom it should be referred.** Determining whether the LCC Intake Officer should contact the respondent; the case should be referred to an intermediary or Mediation & Arbitration Committee to conduct a Case Conference, Case Investigation, or to initiate dispute resolution activities; or referred to the Land Commission because of its complexity, involvement of multiple communities, or the presence of actual or potential violence. All information from the initial Case Intake should be recorded on the Case Intake Form (Annex A).
- **Assisting an Intermediary or Mediation & Arbitration Committee (M&AC) to determine how a case should be handled.** Helping to decide whether or not to continue with a case, refer it to an appropriate intermediary or intermediaries, and, as appropriate, completing the Case Referral Form (Annex B).
- **Informing parties about the administrative process being used to handle their case, and informing them about the timeline for different activities.** Providing the parties with this information is critical for them being informed and their satisfaction with the process.
- **Providing and assuring that all required forms are available to and signed by appropriate parties.**
- **Monitoring the case referral and initiation of the dispute resolution process.** Assuring that dispute resolution activities have started and are progressing according to schedule.
- **Assisting with logistical arrangements as necessary.** Helping to arrange, as necessary, for a venue, transportation, Scribe, and so forth.
- **Observing, as appropriate, the conclusion of the dispute resolution process and signing of an agreement.** Serving as a witness and providing help, as needed for drafting the agreement.
- **Registering cases, recording agreements, and assuring information is in the Land Commission's database.**
- **Consulting with one or more parties about their options for dispute resolution if they are not able to reach a voluntary agreement.** Discussing options for obtaining a third party decision on outstanding issues from a customary authority, arbitrator, judge, or jury.

Figure 5: Case Management by LCCs



It should be noted that no one is required to settle a dispute. When, however, agreements are reached, it is critical that the parties to the dispute believe that they are fair and likely to work. LCC staff plays various roles in the agreement-making process. In some situations, it may be necessary for LCC staff (LCC Intake Officer or LCC Coordinator) to witness or help with agreement drafting and signing, particularly in low literacy situations. When parties reach an agreement, documents should be signed and copies given to each of them, the dispute resolution provider(s), and the LCC. The LCC Intake Officer or Coordinator should review agreements either before they are signed or shortly thereafter to assure that they are complete, accurate, clear, and conform to national law and international covenants signed by Liberia. They should also determine whether in the future the agreement would be acceptable as a legal document and proof of a final settlement of issues in dispute. If there are problems with an agreement, the LCC should request the intermediary and parties to reconvene and address any issues that have been identified. In all cases, LCC staff (Intake Officer or Coordinator) is to record, monitor, and store agreements reached by parties.

3.2.2 The Standing of an Agreement Reached through Collaborative Dispute Resolution

Parties to disputes often want to know whether their negotiated or mediated agreement or a third party decision by an arbitrator or customary authority is “legal” and enforceable under law. In general, negotiated agreements can probably be considered to be contracts that are legally enforceable if they are drafted as a contract and do not have provisions that violate a law. However, customary decisions, depending on the circumstances or issues involved, may or may not have “legal” standing.

Arbitrated decisions generally have legal standing and are enforceable in a court of law. The exception is where there has been a procedural violation, a direct example of unfairness, or it can be demonstrated that the third party was biased or corrupt. When this happens, an arbitrated decision may be considered invalid or dismissed.

3.2.3 Crafting Durable Agreements and Promoting Compliance and Enforcement

CLOSURE

Building agreements that hold over time is dependent on several factors. First, involved parties must have a sense of closure—substantive/content, procedural, and psychological/relational. **Substantive closure** requires the acceptability, formal recognition, and acceptance of tangible promises or exchanges (money, land, goods, compensation, restitution, consequences, etc.) by disputants.

Procedural closure requires that disputants recognize the value of the dispute resolution process in helping them reach agreements, and believe that procedures are or will be in place to monitor and ensure implementation and compliance with the terms of the settlement.

Psychological/relational closure requires, at a minimum, that disputants are willing to let go of the dispute and not continue negative beliefs or adversarial attitudes or behaviors toward other parties. More significantly, psychological/relational closure may involve positive changes in disputants’ relationships with each other and/or involvement in the world, which are no longer contaminated by feelings about the dispute.

In addition to closure as described above, several other factors can make agreements more durable. Some of these include:

- Writing down voluntary agreements or third party decisions in a way that meets legal standards so that there is a clear record of the outcome of a dispute.
- Having agreements or decisions signed, marked, or thumb-printed by disputants to indicate their commitment to the outcome.
- Having parties and agreements witnessed by respected individuals or members of their community.

- Having agreements and the parties who reached them photographed to record the outcome.
- Determining standards and criteria, procedures, observers, and steps to monitor compliance with a voluntary agreement or third-party decision.
- Clarifying procedures that will be used or initiated if non-compliance occurs with an agreement or third party decision.
- Providing each party to a dispute with a copy of their agreement or third party decision.
- Maintaining one or more safe depositories to keep records of agreements.

COMPLIANCE AND ENFORCEMENT

Compliance means voluntary follow-through on commitments.

Enforcement means that a party is compelled to comply with an agreement or third party decision even if they disagree with it.

Regardless of the legal status of an agreement or third party decision, most voluntary agreements reached either through negotiation or mediation or an arbitrator’s decision are followed by the involved parties, and do not require enforcement through legal action or other force. The parties’ commitments to accept and follow through on outcomes are what make voluntary agreements durable.

However, on occasion, one or more parties may be out of compliance with an agreement or third party decision. When compliance is in question, there are several things that an aggrieved party or third party can do:

- Make direct contact with the person who appears to be out of compliance and request them to comply with the voluntary agreement or third party decision.
- Contact local authorities, either customary or statutory, show them the agreement or third party decision, and ask them to intervene and talk with the non-compliant party.
- Return to the LCC for further consultations or advice on how to proceed.
- Reconvene the dispute resolution process, determine the causes of non-compliance and revise the agreement as appropriate so that compliance is achieved.
- Convene a community meeting, invite involved disputants and community members, discuss the reasons for non-compliance, and what can be done to promote acceptable follow-through.
- Take the non-compliant party to court.

3.3 APPEALS PROCESS

If cases do not settle, either the dispute resolution provider or LCC staff should be available to meet with one or more parties and assist them to decide on whether, how, and to whom to appeal an unsatisfactory outcome. Options for appeals include to higher levels of customary authorities, arbitration, or to a government court.

3.4 DATA ENTRY

Dispute resolution providers provide the LCCs with the results of all of their discussions with parties in a timely manner and on forms that are provided. This information will initially be recorded on the local LCC's database.

For monitoring and conflict analysis purposes, LCCs should follow and record data on cases from the time they are opened or reach a conclusion (an agreement, a party dropping their claim, continued disagreement, a third party agreement, and so forth).

When a case is successfully settled by a dispute resolution practitioner, the LCC should record the procedure used and outcome, and enter them into the database. If disputants move from one forum and process to another, this information, too, should be recorded with why the change occurred.

Cases should be recorded even when they do not settle. Any outcome should be recorded and entered into the database.

LCCs will compile information on case processing and settlement on a monthly basis and forward it to the National Dispute Resolution Coordinator. The National Dispute Resolution Coordinator and his/her staff will receive and compile data from all LCCs, analyze it for patterns and trends, and forward it to the Land Commission for its consideration. Information collected by the Land Commission on the process and outcomes of disputes will be made available to the public in a user-friendly and easily understood format.

3.5 MONITORING

All cases are to be monitored by the LCC throughout the dispute resolution process to provide assistance, as necessary, to facilitate progress in resolution and ensure quality control of the process. LCC staff (Intake Officer and Coordinator) should make periodic site visits to observe processes and performance of dispute resolution practitioners. In situations where a case is "stuck," the LCC staff person should consult with the local dispute resolution provider to explore strategies to break the impasse. During site visits, LCC staff should also make time to review all agreements or outcomes attained by the dispute resolver. It has been further recommended that quality assurance monitoring take place on a regular basis to monitor the satisfaction of the parties and the durability of agreements.

3.6 RELEVANT LAWS

LCC staff and dispute resolution actors should be familiar with the laws governing land and dispute resolution in Liberia, as all agreements need to comply with Liberian law.

Laws pertaining to Landlord/Tenant

Chapter 2 of the Property Law (Vol. V, Title 29, Liberian Codes Revised, Chapters 1 to 7) is entitled "landlord and tenant" but deals only with leases to foreigners. Since foreigners are barred by the Constitution from land ownership, the option of leasehold is provided. The term is limited to 21 years, but two extensions for the same period are possible. Rent increases are restricted. Leases may be more than 21 years for foreign businessmen for major investments.

Women's Land Rights

Article 23 of the 1986 Liberian Constitution protects the rights of men and women against their spouses and the creditors of their spouses and further requires the enactment of a law on decedents' estates to ensure the

protection of surviving spouses under both statutory and customary marriages.⁴ The “Devolution of Estates and Establishment of Rights of Inheritance for Spouses of both Statutory and Customary Marriages” (December 1, 2003), also known as the “Equal Rights of the Customary Marriage Law,” provides that certain common law rights of widows, such as the right of dower, also apply to customary marriages. Chapter 2 is a broad declaration of the rights of women in customary marriages. It affirms the human rights of such women, makes the right of dower applicable to them, and provides that land acquired by such women shall belong to them alone. Chapter 3 makes the Decedents Estates Law applicable to women in customary marriages, specifically affirming a number of the rights set out in that law, including the right of “tribal persons” to dispose of their estates by will.

Sale of Land

According to the Registration of Land Law (1974), Chapter 8 of the Liberian Codes Revised, registered title can be set aside if fraud proved in action filed within 10 years from final order for registration in the court where registration proceedings were held. Where the right has been transferred to an innocent purchaser for value without notice of the fraud, he will be protected against even where fraud was involved in the earlier registration (S. 8. 58).

Relationship between Statutory and Customary Law and Housing, Land and Property Rights

Liberia has in practice had a dualistic legal system. Article 65 of the Constitution contains the provision that “The courts shall apply both statutory and customary laws in accordance with the standards enacted by the Legislature.” This provides the constitutional basis for the application in the courts of the customary land tenure rules under which many rural Liberians hold their land.

System to Record Property

The Center for National Documents and Records/Archives (CNDRA) was created under a 1979 law, now a part Section 81 of the Executive Act. It is the custodian for both the Deeds Registers and the Land Register under the 1974 Law. (While the Ministry of Foreign Affairs retains control of the older registers, this is without legal basis.) The CNDRA is thus an important government actor in the land sector, with land responsibilities that cut across sectors. Section 81.10 of the CNDRA law provides that the president, with the advice and consent of the senate, shall appoint for each county and territory a Registrar of Deeds who shall serve under the immediate direction and supervision of the Director General, and lists several responsibilities and competencies of the Registrars.

Transfer of Property at Death – Wills, People without Wills

The Decedents Estates Law of 1992 (Chapter 3 of Title 8, Liberian Codes Revised) confirms the rights of all persons, including “tribal persons,” to make last wills and testaments disposing of their property upon their death, subject to certain limitations imposed by law, such as the widow’s right of dower. The Law provides for the rules by which estates, including both real and personal property, are to be divided among heirs in the absence of a will. It also contains a codification of the widow’s common law right of dower, a right to one-third of the deceased husband’s realty. The new owner of the land (the heir) is responsible for registering the inheritance.

⁴ See Bruce, W. John & Boakai N. Kanneh (2011), Reform of Liberia’s Civil Law Concerning Land: A Proposed Strategy.

KEY LEGAL CONCEPTS RELATING TO HOUSING, LAND & PROPERTY⁵

1. **Adverse possession** A method of gaining legal title to real property by actual, open, hostile, and continuous possession of it to the exclusion of its true owner for a period prescribed by state law.
2. **Compliance** Voluntary follow-through and execution by involved parties of an agreement or a decision reached through negotiation, mediation, arbitration, or a customary dispute resolution procedure.
3. **Concession** Mineral rights and income derived from them.
4. **Control right** The right to make decisions about how the land should be used and benefits allocated.
5. **Customary land** Land owned by a community and used or managed in accordance with customary practices and norms, and may include, but is not limited to, wetlands, communal forestlands, and fallow lands.⁶
6. **Customary ownership** Land owned by an indigenous community or a right to occupy and use land granted to a recipient by a customary land holder.
7. **Deed** A written document that transfers a title from one person to another.
8. **Duress** Forcing a party to do something that is against his or her will or interests.
9. **Eminent domain** The power of a government to take private property for public purposes.

Forced compliance to the terms of an agreement, decision, law, rule, or regulation by a person or institution (police, court, government administrator, and so forth) with the authority or coercive power to do so.
10. **Fraud** A misrepresentation or deception by a party with the intention of achieving personal gain due to the provision of false information.

“Land owned by the Government and used for the buildings, projects, or activities of the Government, including, but not limited to, lands on which are located: the offices of ministries, agencies, and parastatal bodies; military bases; roads; public schools and public universities; public hospitals and public clinics; public libraries and public museums; public utilities; and airports.”⁷
11. **Housing, Land & Property (HLP)** Refers to owners, tenants, cooperative dwellers, customary land tenure owners and users, informal sector dwellers, and squatters without secure tenure.

⁵ Based on the Norwegian Refugee Council's *Housing, Land and Property: A Training Manual* (Cunial, 2011), and others.

⁶ Land Rights Policy. Approved by the Liberian Land Commission May 21, 2013, p. 17.

⁷ Land Rights Policy. Approved by the Liberian Land Commission May 21, 2013, p. 8.

- 12. Inheritance** Money, property, land, and so forth received by one party from another, generally when the party who originally possessed or owned them dies.
- 13. Land rights** An entitlement or guarantee that allows a person to own or use land. More than one person can hold rights to a parcel of land for different uses (house spot, growing crops, harvesting timber, accessing water, and so forth). Together, individual or group entitlements make up a complex bundle of land rights.
- 14. Leasehold land** Land used through an agreement or a lease between a landlord and a tenant.
- 15. Private land** Land owned by an individual or private entity, in which management and use decisions are based solely on formal law (i.e., statutes, regulations, executive orders, and court decisions), where the owner enjoys the full bundle of land rights, which include, but are not limited to, the right to exclude all others, use and possession, own natural resources on the land (e.g., forest), and to transfer all or some of the rights through sale, lease, concession, gift, donation, will, or any other lawful means.⁸
- 16. Public land** Land designated for future use; managed in the public interest; and which is not Government Land, owned by a community and used or managed in accordance with customary practices and norms, or owned as Private Land.⁹
- 17. Real property** Land and ordinarily anything erected on, growing on, or affixed to it, including buildings and crops.
- 18. Security of tenure** Certainty that a person’s right to own, occupy, or use land is recognized by others and protected from challenges or forcible eviction.
- 19. Statutory Ownership** Possession of land or property confirmed by a legal government document, such as a title or deed.
- 20. Title** A document that defines the bundle of rights held by a party and grants legal ownership of a specific piece of land or property.
- 21. Title claims** Something that justifies or provides a basis for a claim to a title, such as a person who first had a claim to land or property.
- 22. Transfer of property** The right and process to sell or mortgage land, convey land to others, transmit the land through inheritance, or reallocate use and control rights.
- 23. Trespassing** To enter land or property without the permission of the legally recognized owner or user.
- 24. Use right** The right to use land for defined purposes—grazing, agricultural activities, forestry, or collecting other natural products, for an easement or a right of way and so forth.

⁸ IBID, P, 21.

⁹ IBID, p. 8.

ANNEX A. CASE INTAKE FORM



Case Intake Form



Land Commission

1. Case_ID_No..... _____
2. LCC Case In-take officer ID _____
3. County of Dispute -----
 - a. Margibi
 - b. Bong
 - c. Lofa
 - d. Nimba
 - e. Maryland
4. District of dispute.....
 - a. Salala
 - b. Jorquelleh
 - c. Zorzor
 - d. Salayea
 - e. Kakata
 - f. Mamba Kaba
 - g. Harper
 - h. Pleebo-Sodoken
 - i. Saclepea
 - j. Beaingarr
5. Intake source
 - a. Hotline
 - b. Case intake officer
 - c. Community members
 - d. Police
 - e. Mediation Practitioner
 - f. Courts
 - g. Walkin
 - h. Others _____
6. Place of Dispute ----- _____
7. Date case reported to LCC _____
8. Number of parties involved in dispute _____

7. Sex _____
8. Who do you have this dispute with: _____
9. What is your relationship to this party (Party B) _____
10. Contact number (if known) of this party (Party B) _____
11. Address of the party (Party B) (if known) _____
12. When did this land dispute start? ----
 - a. Long time ago, before the war
 - b. During the war
 - c. After the war
 - d. A very short time ago
 - e. Others, _____
13. Who are you representing? -----
 - a. Myself
 - b. Family
 - c. Non family group
 - d. Others _____
14. What happening with your land/property now? -----

15. Which of the following best describe the land/property?
 - a. Bare land
 - b. Land with life crops
 - c. Land with food crops
 - d. Land with Building
 - e. Others _____
16. Who have you reported this case to before?
 - a. Nobody
 - b. Family
 - c. Customary Authority
 - d. Government Authority
 - e. Others _____
17. Do you want the Land Coordination Center to start a process that may help to resolve this dispute?

yes _____ (If yes, go to # 18)

No _____ (Case is not opened)

Disputant

1. Full Name _____
2. Address _____
3. Position/Occupation..... _____
4. Contact number / other... _____
5. Nationality _____
6. Age _____

18. I confirm that the information that I have provided is accurate to the best of my knowledge.

Name: _____ Signed: _____ Date: _____ (Disputant)

19. I have carefully read and filled in this case intake form with the information provided by the disputant.

Name: _____ Signed: _____ Date: _____ (Case Intake Officer)

20. Approved for entry: _____ Date: _____ (County Coordinator)



21. Date case recorded in Database: _____

LCRP

ANNEX B. CASE REFERRAL FORM

**Land Coordination Center (LCC)
Case Referral Form**

Case #: _____ Case Monitor: _____

Case referred by: _____ sex: _____ contact #: _____

Address: _____

Type of Land: _____

Location of Land: _____

Name of 1st party: _____ Contact #: _____

Address: _____ Ethnicity: _____ sex: _____

Name of 2nd party: _____ Contact: _____

Address: _____ Ethnicity: _____ sex: _____

Case detail (brief description of case):

Remarks: _____

Referral approved by: _____ Signature: _____

County Coordinator

FOR MEDIATION / ARBITRATION COMMITTEE ONLY

Case received by: _____ contact#: _____

Position: _____ Address: _____

Signature: _____ Date: _____

ANNEX C. CASE MANAGEMENT FORM

The attached form is intended to keep a manual log of files as they are entered into the LCC database and circulate through the LCC offices.



LCRP

ANNEX D. CASE MANAGEMENT FOLLOW-UP FORM



LCCCMIS – 2 Case Management Form



Land Commission

- 1. Case_ID_#..... _____
- 2. LCC case intake officer ID # _____

Party A Personal Details

- 1. Who are you representing (Party A)?
 - a. Myself
 - b. Family
 - c. Non family group
 - d. Others _____
- 2. What paper do you have to show ownership for this land/property?.....
 - a. No paper
 - b. Contract receipt
 - c. Tribal Certificate
 - d. Deed
 - e. Others _____
- 3. Where did you get your document for the land/property?
 - a. No were
 - b. Customary authority
 - c. Government authority
 - d. Inherited it from family
 - e. Others _____
- 4. What have you done to settle this dispute before? -----
- _____

Party B Personal Details

- 1. Full Name _____
- 2. Address _____
- 3. Contact number/other _____
- 4. Position/Occupation _____
- 5. Nationality _____
- 6. Age Sex _____
- 7. What is your relationship to this party (Party A)

- 8. Who are you representing (Party B)?
 - a. Myself
 - b. Family
 - c. Non family group
 - d. Others _____
- 9. What happening with your land/property now?

- 10. Which of the following best describe the land/property in dispute?
 - a. Bare land
 - b. Land with life crops
 - c. Land with food crops
 - d. Land with Building
 - e. Others _____
- 11. Who have you reported this case to before? -----
 - a. Nobody
 - b. Family
 - c. Customary Authority
 - d. Government Authority
 - e. Others _____
- 12. What paper do you have to show ownership for this land/property?.....
 - a. No paper
 - b. Contract receipt
 - c. Tribal Certificate
 - d. Deed
 - e. Others _____
- 13. Where did you get your document for the land/property?
 - a. No were
 - b. Customary authority
 - c. Government authority
 - d. Inherited it from family
 - e. Others _____
- 14. How did you get the land/property?-----
 - a. Purchase
 - b. Renting
 - c. Inheritance
 - d. Customary authority
 - e. Others _____
- 15. Do you want the Land Coordination Center to start a process that may help to resolve this dispute? Yes _____
No _____

I confirm that the information that I have provided is accurate to the best of my knowledge.



To be filled in by case intake officer

Case Status..... _____

- a. Active
- b. Inactive
- c. Ongoing
- d. Dropped
- e. Pending
- f. Referred
- g. Resolved
- h. Unresolved
- i. Others _____

LCCs Mediation Practitioner Details:

- 1st
 - Name: _____
 - Address: _____
 - Position: _____
 - Cell #: _____

- 2nd
 - Name: _____
 - Address: _____
 - Position: _____
 - Cell #: _____

I have carefully completed this form with the information provided by the disputant.

Name: _____ Signed: _____ Date: _____ (Case Intake Officer)

Name: _____ Approved: _____ Date: _____ (County Coordinator)



LCCCMIS – 3 Case Management Follow-up Form



Land Commission

Case ID #. _____

Date: _____

LCC case intake Officer ID #: _____

County/District: _____

Follow up Term	First ()	Second ()	Third ()	Fourth ()	Fifth ()	Sixth ()	Seventh ()
Purpose of Follow-up							
Outcome							
Case status							
Next Steps							

Signature of Case intake Officer: _____

Date: _____

ANNEX E. COMMITMENT TO SERVE AS A DISPUTE RESOLUTION PRACTITIONER

This document defines the responsibilities of dispute resolution practitioners and how they should act when providing dispute resolution assistance.

In my capacity as a Dispute Resolution Practitioner, I hereby make a commitment to serve the individuals or groups involved in or affected by land disputes by providing a neutral, fair, process aimed at improving understanding between individuals and groups and, where possible, assisting those individuals to reach a mutually satisfying, peaceful agreement that meets their respective interests. I commit to keeping all proceedings of the process confidential unless expressly authorized by a party to reveal circumstances about the case. The only exception to this will be in situations where there is a perceived or real threat of imminent harm to someone. In such cases, I will alert authorities—the police department and the Land Commission—in a timely fashion to avert the potential for conflict.

I will uphold the voluntary nature of mediation, negotiation and arbitration by not using coercion to force parties to reach agreement and by explaining to parties involved that any point in the process they have the right to request a private meeting with me to address any concerns and to end the process if necessary. I also reserve the right to terminate the mediation process at any point and/or separate the parties as necessary should there be any perceived or real threat of violence or if I judge that one or both parties are not using the process in good faith, but are rather using the process to do harm to the other party or group.

I serve in this capacity on a voluntary basis and understand that my role is to serve either as a mediator or arbiter. If I am mediating, I am to remain neutral about the issues and the parties and the parties themselves are to come up with solutions and formulate an agreement. If I am serving in the capacity of an arbiter, I commit to listening fully to both parties and making a recommendation which is unbiased and aims to capture the interests of both parties in a fair manner. I will clarify to parties any costs associated with the process and will not accept any gifts-monetary or otherwise-which could be perceived as influencing the process. For specific roles and responsibilities of mediators, arbiters and customary leaders, please refer to the appropriate section below.

Mediators

- 1) The mediator is neutral and does not have a relationship with any of the parties that might result in biased attitudes or actions.
- 2) The mediator will be impartial toward any one party's interests and "multipartial" toward all parties' interests – as they assist all parties to try and find or develop an agreement that meets all of their interests to the greatest extent possible.

- 3) The mediator will not make a judgment or decision regarding whether a party is “right” or “wrong” or “guilty” or “innocent.”
- 4) The mediator will primarily provide process assistance to help the parties to communicate more effectively and engage in productive discussions, problem-solving or negotiations.
- 5) The mediator will provide substantive information as needed or requested by the parties, which is in his/her area of knowledge or expertise.
- 6) The mediator will not provide legal advice or counsel to any of the involved parties.
- 7) The intermediary will adhere to whatever agreement regarding confidentiality is agreed upon with the parties, with the exception of when potential or actual violence is involved.
- 8) If and when an agreement is reached, the intermediary will draft a written agreement that will be signed by all parties, and witnessed by the intermediary and others as appropriate.
- 9) If the mediator believes that an agreement between or among the parties is not possible, he/she may terminate the mediation process and convey this information to the parties.
- 10) If the intermediary is to be paid for his or her services, an agreement that specifies the amount to be paid by the parties prior to the beginning of formal meetings.

Arbitrator

- 1) The arbitrator is neutral and does not have a relationship with any of the parties that might result in biased attitudes or actions.
- 2) The arbitrator will be impartial toward all parties.
- 3) At the request of the parties, the arbitrator will provide advice, a recommendation or a binding decision on the merit of parties’ cases, responsibility, guilt, consequences, and remedies (restitution or compensation).
- 4) The arbitrator will not provide legal advice or counsel to any of the involved parties.
- 5) The arbitrator will adhere to whatever agreement regarding confidentiality is agreed upon with the parties, with the exception of when potential or actual violence is involved.
- 6) If and when an agreement is reached, the intermediary will draft a written agreement that will be signed by all parties, and witnessed by the intermediary and others as appropriate.
- 7) If the intermediary is to be paid for his or her services, an agreement that specifies the amount to be paid by the parties prior to the beginning of formal meetings.

Customary Leader

- 1) The customary leader(s) is/are neutral regarding his/her/their relationship with the parties in dispute, will disclose any relationship that may raise questions regarding their impartiality and will obtain the agreement of all parties to serve as the intermediary.
- 2) The customary leader(s) will be impartial toward any one party’s interests and multipartial toward all parties’ interests – as they assist all parties to try and find or develop an agreement that meets all of their interests to the greatest extent possible.
- 3) Customary leaders may provide information or advice on customary law or common practice.
- 4) The customary leader(s) will generally first provide mediation process assistance to help the parties to communicate more effectively and engage in productive discussions, problem-solving or negotiations prior to giving advice or making a recommendation or decision. However, if parties request it, or the customary leader(s) believe that a voluntary agreement is not possible, they may decide to provide only arbitration.

- 5) When arbitrating, the customary leader(s) may first make a recommendation or decision on the merit of the parties' cases, responsibility or guilt. If their recommendation or decision is accepted, they may then provide mediation assistance to the parties to help them reach a voluntary agreement on consequences or an acceptable remedy (restitution or compensation). However, if the parties cannot reach an agreement on these issues, the customary leader(s) may give advice or make a recommendation or decision on these issues.
- 6) The customary leader(s) may also make decisions on punishments (cease and desist, fines, jail time, specific performance, etc., within the parameters of Liberian statutory law.
- 7) The customary leader(s) may try and persuade disputing parties to accept their advice, recommendation or decision.
- 8) The customary leader(s) will adhere to whatever agreement regarding confidentiality is agreed upon with the parties, with the exception of when potential or actual violence is involved.
- 9) If and when an agreement is reached, the customary leader(s) or his/her/their designee will draft a written agreement that will be signed by all parties, and witnessed by the intermediary and others as appropriate.
- 10) If at any time during the dispute resolution process, the customary leader(s) believe that an agreement between or among the parties is not possible or the procedure is not appropriate, he/she may terminate the process and convey this information to the parties.
- 11) If the intermediary is to be paid for his or her services, an agreement that specifies the amount to be paid by the parties prior to the beginning of formal meetings.
- 12) Should I be confronted with an ethical dilemma in the course of the process, such as concerns about balancing confidentiality with a commitment to do no harm to the parties, I will seek assistance from the Land Coordination Centers as to how to address the matter in a manner consistent with the principles of alternative dispute resolution.

Name of Practitioner

Signature of Practitioner

Date

Name of LCC Representative

Signature of LCC Representative

Date

ANNEX F. LCC STAFF JOB DESCRIPTIONS

POSITION: NATIONAL COORDINATOR – LAND COORDINATION CENTERS

Report to: overall supervision of the Executive Director of the Land Commission

Key Responsibilities:

- The National Coordinator will work closely with the coordinators of the LCC in overseeing the work of the local offices of the Commission, including the GIS specialist, database specialist and other staff.
- She/he will travel extensively in the country to support the work of the Land Commission at the county centers.
- The National Coordinator of the Land Coordination Centers is responsible for overseeing the operations of the Centers. Provide day-to-day coordination and management of the field offices among the participating agencies in collaboration with the Chairman and Executive Director.
- Oversee the implementation of the procurement and work plans prepared for the Land Coordination Centers.
- Identify needs for short-term technical assistance.
- In collaboration with the comptroller, maintain financial files and reports of the centers in order to provide up-to-date information on the financial status of program implementation in each location.
- Prepare annual work plans, annual budget, mid-term review and annual assessment reports to be submitted to the Chairman through Executive Director.
- Organize and facilitate monthly meetings of the Center Coordinators to monitor progress in program implementation.
- Collaborate with the Chairman and Executive Director in facilitating the implementation of the center activities, including possible modifications of planned program and projects.
- The National Coordinator of the Land Coordination Centers will spend at least 50 percent of his employment time in the Land Commission in Monrovia and the rest of his time in LCC locations.

POSITION: GEOGRAPHICAL INFORMATION SYSTEMS (GIS) OFFICER

Report to: overall supervision of the Executive Director, and the direct supervision of the National Coordinator of the Land Coordination Centers.

Key Responsibilities:

The incumbent will carry out the following tasks:

- Manage the operation of GIS equipment, software, data, and products for the Land Commission's Monrovia and field offices.
- Contribute to the design, development and creation of Land Commission maps and other related projects.
- Summarize results of the Land Commission's GIS projects at meetings, conferences, workshops as appropriate.
- Orient and train Land Commission staff in the operation and use of data from GIS projects.
- Create and maintain the structures necessary for GIS data storage.
- Develop the tools for loading/transferring GIS data between different systems.
- Manipulate, analyze and present geographical information.
- Create programs to convert GIS information from one format to another; developing Internet applications to present GIS data and tools on corporate websites.
- Use requisite tools to join together different GIS datasets and create new information or investigate patterns, e.g., estimating the number of people potentially affected by land disputes.
- The incumbent will spend at least 50 percent of his employment time in the Land Commission in Monrovia and the rest of his time in LC worksites in the rest of the counties in Liberia.

POSITION: COUNTY COORDINATOR

Report to: National Coordinator through Liaison Officer

Key Responsibilities:

- Manage and coordinate activities for the operationalization of the Land Coordination Center (LCC) and its pilot alternative dispute resolution (ADR) system and early warning component and coordinate activities to achieve the mandate and functions of the LCC.
- Provide oversight for early warning monitoring of “Hot Spots” at county level to prevent violent land conflicts.
- Participate in joint field exercises/activities (baseline surveys, monitoring and evaluation) to identify dispute resolution service providers, existing systems, procedures and categories of land disputes.
- Ensure the day-to-administration and operations of LCC county office and supervision of staff.
- Promote relations and networking amongst system partners addressing land issues, particularly land disputes and violent land conflicts that threaten the peace and security within local communities.
- Monitor the dispute resolution systems, and assure that the appropriate sequence and hierarchy of procedures are followed.
- Facilitate the process of creating a county land dispute resolution database that provides information on categories of disputes, disputants, the procedures, referrals built on for development of national database.
- Provide guidelines, forms and assistance as needed to network partners to help parties and intermediaries to draft and record agreements in the form of a MOU and implementation steps.
- Organize mediation body/processes for special cases involving broader issues beyond the capacity of the LCC.
- Arrange with other network partners (Center for National Documents and Records Agency - CNDRA, Ministry of Lands, Mines and Energy - MLME, and Ministry of Justice – MoJ) to provide services, including legal counselling on arbitration, credible and impartial demarcation of community boundaries or survey assistance at various phases of the mediation process.
- Attend agreement confirmation ceremonies and promote the use of closure rituals to indicate the importance of the settlement, serve as a witness and assure that an MOU is signed and filed with appropriate parties and agencies.
- Provide oversight of maintenance of records of land dispute settlements at the Land Coordination Center and develop procedures background documents, list of people involved, description of the process and signed agreements.
- Explore links with law enforcement agencies and ensure that procedures are developed at the county level to promote compliance and enforcement of agreements/MOU voluntarily accepted by disputants.
- Liaise with program officers and training specialist to identify training needs of LCC staff, traditional/customary dispute resolution service providers and System partners in basic conflict management, mediation and resolution skills.
- Initiate joint monitoring and evaluation exercises involving partners to document lessons learned, constraints to pilot implementation and remedial action for pilot success.
- Perform any other functions as requested by the Commission.

POSITION: INTAKE OFFICER

Report to Coordinator of LCC

Key Responsibilities:

- Work both in the Center’s office and the field to provide intake assistance and advice, and support dispute resolution service providers in partner systems.
- Encourage community leaders and members to use peer pressure to promote compliance to MOUs/Agreements signed by disputants following resolution of land disputes.
- Counsel parties on their procedural alternatives for dispute resolution and the time, cost and potential outcomes that can be expected from each.
- Provide assistance to disputants to select the appropriate method to resolve land disputes.
- Refer disputants to appropriate entities for legal advice, counseling and/or other assistance.
- Provide oversight and monitoring of parties’ compliance and sustainability of MOUs agreements through visits to former disputants.
- Perform other functions as desired by the Commission.

POSITION: COMMUNICATION/OUTREACH ASSISTANT

Report to: Coordinator of LCC

Key Responsibilities:

- Assist in promoting the program and activities of the LCC through public awareness and outreach education.
- Disseminate information for clear understanding of the roles and responsibilities of each entity in the Dispute Resolution System.
- Translate information in a clear and easily understandable document for system operators and potential users.
- Assist in the development of education and outreach materials into local language.
- Form a working group to develop appropriate outreach strategies and materials to educate the public, potential and actual disputants (youth, women, the handicapped, squatters) about land laws—customary and statutory—as a means to prevent disputes.
- Coordinate communications and outreach activities with other public education staff and initiatives of the Land Commission.
- Enhance public education and increase the awareness on a wide range of land issues, procedures and options to resolve land disputes.
- Perform other functions as desired by the Commission.

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