

**“This land is not for you”**  
**Post-war land tenure systems in crisis in central and northwestern**  
**Liberia**

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## **ABSTRACT**

As Liberia recovers from nearly a decade and a half of civil war, the largest obstacle to long-term stability remains the divisive issue of land. Drawing from data collected in central (Salala District, Bong County) and northwestern (Foya, Quardu Gboni and Voinjama Districts, Lofa County) Liberia, this thesis explores the conditions that produce and perpetuate land conflict. The violence and social dislocations of war created an opportunity for Liberians to confront their tumultuous relations with pre-war authority. The rule of law has failed to consolidate in the post-war environment. In the absence of a dominant system to consistently secure claims and enforce rules, individuals and groups have been using whatever means at their disposal to secure their own land or expand their claims, even if their actions may further undermine inter-personal, inter-community and institutional trust. Acts of encroachment, whether legitimate or not, are going unpunished, and are even justified through informal conflict resolution mechanisms. Rather than rebuilding the bonds of social trust that are necessary for a durable post-war peace, the unbridled competition for land has rewarded those who can most effectively mobilise their resources while undermining the foundations of customary, formal and informal tenure systems.

## **SOMMAIRE**

Alors que le Libéria se remet d'une guerre civile qui a duré une quinzaine d'années, le plus grand obstacle pour obtenir une stabilité à long terme est celui de discordance dans la division des terres. Se basant sur des données recueillies dans le centre du pays (le district de Salala dans le comté de Bong) ainsi que dans le nord-ouest (les districts de Foya, Quardu Gboni et Vonijama dans le comté de Lofa), cette thèse explore les conditions qui causent et perpétuent le conflit de la répartition des terres. La violence et les bouleversements sociaux pendant la guerre ont permis au Libéria de confronter les autorités au pouvoir avant la guerre. L'autorité de la loi a échoué dans ses efforts de se consolider dans l'après-guerre. A défaut d'une institution dominante qui devait solidifier les revendications et enforcing les lois, les individus, autant que les groupes, ont utilisé n'importe quel moyen à leur disposition pour protéger leurs terres ou accroître leurs concessions. Parfois ces actions avaient pour cause d'affecter les liens interpersonnels, inter-communautaires et institutionnels. L'appropriation, que ce soit légitime ou non, reste impunie et est même justifiée par des mécanismes informels de résolution de conflit. Au lieu de reconstruire les liens de confiance sociale qui sont essentiels pour maintenir la paix après une guerre, la compétition effrénée pour obtenir les terres a récompensé ceux qui ont mobilisé effectivement leur ressources tout en discréditant les fondations des systèmes habituels, formels ou informels.

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**Map I: Liberia Map**

Source: A. Corriveau-Bourque & E. Spitzburg

Data: Global Administrative Areas (2010)



Source: A. Corriveau-Bourque & E. Spitzburg

Data: Unruh (2009); Global Administrative Areas (2010)



## Chapter One: Introduction<sup>1</sup>

Land conflicts are ubiquitous in Liberia. It is rare to talk to an individual who is not connected in some manner to a dispute over land, either as the main actor or through social networks, kinship alignments, or the increasingly salient bonds of ethnicity or ‘tribe’. Several observers have commented that a failure to effectively address these extremely contentious issues over land could provide the spark that sends Liberia back into another devastating war (Daygbor, 2007; ICG, 2009; Inquirer, 2009; Unruh, 2009a). Liberian President Ellen Johnson-Sirleaf has expressed concern over the proliferation of land disputes as a major hurdle in achieving lasting peace (Daygbor, 2007). As such, Liberia’s post-war stability is closely tied to the performance of the systems that can diffuse or resolve these conflicts. President Johnson-Sirleaf has argued that land reform would be necessary to prevent future conflict (*Ibid.*). However, any successful land reform, or analyses of land processes for that matter, in the Liberian context must take into consideration a number of historical and local factors that influence the dynamics of land conflict in unique ways. What is true for one area of the country is not necessarily the case in another.

Liberia has experienced varying levels of violent political crisis at the national and sub-national level since the late 1970s when political activism against the one-party state combined with rising food prices to destabilise President William R. Tolbert’s regime. In 1980, Tolbert was overthrown in a military coup which ended nearly a century and a half of uninterrupted political domination by the descendants of those who came from the Americas as settlers in the early 1800s. The new military regime, under President Samuel K. Doe, was despotic, oppressive and corrupt and marked the beginning of state-sanctioned violence along a ‘tribal’ basis. Under Doe’s rule, the military carried out purges of groups known to support his political adversaries. In December 1989, an insurgency to topple Doe was launched from Côte d’Ivoire, triggering what would be the first Liberian civil war,<sup>2</sup> which lasted until a peace

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<sup>1</sup> Portions of this manuscript have been already published as Corriveau-Bourque, A. 2010. Confusions and Palava: The Logic of Land Encroachment in Lofa County, Liberia. *Canadian Journal of Development Studies*. 31(1-2):27-48.

<sup>2</sup> Although Doe was captured and killed in 1990, the civil war raged on for nearly seven more years as new armed groups emerged to contest for power, exact revenge for acts of ethnic cleansing or to capture lootable resources.

agreement was reached and elections held in 1997. Charles Taylor, head of one of the rebel groups that attempted to topple Doe, won the election by a landslide. His tenure as president was equally marked by high levels of repression and corruption. Another devastating civil war began in 1999 when two rebel groups launched campaigns to overthrow President Taylor. The second war lasted until 2003, when Taylor was removed from power. In order to preserve the fragile peace, the United Nations has established a massive peacekeeping presence in the country. Their mandate includes assisting the new government, elected in 2005, to rebuilding the country.<sup>3</sup> Over the course of the two wars, over eighty per cent of the population were displaced and some 270,000 people killed (Alden Wily, 2007). Even though most of those displaced have returned to their pre-war homes or resettled in other parts of the country, there are still some refugees who have not yet returned. Due to the scale of violence, social disruption and physical displacement that occurred during wars, land and property issues have become a critical concern in post-war Liberia as people attempt to restore their homes and establish their livelihoods.

While there exists a range of local complexities and realities of conflict and land use throughout Liberia, focusing on the local specificities of Lofa and Bong Counties<sup>4</sup> reveals certain trends as to how land tenure systems are (re)structuring themselves following the significant social dislocations of the civil wars. By focusing on the multiple ways in which local actors are asserting and defending their claims to land in the post-war environment, this thesis aims to provide a more nuanced understanding of the processes which continue to fuel conflict.

This study reveals that there is an ongoing struggle between the various systems that regulate access to land in Liberia in order to secure the claims of their members. These systems overlap in space and scale and are often constructed on divergent logics, though their interaction can be characterised by cooperation as well as conflict. A system's ability to secure members' 'rights-of-access' to land necessarily implies the

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<sup>3</sup> The UN took over from the Economic Community of West African States (ECOWAS) which had already deployed a peacekeeping force. The UN maintains a significant presence to this day, assisting in the maintenance of security and the reconstruction of the country.

<sup>4</sup> I address my reasoning for choosing these specific sites (Salala District in Bong County and Foya, Voinjama and Quardu Gboni Districts in Lofa County) in Section 1.2 of this chapter and again in Chapter Two.

ability to dictate who has access to resources and who is excluded. Conflict emerges when tenure systems lack the capacity to enforce their representative groups' claims through the legitimate control of informational capital<sup>5</sup> and the use of coercion. The presence of alternative frameworks and institutions to assert, legitimise and justify claims creates opportunities for land encroachment (and therefore conflict) as actors move between systems to secure or increase their holdings. This unharmonised plurality has resulted in decline in trust between individuals, communities and the institutions that facilitate interactions between actors.

Despite the diversity of forms of evidence for land claims that exist in Bong and Lofa Counties, the Liberian court system only recognises title deeds issued by the state, excluding the potential legitimacy of the vast majority of claims made in these areas. As a result, informal and customary forms of mediation and adjudication are primarily used in order to resolve land disputes. Even in the cases where the state could be potentially involved, disputants tend to seek external arbitration through informal means, for reasons that will be explained later. And while the dispute may be between individuals, their ability to seek out alternative fora<sup>6</sup> for a resolution that will satisfy them or draw on different logics of claims-making often brings a multiplicity of systems into contention with each other.

The lack of consistent mechanisms to resolve disputes and enforce existing rules of land access, use and ownership has resulted in a situation that shifts the power to the encroacher and thus undermines the security of tenure. The absence of effective enforcement measures has undermined the rule-of-law as frustrations mount over institutional inability to prevent encroachment. In order to avoid violence between conflicting parties, there is a pervasive normative imperative to achieve 'peace' through negotiated outcomes in which all parties will be 'satisfied' with the final result. However, I argue that the mechanisms for securing 'peace' in the short term actually weaken the very foundations of land tenure systems and social trust, which can have unsustainable consequences for the long-term consolidation of peace in Liberia.

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<sup>5</sup> Informational capital is defined in this thesis as: the tools with which a dominant authority can impose a framework for the ordering of society (Bourdieu, 1994). These tools can come in the form of oral histories, lineage claims, spiritual artefacts and memory, as discussed in Chapter Three.

<sup>6</sup> A practice identified as "forum shopping" frequently found in legally pluralistic areas (especially in conflict zones) (Unruh, 2003; Isser *et al.*, 2009).

## 1.1 Defining Terms

Throughout this thesis, I employ the amorphous term ‘community’ to refer specifically to groups of people living within and identifying with distinct administrative areas such as towns or villages, spaces which are administered by town and village chiefs, respectively. These socio-spatial arrangements are primary locale of rural identity and economic activity. Towns and villages<sup>7</sup> have been administratively clustered into clans and chiefdoms, which do not necessarily reflect pre-colonial systems of social arrangement (*i.e.* clans are defined geographically and not necessarily through common social relations). Other forms of political community such as nationality, ethnicity or tribe are referred to specifically as such. However, these terms equally require some refinement within the Liberian context.

Konneh (1996), Guannu (1997), and Bøås (2001) identify sixteen ‘indigenous’ tribes in Liberia. This figure is the most commonly cited by Liberians.<sup>8</sup> A seventeenth group refers to the descendants of emigrant African-Americans and West Indians who settled on the Liberian coast in the nineteenth century.<sup>9</sup> However, within Liberia and in the global media, tribe and ethnicity are often portrayed as the static, bounded vestiges of a ‘pre-modern’ era (primordialist framework) and as instruments to be manipulated by politicians for the pursuit of political power or economic opportunities (instrumentalist framework). In spite of its persistence in the popular imagination, static ‘primordialist’ interpretations of identity have been long shown to neglect the inherent mutability and negotiability of identity over time. As Berman (1998: 311) states, “(n)o African society was or is culturally homogenous and univocal.”

Lonsdale (1992) points out that strict political differentiation and isolation based on social identity was ill-suited to pre-colonial realities throughout Africa. Spheres of political interaction were determined more by geographical proximity and economic necessity than by similarity in language, religion or cultural practice (*Ibid.*). Social groupings established bonds of trust via trade and marriage with other groups across

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<sup>7</sup> The terms town and village are used interchangeably and do not necessarily denote size.

<sup>8</sup> Alternatively, Huberich (1947) refers to as many as twenty-eight distinct tribes. Alden Wily (2007) adds that all the ethnic groups can be encompassed within three larger language groups.

<sup>9</sup> The emigrant population also includes the slaves who were intercepted on the way to the Americas by the United States Navy and resettled in Liberia. The emigrant ethnic group is often referred to as Americo-Liberians or the Congo people.

linguistic, cultural and religious difference as a form of insurance against crises. Alliances and social obligations were therefore distributed across ethnic lines, muddling the boundaries between groups (Lonsdale, 1992; Berman, 1998). Ethnic identity therefore served as a moral framework that facilitated interactions between members of a social group and determined the rights and obligations of the group's members (Lonsdale, 1992). It is the framework upon which communities construct a sense of social belonging (and exclusion) and base the legitimacy and accountability of political authority. This framework was, and still is, constantly subject to debate and renegotiation. Although ethnic groups could span large spaces, they had no permanent political centre and ethnic identity rarely served as a political rallying point. Conflicts between social units (towns, villages) were therefore not articulated as struggles between broader ethnic groups but between neighbours who could happen to be from different ethnicities.<sup>10</sup>

The exclusive, instrumental use of ethnicity is a singularly recent phenomenon, the result of a fundamental shift during colonialism of the scales at which political and economic competition take place. The emergence of the 'tribe' is therefore a recent invention and refers to the symbolic evocation of ethnic identity to secure access to state resources (Lonsdale, 1992; Berman, 1999).<sup>11</sup> The Liberian government, as with other African colonial states, identified tribes on the basis of pseudo-linguistic and geographic groupings for administrative convenience and as tactic of divide-and-rule (Mamdani, 1996; Ellis, 1999). Berman (1998) notes colonial administrators throughout Africa effectively used 'tribal administration' of rural spaces as a tactic with which they could fragment and isolate African political activity, focusing incentives of power on local structures of authority. Tribal identities consolidated in response to political incentives and rivalries over resources (often land) with neighbours (Ellis, 1999). However, it is important to note that tribal identities were not only imposed but also required an internal, intellectual effort among members to construct common symbols of belonging such as history and language, symbols which are constantly disputed (MacArthur, 2009).

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<sup>10</sup> Conflicts also existed within ethnic groups and strategic alliances extended beyond the parameters of ethnicity.

<sup>11</sup> Ellis (1999) notes that as of the 1970s the Krahn identity (President Doe's 'tribe') referred mainly to a vague geographical identity, yet a decade later was at the forefront became a central point of differentiation within ethnically divisive national politics.

The long duration and destructive nature of Liberia's political crises since the 1980s have produced ethnically-articulated siege mentalities in several groups, not least in northern Lofa among the Mandingo and Loma, reinforcing exclusive, chauvinistic notions of tribe.<sup>12</sup> The issue of identity is central to debates over the administration of territories and the political recognition of land claims. The notions of citizenship or autochthony are utilised to articulate an identity' groups link to a particular territory to the exclusion of those who came after, or *strangers*. These notions are at the forefront of these debates at both a national and local level (Bøås, 2009). However, citizenship does not necessarily mean an individual entitlement to resources within a territory; instead, Mamdani (2002) usefully defines citizenship as the right to compete for resources in a particular field. Debates over the terms that dictate social belonging and right to land resources in northern and central Liberia are not exclusively confined to labels of 'tribe' but are also articulated in terms of kinship, lineage and the moral obligations of members of a group that control land-based resources.

#### 1.1.1 Formal, Customary and Informal

In this thesis, I will also use the terms formal, customary, traditional and informal to categorise the various ways through which power is channelled, distributed and expressed in Liberia. While the formal sector is easily identifiable by the institutions and interactions that are officially sanctioned, defined and contained within the structures of the state, the other three terms will require more extensive definition.

The literature often uses the labels 'customary,' 'traditional' and 'informal' interchangeably to represent systems of social organisation that are separate from the state, particularly with regard to the developing world. In Liberia, people's understandings of 'custom' and 'tradition' are used to describe the social institutions that frame their daily realities. As such, the terms are deeply embedded into people's daily lexicons. The term 'traditional' is even reproduced within the country's legal framework, most notably in the Revised Rules and Regulations Governing the Hinterland of Liberia

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<sup>12</sup> In spite of this heightened differentiation, there is significant variation within present-day tribes based on regional, linguistic or cultural sub-groupings. My Loma respondents regularly reminded me of the great linguistic variation found within their group. In addition, individuals can often occupy several identities and be members of several networks of moral obligation such as through marriage or uncle-nephew relations (described in Chapter Five).

(1949/2001).<sup>13</sup> Therefore, it is impossible to write about Liberian social processes without clearly defining them within this unique context.

Ellis (1999: 200) provides a particularly useful way of moving beyond static interpretations of the use of ‘tradition’ in the Liberian context, arguing that when:

discussing traditional Liberian beliefs, it is generally difficult to know whether to use the present or past tense, for calling a practice ‘traditional’ does not mean that it forms part of a corpus of belief and action that is unchanging, but is primarily a description of the way many Liberians understand ideas which they have inherited from earlier generations as opposed to those they know to be recent imports.

As the knowledge of ‘traditional’ practices is generally transmitted orally, each generation borrows elements from this transmitted past and interprets them to fit their current realities. While the notion of ‘tradition’ plays an irrefutably central role in shaping the Liberian moral economy, it is subject to multiple and often changing interpretations.

Customary authorities such as chiefs and elders are often referred to as “our traditional leaders,” as are the leadership of the Poro and Sande religious sodalities, establishing a clear distinction between those who operate according to ‘historical practice’ and the alternative modernities and authorities that are presented by Islamic, Christian or state officials or those introduced by international organisations.<sup>14</sup> I will demonstrate later that the boundaries between these various systems are rarely clear and that individuals and groups will often simultaneously partake in several of these systems.

Custom, like ‘tribe’ is product of an extensive history of interaction between rural or ‘hinterland’ populations and the Liberian settler state. Utilising a British colonial model of indirect rule, the Liberian state coerced, co-opted or imposed acceptable local

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<sup>13</sup> From this point, it will be referred to as the Law of the Hinterlands. The original framework for the Law of the Hinterlands was enacted in 1905 as the Act Providing for the Government of Districts within the Republic Inhabited by Aborigines and was amended several times until 1949. The content of the 2001 version issued by the Ministry of Internal Affairs is apparently mostly unchanged (with some few alterations described in Bruce, 2007) from the 1949 version, despite the fact that most of the law had been apparently repealed in 1956 by the passing of Section 600 of Aborigines Law (Bruce, 2007; Barbu, 2007). The status of the Aborigines Law is uncertain due to its exclusion from the 1973 revision of the Liberian Code of laws (Alden Wily, 2007; Bruce, 2007). Although the very structures of customary administration outlined by the Law of the Hinterlands or the Aborigines Law are very much still in place to this day, legal experts remain uncertain whether either of them still remain law, creating a situation in which ‘on-the-ground’ reality does not necessarily reflect the law.

<sup>14</sup> There is even a governmental body called the National Traditional Council, a grouping of ‘traditional’ leaders whose responsibility it is to mediate disputes between communities and to disseminate government policy to rural populations.

leadership (Dorward, 1986; Ellis, 1999; Bruce, 2007).<sup>15</sup> The institutions that emerged from this struggle serve as the primary point of contact between the government and rural populations. However, local authorities generally operate with a high level of autonomy from the state, enforcing rules and norms that are specific to the economic, social and political environments in which they operate. Within the Liberian legal framework, customary authorities are referred to as *tribal authorities*.

It is therefore necessary to introduce an alternative term to discuss practices and systems of authority that are not officially defined. The ‘informal’ encapsulates all relations, exchanges, systems and networks that exist outside of formal regulation yet are organised around common sets of norms, rules and mutually recognised symbols that regulate interactions between members of these networks. In fact, securing access to land in both customary and formal realms is strongly dependent on the cultivation of informal relations through patronage networks, friendships, and membership in religious sodalities. While these systems can have distinct loci of power, they are far from autonomous from each other and may overlap in space and at different scales, muddying the boundaries that would keep them separate. Interaction between these varied systems can be characterised by cooperation, competition or both at the same time (Roitman, 1990).<sup>16</sup>

## 1.2 Situating the Study

The Republic of Liberia is a country located on the western coast of the African continent, bordered by Sierra Leone in the west, Guinea to the north, Cote d’Ivoire to the east and the Atlantic Ocean to the south (Refer to Map I). It is part of the region frequently referred to as the Upper Guinea Coast. In total, the country covers 111,369 square kilometres. Liberia is known to be one of the wettest countries in Africa with an annual mean of 4,650 mm of rain (Alden Wily, 2007). The central and north-western regions of the country, where this study took place, features rolling lowlands covered in tropical rainforests, much of which are being turned into rubber, palm, cocoa and coffee plantations or used in swidden agricultural systems. The country is also rich in timber and minerals (iron ore, gold, silica, manganese and diamonds). Savannahs are found near

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<sup>15</sup> This is a period that I will discuss in greater depth in Chapter Four.

<sup>16</sup> The terms formal, informal and customary will be further theoretically contextualised in Chapter Three.



the intersection of Liberia, Guinea and Sierra Leone.<sup>17</sup> This meeting point between savannah and forest is also the site of significant historical trade, inter-marriage and conflict between semi-nomadic traders and herders from the Sahel and forest-dwelling agriculturalists (Konneh, 1996). The cross-border region, sweeping down into Bong County, Liberia, is mostly populated by people of the Mande linguistic group, a group which encompasses the Kpelle, Gbandi, Mende, Mano, Gio, Mandingo and Loma groups, many of which span the borders of each of the countries.

### 1.2.1 Primary field sites

In the interest of comparing the types of narratives produced in different spaces, I sought out sites that would provide me with a diversity of interaction between systems of authority. Both southern Bong County and northern Lofa were part of Liberia's historical hinterland; a designation with political, social and geographic implications upon which I will expand in Chapter Four. These regions are significantly distinct from the coastal region (or littoral) in terms of local forms of political organisation and the extent to which the Liberian state and its institutions have been able to penetrate. In these areas, the effects of Liberia's dualistic legal system are most evident as *tribal authorities* have retained jurisdiction over most local affairs. Being at the border between the coastal littoral and hinterland interior, Salala District<sup>18</sup> was rapidly integrated into the lucrative rubber economy when the state began to expand during the early to mid twentieth century (Interviews with Salala Elders, 2009). According to local respondents, the introduction of cash crops precipitated a land rush during which speculators, entrepreneurs from Monrovia and local elites extensively claimed lands through documentation via Tribal Certificates or Title Deeds. Every parcel I visited in this district was claimed through (at least one) form of documentation.<sup>19</sup> The district is also highly accessible as it is situated along the main highway that connects Monrovia to Liberia's second and fourth largest cities, Ganta and Gbarnga respectively. For a point of reference, Salala City is approximately 100 km from Monrovia by car (Refer to Map II).

<sup>17</sup> Respondents in Foya District, the point where these three countries meet, indicate that the presence of savannahs on the Liberian side of the border is a recent feature.

<sup>18</sup> Salala District has a population of 43,617 (Liberia Census, 2008).

<sup>19</sup> It is possible that respondents who claimed to have a document but did not produce it during interviews may not have actually have ever secured their land in this way. However, openly admitting a lack of document is dangerous as it makes these lands more vulnerable to encroachment.

Southern Bong County is a stark contrast with northern Lofa County, which is more geographically isolated from Monrovia (the political, economic and administrative centre of the country). Voinjama City is over 350 km by road from Monrovia (a full day's drive if you start at dawn) while Foya City is an additional 50 km from Voinjama City. The road between Gbarnga and Voinjama is almost entirely dirt and is particularly difficult to navigate during the rainy season.<sup>20</sup> The road connecting Foya with Voinjama is all but impassable during the rains. While there are some documents that have been issued for land in Foya, Voinjama and Quardu Gboni Districts,<sup>21</sup> these remain concentrated around the cities and along main roads, but the prevalence of document-based claims is nowhere close to the extent of southern Bong County. The sites are also part of two separate cash-crop economies. Southern Bong County is marked by the prevalence of rubber while farmers in northern Lofa primarily engage in coffee and cocoa cultivation.

While these sites are each populated by different ethnic groups, there are many similarities in the way political authority is distributed at a local level. For example, prior to the expansion of the Liberian state beyond the coast “political power was underpinned [...] by religious corporations like Poro” (Ellis, 1999: 206) in central and western Liberia. Groups occupying the northern and central regions tended to be organised in larger, more hierarchical territorial groupings (clans and kingdoms) than those groups found in the south, whose structures tended to be much more localised (Alden Wily, 2007). Although the role of the Poro and Sande sodalities has changed greatly since that time, they retain a significant role in the ordering of society.

Where these sites provide an interesting contrast is through the issue of ‘tribal’ representation within the formal system. There is a commonly-held notion within Liberia that all of its ‘official’ tribes are represented by having their own county, or at the very least their own district.<sup>22</sup> Whereas Foya District is widely viewed as a Kissi district and Salala a Kpelle district, Voinjama and Quardu Gboni Districts are the site of significant

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<sup>20</sup> My field research was conducted during the country's main rainy season which runs from May to July.

<sup>21</sup> Foya has the largest population of the all of my field sites, home to 73,312 people, while Voinjama has a population of 42,790 and Quardu Gboni a population of 18,785 (Liberia Census, 2008).

<sup>22</sup> The fact that the Mandingo did not ‘have’ an administrative subdivision of any kind until 2005 and still have no country under their control is often used to deny the Mandingo their Liberian identity and therefore lose their entitlement to Liberian land. This is despite the fact that several other ‘tribes’ do not necessarily ‘have’ a county of their own.

contention between the Loma and Mandingo populations. To make matters more complicated, Quardu Gboni District was a part of Voinjama District until 2005, when it got its own administrative status (MoFA, 2005). The dominant narrative explaining this division suggests that neither the Mandingo, who mainly live near Voinjama City and Quardu Gboni, nor the Loma who also live in Voinjama District (and in disputed patches of Quardu Gboni) wanted to be under the administrative jurisdiction of the ‘other.’<sup>23</sup> While intra-community conflicts over land in the Foya and Salala districts are framed in terms of rivalries between clans, towns or kinship groups, conflicts between communities in Voinjama and Quardu Gboni districts can be captured by politicians and former warlords to stoke ‘tribal’ tensions, even if the roots of the conflicts are localised. In addition, the Loma and Mandingo communities, respectively, are also not immune to inter-clan, inter-town or inter-kinship disputes found in Foya or Salala Districts. In spite of these differences, none of these areas was spared the destruction of the civil wars. These upheavals significantly transformed the landscape of authority throughout the country from its pre-war forms. The repeated dispersal of the population<sup>24</sup> forced individuals and groups to forge new networks upon which they could rely, producing new, informal systems of authority and creating new channels through which power could be distributed and expressed. Old linkages were either severed (symbolically and/or physically) or were irreversibly altered.

Lofa County was the site of some of the Liberian civil wars’ most intense violence. All of my respondents in this region mentioned that they had been displaced at least once (and for periods of several years), during both the first (1989-1997) and second (1999-2003) civil wars. In addition to the personalised nature of the violence of these wars, personal property and religious sites were also deliberately targeted and destroyed. Waves of armed groups were often followed by their supporters who settled on the now-abandoned land, creating multiple layers of claims often on the same pieces of land. Not only has this made social cohesion following the war more elusive, it has

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<sup>23</sup> Pre-war relations between the Mandingo and Loma communities in Lofa County were marked by both conflict and cooperation (Bøås, 2008; 2009).

<sup>24</sup> Many internally displaced persons and refugees returned to Lofa County following the election in 1997, only to be re-displaced again when the war reignited in 1999 and the LURD (Liberians United for Reconciliation and Democracy) rebel group invaded Liberia from Guinea through Lofa County.



**Figure 1.1: Vacant commercial real estate in Voinjama City on the city's main road. (source: A. Corriveau-Bourque, 2009)**

also raised the stakes of returning to claim properties following displacement (See *Figure 1.1*).

While Foya District also experienced significant destruction and dislocation due to the presence of armed groups who subsisted through looting, the main city seems to have rebounded economically in comparison to its Lofan counterparts. Foya District is a hub of borderland commercial activity, as it is located at the intersection of Liberia, Sierra Leone and Guinea. However, throughout northern Lofa County, people have struggled to revive commercial agricultural livelihoods since the coffee and cocoa economies have not yet recovered.

Salala District did not witness the same level of violence as the other field sites considered in this research. Families who tended to be displaced from their homes were located near the main highway, as they were vulnerable to looting by passing armed groups; however, Salala was viewed largely as a safe haven, and was the site of several displaced persons' camps, one of which housed over 23,000 individuals (OCHA, 2006), not to mention uncounted others who took shelter with family or friends who lived in the area. Although interpersonal violence did occur, anecdotally, it appears to have been on a much smaller scale than in Lofa County. The impact of displacement was therefore primarily due to the influx of new people and ideas to the community, which left a significant footprint on the community following the wars. Its location on a primary paved highway and the continued viability of the rubber sector has accelerated its post-

war recovery. Many NGOs have set up base along the highway in Salala District and implemented community reconstruction programmes.

Overall, each of these sites has experienced significant transformation of its pre-war systems of authority. In spite of their differences, several patterns emerge in the ways in which the various systems engage in relation to one another as they all attempt to (re)assert their control over contested spaces.

### **1.3 Thesis Outline**

After outlining the main objectives and arguments of this study in this thesis, Chapter Two provides an overview of my research design and methodology, with attention to the qualitative techniques I employed and the unique challenges of researching in Liberia. I briefly discuss the analytical tools I used to process my data. This will be followed by an examination of my positionality and that of my research assistants, in order to situate the interactions through which the data were generated.

Chapter Three provides a theoretical skeleton for this study. I begin with a review of legal pluralism in order to extract tools to conceptualise how authority over the access and use of land is distributed in space and scale beyond the purview of the state. The concept of social capital proved crucial to establishing how systems of authority over land are constructed and to capture how power is projected and contested in these systems. Finally, this framework examines the impact of wars on social relations, particularly with regards to land tenure. I establish that reconstituting frameworks for regulating land use and access is vital to ensuring a durable peace.

Chapter Four situates this thesis within the historical context of power relations in Liberia, beginning with the arrival of free African Americans and recently emancipated slaves in 1821 and tracing the expansion of the Liberian state, especially after 1905, when it began to extend territorial control over the Liberian Hinterland through the colonial policies that shaped the present day structures of customary authority. I provide a brief overview of how the country's dualistic land laws created distinct social divisions that prevail to this day. I end the chapter with a brief overview of the two civil wars that destroyed the country and dramatically reconfigured rural social structures from 1989-1997 and from 1999-2003.

In Chapter Five, I conceptually map out the manner in which Liberia's different legal realms shaped actors' strategies and options for securing their land resources in Liberia's pre-war environment. In particular, I identify the points at which the formal, customary and informal systems overlap, with particular attention to the points of cooperation and tension between the logics of the systems. I argue that the government's convoluted bureaucratic system to provide land titles facilitated the informal sectors' extensive penetration of its land regulation system, to the point which land cannot be accessed formally without informal social ties. I also argue that customary access to land is equally dependent on informal ties. Even though these systems were thoroughly weakened during the war, they still play a significant role in shaping present-day land relations.

Chapter Six argues that even though pre-war structures of authority remain the most relevant for local governance, their legitimacy and capacity to operate is increasingly being challenged through both internal and external pressures. In particular, I make the case that the introduction of new tools for social mobility and for the assertion of individual rights is providing a basis to challenge pre-war structures. However, as a result of these changing social mores, the mechanisms through which norms and rules are enforced no longer have the capacity to act in an effective and legitimate manner, undermining the rule-of-law and interpersonal trust.

In Chapter Seven, I examine the strategies through which groups and individuals are securing their access to land in the absence of the mechanisms to ensure the rule-of-law. This has created an opportunity for individuals and groups to increase their land holdings through force or the manipulation various narratives to help legitimate encroachment, which causes conflict. I argue that in the absence of consistent enforcement mechanisms, the structures that are in place to resolve disputes ultimately provide little disincentive to future encroachment and undermine tenure institutions. While informal dispute resolution mechanisms reduce violent conflict, they shift power to the encroacher, perpetuating impunity and, by association, the land crisis.

Chapter Eight summarises this work with a discussion of the implications of the research results for Liberia. I conclude with a series of general and specific

recommendations that can be undertaken to stabilise land tenure systems in central and north-western Liberia. I also identify points of interest for future research.

The questions asked by this thesis are valuable from both an academic perspective in that they contribute to the under-studied question of how societies rebuild themselves after wars, but also have practical everyday implications for Liberians.

## **Chapter Two: Methodology**

This chapter provides an overview of the methods I employed in the collection of my data in Liberia, and the techniques used to interpret and analyse my findings. I will begin a discussion of the implementation of the research in Liberia, followed by a review of the specific methods used. I briefly discuss the analytical tools I used to process my data. For sake of qualitative rigour, I will also engage in a thorough review of my positionality and that of my research assistants, in order to situate the interactions through which the data were generated. I end this chapter with a discussion of the unique issues presented by field work in Liberia.

As this thesis regularly refers to recent or ongoing disputes between communities and examines the highly contentious politics of authority in these spaces, the names of specific towns and villages where I conducted research will be obscured and situated geographically only by their rough proximity to administrative centres or located only by district and county. The situations in many of these towns are particularly volatile as evidenced by the recent spate of inter-community violence in Voinjama in February 2010 (Al Jazeera English, 2010). By speaking about these conflicts in non-specific terms, I intend to present my data regarding land without further inflaming the situation, especially because once my work is released, I will have limited control over its interpretation and use.

### **2.1 Timeline**

I spent a total of three and a half months in Liberia, from 25 May to 11 September 2009. The first month was spent entirely in Monrovia, as I established a network of contacts among the various development practitioners interested in land issues in the non-governmental, academic and international organisation sectors, in addition to meeting with representatives from the relevant government agencies. These include: the Governance Commission, the Ministry of Internal Affairs, the Ministry of Foreign Affairs,<sup>25</sup> the National Archives, the Ministry of Planning and Development and the Legislature. This period of time was spent acquiring the relevant permissions to remain

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<sup>25</sup> All laws and some original land deeds are archived at the Ministry of Foreign Affairs. Once signed into law by the president, it is the Ministry of Foreign Affairs' responsibility to print them into handbills and maintain them for future reference.



in the country beyond one month and to conduct research in Liberia's rural areas, a process which requires letters from my host organisation (the University of Liberia) to the Ministry of Internal Affairs and to the Ministry of Immigration. In turn, I needed letters from the Minister of Internal Affairs to the Superintendents of the various counties I wished to visit.<sup>26</sup> It was also necessary to develop contacts with organisations or individuals who would introduce me to rural communities where I could do my research. Land Mine Action (LMA) was such a contact for my work in Salala District, where they run an agricultural training programme for former combatants and my field assistant, Victoria Koigblee, was my contact for communities in Lofa County.

Once these hurdles were passed, I was able to visit Salala District regularly over the following weeks, spending between four days and a week at a time in the area. My first visit was designed to test out my questions in order to hone them for subsequent trips and establish local contacts which would allow me to work in the area without the support of LMA. The trip to Lofa County required a great deal more preparation as it was farther away from Monrovia and temporal and financial constraints would not allow for more than one trip to the area. I spent a total of two and a half weeks of intensive research in Lofa County in July and August. Upon returning from Lofa County, I spent an additional week in Salala District and a week in Monrovia's nearby townships.<sup>27</sup> My remaining efforts in the final weeks were concentrated tracking down laws, documents and obtaining clarification from government officials on the nuances of policy and practice.

While working in Lofa and Bong Counties, I used the towns of Foya, Voinjama and Salala<sup>28</sup> as a home base, where I was able to take advantage of the lodging and transportation infrastructure (fuel and vehicles) and organise visits to surrounding villages and towns, occasionally travelling as much as two and a half hours one way to reach a site. Due to the logistical challenges of accessing many of these more remote

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<sup>26</sup> In turn, I also needed letters from the county superintendents as an introduction to district commissioners and paramount chiefs.

<sup>27</sup> While these sites do not necessarily fit into the more localised analyses, the information gleaned there will be brought into discussions surrounding the wider themes identified by this research as being relevant to land relations in Liberia.

<sup>28</sup> The districts derived their names from their respective administrative centres.

sites, I was inevitably unable to take advantage of all the opportunities for observation that staying locally would have provided.

## 2.2 Methods: Interviews, Participant Observation and Member-Checking

My research is oriented toward identifying the manner in which post-war societies organise and how relationships and meanings are created and negotiated around land resources. In order to capture the nuance and depth of these issues, I found that qualitative methods were required instead of quantitative methods which lacked the flexibility for what needed to be accomplished with this study. In order to gather my data, I employed a combination of methods: interviews, participant observation and member checking. Berg (2001: 5) suggests that using multiple techniques provides a “more substantive picture of reality [...] and a means of verification”. This approach, known as methodological triangulation, reveals new types of data that would have been obscured with a single approach (Baxter & Eyles, 1997).

### 2.2.1 Formal, Semi-structured and ‘Group’ Interviews

The type of interview conducted was dependent on a series of variables such as: the type



**Figure 2.1:** Rice kitchens were the primary location for conducting interviews. This structure is from a village in Foya District, Lofa County. (source: A.Corriveau-Bourque, 2009)

of interview subject, the location of the interview and ethical concerns that needed to be addressed by the specific context, which I will address sequentially below. When talking to government officials and IO/NGO workers, the interview style was generally formal. This format required me follow the questions I had prepared beforehand in order to fit within the schedule established by my respondents. However, these interviews provided occasional opportunities to follow unanticipated but thematically relevant ideas as they arose in the discussion. This flexibility increased when I interviewed individuals outside of formal institutional settings, most notably when I visited communities and sat down with individuals in

their homes, fields or in community spaces. This interview style, known as semi-structured, allowed interviews to be conducted in a more relaxed conversational style which put respondents at ease.

Semi-structured are based on a pre-set series of questions (which change depending on the type of actor being interviewed), though the phrasing and order of the questions would vary according to the circumstance of the interview. This technique allowed for both the interviewer and the respondent to follow tangential, but relevant trains of thought that may reveal details beyond the scope of the original questions (Berg, 2007). The flexibility provided within this method also allowed topics which might be deemed too sensitive by the respondent to be avoided entirely, which is necessary when working in a post-war environment (Buckley-Zistel, 2007).

Interviews were often conducted in the awnings of the respondent's homes or their *rice kitchens* (Refer to *Figure 2.1* of rice kitchen in Foya District). These structures were preferred by interviewees as this is traditionally where a host will receive guests. They provided shelter from the elements while still allowing for sufficient light for me to see my notes, as very few of the homes I visited in rural Liberia had electric lighting. However, due to the social nature of these locations, ensuring that no one else sat in on the interview was often difficult. On the occasions that people would wander into the discussion, I would generally pause and inform the person that this was a confidential interview; however, my position as an outsider made it difficult for me to assert who had the right to be present during the discussion. While some interviewees would ask people wandering in to leave, others would not, creating an ethical dilemma of confidentiality. In these cases, I would stop asking questions about conflicts they were personally experiencing and ask more general, less sensitive questions. Oftentimes, the question would lead to a discussion between the interviewee and those observing, forcing me to adapt my interview strategy to a group discussion. Interviews generally lasted forty-five minutes to an hour although the length was subject to the discretion and interest of the research participants. Several particularly engaging interviews lasted over two hours.

### 2.2.2 Participant Observation

I used participant observation as a complimentary research method that allowed me to capture the non-verbal dynamics of social interaction such as body language, the

frequency of interaction between various actors, the physical exclusion of certain individuals from discussion and the relationship of actors within a particular space (Jorgensen, 1989; Kawulich, 2005). This technique is often used as a complementary method during interviews to identify how a respondent reacts to certain themes or experiences. Observation can also be effective outside the context of the interview to help corroborate interpretations generated from interviews. Schwartz and Schwartz (1955) suggest that since an observation of a social interaction cannot occur without the observer, the observer both modifies and influences this context. Hence the observer is a participant. What matters then is the level of engagement the observer has with the environment.

My observational role involved being either an observer-as-participant or a participant-as-observer depending on the context (Kearns, 2010). As an observer-as-participant, I would be present but not necessarily engaged with my research subjects. For example, I often sat at the corner tea shops, known as *hatai* places, where men often come to discuss politics and gossip, and mentally took note of the types of discussions occurring around me and how people related to each other. As a participant-as-observer, I would walk around a property with a farmer as they told me how they used their land, or watch the mediation of a dispute. In one case, described in my field assistant's positionality section (Section 2.5.2), I was even one of the actors involved in a dispute that needed to be resolved. These types of observations not only concretised the experiences described to me during interviews, but also helped situate my findings in a more general context.

### 2.2.3 Member Checking

The data generation stage of my research did not end when I left the field. I see my experiences in Liberia as the first step of an on-going process, one which suggests the constant evolution of findings through feedback. This is facilitated by the methodological process known as member checking. Also known as respondent validation, this method allows the researcher to verify data and analyses with original respondents (Baxter & Eyles, 1997; Barbour, 2001). My first attempts at member checking occurred *in situ*, either during interviews themselves or in the weeks that followed while I was still in Liberia. Much of my final trip to Salala District was spent verifying ideas and concepts

among my initial respondent community. I have also received feedback from development practitioners and academics I interviewed in Monrovia on a report that I wrote for the Norwegian Refugee Council (Corriveau-Bourque, 2010).

This method provides the opportunity to refine and nuance interpretations of data as feedback comes in (Barbour, 2001). It also helps to ensure that the findings are expressed in a way that is meaningful to respondents (Baxter & Eyles, 1997). While it will be impossible for me to return to Liberia before my thesis is complete, I intend to return my findings to the original communities once this stage is done, in a document that is written to be accessible to local audiences. This practice is also viewed as a form of reciprocity, in that materials gathered from the field should be given back (Woods, 2006). I discuss my intention to return my data to respondent communities further in the ethics section of this chapter (Section 2.7.1).

### **2.3 Sampling**

As mentioned earlier, conflicts over land in Liberia are widespread. Therefore finding “information-rich cases”, as described by Baxter and Eyles (1997: 513), was not difficult, as many Liberians were eager to share their experiences.

In order to capture a wide variety of perspectives, I used a combination of criterion, opportunistic and convenience sampling, as defined by Bradshaw and Stratford (2010). Through criterion sampling, I was able to target key actors in the management of land tenure at both the government and local levels. These meetings generally had to be scheduled in advance and were only possible by passing through ‘gatekeepers’ whose roles I will discuss shortly. Also, as women and youth have been generally marginalised in the past, it was necessary to identify their unique experiences as a contrast to those of individuals in positions of power. It was also necessary to elicit perspectives from the pre-war and ‘displacement generations.’ I found that the young men and women who grew up during the wars (in various states of displacement) often had very different relationships to pre-war forms of authority from those of older generations. Opportunistic and convenience sampling, on the other hand, involved adapting to the situations I would encounter when visiting communities. In the case of opportunistic sampling, I would follow leads as they emerged like following a respondent from a town to his farming village to meet and interview their extended family. Due to mobility required of farmers

or merchants, I knew that would not always find specific individuals to talk to and would instead rely on convenience sampling to interview those who were available and willing to talk at the time. Interviews were conducted in my various research areas until I began to reach conceptual saturation, where few new themes emerged from interviews (Baxter & Eyles, 1997), at which point I intensified the process of member checking.

The challenge came in the ability to cross-reference the claims of one respondent with the claims of the people with whom they were having a dispute. I originally intended to focus on particular cases, comparing the perspectives of specific disputants and identifying the strategies each actor was using to obtain their optimal outcome. However, once on the ground, I quickly realised that due to the sensitivity of these disputes I could not deliberately seek out the person with whom they were in conflict, without giving a hint about who my original source was. While I could have used deception to access the second party, I found it to be an ethically problematic alternative. In addition, I was counselled by my field assistant that due to the small size of many communities it would be known with whom I spoke. Since I did not want my research to be the cause of additional tension in the community, I decided to focus less on specific disputes and more on identifying common threads that linked the various types of disputes occurring in my research sites. As a result, my strategy of targeted sampling had to adjust for this consideration.

In every region and community I visited, it was necessary for me to follow local protocols of site entry. At each stage, I needed to meet (and often interview) gatekeepers such as government officials or local chiefs, who could grant me permission to proceed with my research or halt it in its tracks. By presenting myself to the highest levels of local leadership, explaining my purpose and asking permission to work in their area, I was acknowledging their status and their ability to reject my presence should I not conform to their rules. Failure to go through these channels could arouse suspicion regarding my intentions and create resentment among the local elites. As I discuss later (Section 2.5.2), if a local authority asks his community not to talk to the researcher, the researcher will ultimately be unable to secure an interview.

This tactic of community entry was also crucial in locating key informants in the community or in government positions. It was highly conducive to respondent-driven

sampling as each gatekeeper was able to introduce me to other community power brokers (or in the latter case, to other relevant officials). Based on this introduction, my next respondent would usually be receptive to requests for an interview as my presence and intentions had been vetted by a respected member of the community or a senior government official. However, I found this sampling strategy to be limited in its effectiveness for acquiring a diversity of views, particularly ones which may be conventionally marginalised. I found that if I used only respondent-driven sampling, the individuals in positions of power would often channel me to others who confirmed their worldview. As a result, once my presence was established in a particular research site, I would ask the local elder or chief for permission to walk around the community on my own, so that I could talk with people in the community freely.

## **2.4 Analysis**

The data accumulated over the course of my research through interviews, participant observation, and member checking (thus far), were analysed organised based on two approaches in order to isolate patterns and themes that might emerge. The first sets of codes were what Cope (2010) describes as initial codes, developed according to my research questions and my conceptual framework. The second were developed from examining the raw data for themes, patterns and relationships that I had not anticipated prior to going into the field. The codes I developed fall into three categories: manifest, descriptive and analytical (*Ibid.*). Manifest codes are terms and notions that are common to the study of Liberian land tenure like disputes, violence, legal realms and laws (including norms and rules), different forms of authority structures, types of evidence for land claims (trees, title deeds, receipts, Tribal Certificates, City Certificates). Descriptive codes address more the ‘who, what, where and when’ of the issue being examined (*Ibid.*). Analytical coding is based on identifying themes, patterns and linkages between broader ideas (*Ibid.*). For my thesis, these include: the use of ambiguity to diffuse and perpetuate conflict, divergent notions of legitimacy, changing bases of social identity, community-level and individual-level adaptation strategies to tenure insecurity, and points of overlap between legal realms.

## 2.5 Positionality

Central to the rigorous analysis of any data is the recognition by the researcher that meanings are created in an interactional setting and that interpretations of data are fundamentally influenced by the researcher's background and preconceptions (Auerbach & Silverstein, 2003). This approach rejects the fundamental assumption that an observer can be objective in the research process and forces the researcher to provide context for how data are produced. According to Baxter and Eyles (1997: 508), this exercise of evaluating one's own positionality "helps account for the ways that interview texts are constructed." The exercise of examining positionality requires the researcher to examine and analyse their biases, the power relationship between themselves and their interview subject and to reflect on how their (and their field assistants') identity may have structured the research interaction (Mansvelt & Berg, 2010). However, as Rose (1997) notes, it is impossible to fully know and understand all of the dynamics that affect the research interaction. In spite of this, it retains value as a practice in rigour within the research process by allowing future researchers to better evaluate my conclusions (Auerbach & Silverstein, 2003).

### 2.5.1 My Positionality

This trip was the first time I had been to Liberia, or for that matter, to any country that had so recently experienced such a lengthy and destructive civil war. Although I had previously lived in Kenya (before and during the 2007 elections violence while working for the International Crisis Group), I was certain that I would not be entirely prepared for the extent of the destruction of the counties' infrastructure and the trauma of displacement, violence and social disruption that I was about to encounter in Liberia. Due to pervasive reports from Transparency International and in the global media,<sup>29</sup> I was prepared for overwhelmingly low levels of government capacity and a high level of corruption. I found these portrayals to be incomplete. Many of the civil servants with whom I met were tremendously capable and hardworking individuals. In terms of capacity; my previous experiences had accustomed me to have adjusted expectations for

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<sup>29</sup> Liberia was ranked 150 out of 179 countries on Transparency International's Corruption Perception index in 2007. It was also twelfth on Foreign Policy's Failed States Index in 2006, improving to twenty-seventh in 2007 and thirty-fourth in 2008/ 2009.



the speed at which results could be produced. These expectations allowed me to plan accordingly and maintain a certain degree of flexibility throughout my research.

As a Caucasian male in my mid-twenties, my appearance seemed to fit well within the mould of the 'typical' North American or European development worker or private military contractor. Throughout Liberia, they are the primary source of interaction with a Western foreign 'other' of my age group for most Liberians. They are often viewed as potential links to employment opportunities for either domestic work, construction or development related jobs. As a result, I was at first generally considered as such by my daily interlocutors, until I was able to establish sufficient rapport and establish my identity as a student researcher who could not provide employment linkages.

Once I started conducting interviews outside of Monrovia, it was of paramount importance for me to distance myself from the perception that I was an NGO worker. From my past work in Kenya, I knew that expectations of development projects would alter the manner in which respondents would relate to me and the types of information they would share. It was not uncommon for individuals, particularly local leaders, to have strategically mastered the NGO 'buzzword' lexicon in order to better position themselves and the groups they represented to access development resources. However, the narratives produced are often created upon the assumption of what respondents expect the researcher/development worker wants to hear rather than reflecting their unique experiences and local realities.

Once I began working further away from Monrovia in southern Bong and Lofa Counties, it became easier to distance myself from the ingrained notion of the foreigner-as-development worker. Since the type of transportation used by an individual can strongly convey one's type of employment or financial status.<sup>30</sup> By using local forms of transportation, I was more easily able to convince respondents that I was not representing an organisation that had the financial means to implement development projects.

A great deal of authority and the 'legitimacy to speak' in (rural) Liberia is derived from seniority. Therefore, when I was speaking with elders and chiefs I was in a lower

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<sup>30</sup> Sports utility vehicles and motorcycles with organisational insignias or private cars are the most frequently used mode of transportation for the staff of international or non-governmental organisations

social category than my respondents. However, I found that my level of education and my foreignness rendered my status of ‘youth’ a bit more ambiguous. A university education is highly valued in Liberia and holders of degrees are given a great deal more status in society, status that would often transcend their age-grouping. Based on previous research experience, I knew that a (less-formally educated) respondent’s perception of inequality with regard to access to academic resources could have the impact of weakening a respondent’s willingness to speak. These perceived power imbalances were often the product of previous interactions with government officials who would dismiss local perspectives and practices as “*uncivilised*” or “ignorant.” Also, key informants in Kenya and Liberia frequently state that development practitioners and academics often marginalise local populations by assuming that their ‘expertise’ provides a better understanding of the problem they are examining. As a result of this disconnect research and development projects are often seen as irrelevant to local interests. Therefore, in order to mitigate the perception that I, too, would discount local perspectives, I worked to redefine my identity in my field sites as a student willing to learn from the people in the community, rather than an ‘expert’ who was bringing knowledge. As interviews began, I would ask respondents if they would be willing to be “my teacher,” emphasising my interest to understand “how things are” from their unique perspective. In Liberia, teachers are greatly respected as holders of valued knowledge.

In fact, according to Stone and Priestly (1996), relinquishing claims of ‘expertise’ as a researcher is a key component of breaking down the inherent power imbalances found in the study of marginalised or oppressed groups. The practice of identifying a respondent-as-teacher would value the local perspective while creating a space to break down the hierarchies which often result in pre-formed narratives that play to the expectations of development agents. This method, known as supplication, requires the researcher to unequivocally accept that the individuals being researched are more knowledgeable regarding their own reality than the researcher (England, 1994). Supplication also involves explicitly acknowledging the dependence of the researcher on the respondent for information (*Ibid.*). I used this approach to communicate to respondents my profound respect for the information they were taking the time to share. It also provided them with an opportunity to take a position of authority and respect in

our interaction, a position that many respondents adopted eagerly.<sup>31</sup> Individuals generally marginalised in rural Liberian society appeared particularly touched that their perspectives and their experiences were valued in this way. I also used this approach in speaking with local authorities, in order to demonstrate respect for their position.

In Liberia, there is a great deal of emphasis placed on situating oneself in a particular social context, a process which helps to establish membership in unique social categories. Establishing one's membership is central to accessing certain types of discussion and determining not only what information is allowed to be conveyed but also who is allowed to convey it. This process is central to establishing authority and will be discussed in greater depth in Chapter Six. In terms of my positionality, my foreignness situated me as an outsider. Interviews were a constant process of negotiating the information to which I was privy and what information was restricted. For example, during an interview with an elder in Foya District, he stopped the interview to ask me: "why are you so asking about our community's secrets?" To which I quickly reminded him that I was not in a position to know information is secret and that only he can determine what I am able to know, reminding that he held power to reveal or conceal, not me. He pondered my response for a moment, signalled that he agreed and allowed me to proceed with the interview.

There are particular issues of which I am aware that my knowledge remains limited, mainly related to *society business*<sup>32</sup> which plays a significant role in the ordering of society. For ethnographic information specific to *societies* or to the Loma, Mandingo, and Kpelle groups, I drew heavily from work by Harley (1941), Bellman 1975; 1984), Konneh (1996), Ferme (1998; 2001), McGovern (2004), and Sarró (2009). For issues not related to *society business*, I found that being accompanied by a local field assistant also helped mitigate this effect of 'stranger-hood' to a certain degree. Due to my dependence on field assistants as mediators of knowledge, I will briefly examine the implications of their respective positionalities.

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<sup>31</sup> I draw on the perspective outlined by Pini (2002:341) that argues that "empowerment involves an individual coming to an understanding of their own power and acting." Power is therefore not a property that can be given. Attempts to impose normative frameworks of individual empowerment can in fact be disempowering to the individual who is intended to benefit.

<sup>32</sup> Society business is a Liberian-English phrase that refers to the inner workings of the various religious and secular sodalities, the most prominent ones in my research area including but not limited to Poro, Sande, United Brothers of Friendship (UBF), Society of Oddfellows, and the Freemasons.

### 2.5.2 The Positionality of Field Assistants/Interpreters

The advantage of having a locally-recognised individual as a field assistant was that they could serve as my *stranger-father*. *Stranger-fathers* serve as gatekeepers to communities and vouch for the *stranger's* behaviour and intentions. However, when I first arrived in Liberia, I was faced with the dilemma of hiring someone with no ties to the communities I was visiting (but who spoke the language) or someone with strong ties to the community. My consultations with academics and development practitioners in Monrovia regarding this issue revealed a conflicting range of preferences. Working on an issue as sensitive as conflict, my initial instinct was to employ someone who was familiar with the language of the area where I was working, but had no local ties. In my mind, this scenario would be more conducive to the enforcement of confidentiality. My first field assistant, Harris A. Gonoe, identified himself as and spoke Kpelle and was a secondary-school graduate in his late twenties. He worked as an administrative assistant to a high school principal in Gbarnga, Bong's county seat. He was a relatively shy individual and had no prior research experience. I found that finding research assistants with a strong foundation in qualitative methods was difficult in Liberia. In the end, I trained all of my assistants in qualitative methods as all the candidates I met with a relevant background were otherwise employed by other research teams.

Harris and I worked together for my first several trips to Salala District. He served a dual role as interpreter and field assistant, as did my other field assistants. I was able to conduct most interviews in Liberian English. When respondents did not understand, Harris was able to translate my questions into either Kpelle or Liberian English. While respondents were generally open to my hiring of a *stranger* to the community (as long as he was Kpelle), a few elders questioned why I did not hire from the available of local youth. Despite this pressure to hire locally, I am certain that two respondents in particular would not have spoken to me if I had a member of the community as a field assistant as they were in the midst of particularly contentious disputes.

On my final week-long trip to Salala, Harris was unavailable to come along so I hired Carcious B. Allen, the leader of the local youth organisation, who I had met on my previous visit. He was a secondary school graduate in his late twenties (like Harris, he

also identified himself as being Kpelle). Although, Carcious' age classified him as a youth within the community, his leadership position in the youth organisation made him a well-recognised figure in the community. Local government and customary officials frequently included him in discussions on community development and on the mobilisation of corvée labour. While the representation of 'youth' in more powerful fora occasionally placed him at odds with local leadership, respondents generally acknowledged that he was respected and thanked me for hiring a "local son."

My field assistant during my work in Lofa and in Monrovia was Victoria Koigblee, a middle-aged criminology student at the University of Liberia in Monrovia. She had lived in Voinjama City before and during the war and identified herself as a Loma. This trip to Voinjama was her first time back since she had fled to Guinea during the war in the mid-1990s. She had experience conducting quantitative interviews and was the mother of one of the field assistants most highly recommended by my research predecessors. During interviews, I addressed her publicly as "*auntie*" or "*ma*," terms used to establish my respect for her age and position in society.

Her position in society was contextually variable. Many respondents acknowledged that she was the daughter of a man who was locally respected prior to his death during the war, a connection that opened the doors to many interviews. As a woman, she was considered to be of a lower social category; although this position was counter-balanced by her age, her family ties, her high level of education, and her former job as a police officer. Victoria was also an incredibly strong woman who had few reservations about speaking her mind, a quality that was valuable to the research process. She was highly engaged in interviews, asking questions of her own and would frequently give me critical feedback on my research methods and analysis. However, her strong personality also got us into trouble with a drunken assistant chief in one village. When she demonstrated that she had little patience for his condition, he went through the entire village telling people that she had insulted him and instructed everyone to ignore us, which they dutifully did. We were only allowed to interview people in the village after we had gone through dispute mediation, although people in the community seemed to be reluctant to speak to us even after the problem was resolved.

Victoria's identity as a Loma also became an issue when speaking to some Mandingo respondents who seemed reluctant to share information in the presence of a Loma. This became abundantly clear when I had follow-up interviews with some Mandingo leaders without her presence. However, her identity as a Loma woman allowed us unique access to older Mandingo women, many of whom had been born Loma and still spoke the language.

All of my field assistants had been directly affected by the civil wars in the 1990s and early 2000s and had been either internally displaced or been refugees at least once. They occasionally used this history to establish rapport with respondents through a quick exchange of stories or particular locations, attempting to identify a common bond. Also, all of my field assistants were involved in ongoing disputes over land. I constantly encouraged them to refrain from influencing interviews with their own experiences and perspectives; however, it is important to note that their experiences inevitably shaped the way I perceived land disputes in Liberia. Their experiences were incredibly valuable in that they often allowed me to tease nuance out of a particular situation we were examining, nuance that would have been obscured without their insight.

## **2.6 Ethical considerations**

In addition to acquiring ethics approval from the McGill University Research Ethics Board, I was also constantly reevaluating my methods and tactics *in situ*, honing my practice to mitigate any possible negative impacts my research might have had on respondents and their communities. For these reasons, I often tried to meet with individuals at times when their work was less demanding (for example, avoiding peak farming hours) or providing them with opportunities during interviews to leave if they so chose,<sup>33</sup> so that I would not detract from their economically productive activities.

I also had to take into consideration that few academic researchers have come through rural Liberia in the past thirty years. As a contrast, the areas in Kenya where I have worked in the past have often been (over)saturated with the presence of researchers, and communities have come to have certain expectations of interactions with academics. Oftentimes, these expectations are based on negative experiences where researchers

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<sup>33</sup> I also asked my field assistants to look for cues of restlessness in participants so that we could respond to their needs by ending an interview as quickly as possible without necessarily putting them on the spot.

operated unethically. I was therefore aware of the opportunity to establish a precedent for research practices that would set high standards for respecting respondents as partners in the research. I also recognised my responsibility to future researchers not to use practices which would undermine their ability to successfully operate in these areas in the future.

### 2.6.1 Negotiating the Expectation of *Tokens*

In addition to the concerns for maintaining respondent confidentiality and making sure that my research did not fuel local tensions, which I discussed earlier, one of the most frequent challenges I faced was the expectation for remuneration for interviews. It is often expected that one must bring some *small token* to a chief or an elder when meeting them.<sup>34</sup> Navigating the expectation of a *token* in exchange for information is difficult in that this practice may actually end up making a tradable commodity of ‘information’, creating competition within communities to control access to researchers and their resources, creating what Buckley-Zistel (2007) refers to as a ‘research industry.’ In order to address this, I often situated myself early in the interview as a stranger to the community who was only recently made aware of their customs, but “did not come prepared for that thing.” Situating myself as a novice also came with some setbacks, in that it occasionally undermined my access to a particular topic of discussion, in that responses to questions were framed for a novice, excluding nuance on a particular subject. For that reason, I also had to ensure that my questions made specific references to the area’s history, or localised practices, in order to probe more deeply or obtain clarification. My reasoning for not providing financial compensation to respondents is also for future researchers who have fewer resources than their predecessors and may be denied access to respondents due to expectations of payment or compensation.<sup>35</sup>

However, it would be arrogant of me to not recognise the inherently extractive nature of research, an interaction that will benefit me in innumerable ways in the future

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<sup>34</sup> A few government officials, (they were an exception rather than the rule) also hinted at wanting some form of compensation for their time. I did not pick up on their hints, which admittedly brought one discussion to a premature conclusion.

<sup>35</sup> Scott, Miller and Lloyd (2006: 34) discuss the challenges of conducting research in countries affected by this monetised “project syndrome” for students with “modest” funding. However, the use of certain methods, such as focus group discussions, often require remuneration for a respondent to displace themselves and commit a significant segment of time. In contrast, travelling to people’s homes or fields and meeting with them on their terms is far less demanding on respondents, making the negotiation for compensation somewhat more problematic.

(*e.g.* the completion of a graduate degree, publications, professional experience). In many ways, failing to compensate respondents for a resource like their knowledge is the same as extracting any other, more tangible, resource from the community without returning benefits. As such, when establishing my lack of preparedness to give them something at the time of the interview, I asked respondents if they would accept a *token* that would benefit the community as a whole, rather than an individual, offering to bring my research back in a way that could be made use of by them and their children. I promised to provide a local school with a copy of my research so that the next generation could benefit from the knowledge shared. This proposal was almost always enthusiastically accepted by respondents.<sup>36</sup> This is a promise I have every intention of fulfilling, either in person or by sending copies to my field assistants and asking them to deliver them. I also intend to provide copies of my thesis to the University of Liberia. Ideally, returning to these areas with my completed research will also provide me with an opportunity to verify my findings with the communities researched.

## 2.7 Conclusion

In this chapter, I provided a brief overview of the steps I took in order to be able to conduct research in Liberia. While the unique conditions on the ground forced me to occasionally veer from conventional practice (*i.e.* adapting individual interviews into group interviews), these actions prioritised methodological rigour and ethical considerations. While limited by time constraints, this research not only provides insights into a period of significant social change and upheaval in Liberia, but also suggests further areas of potential future research.

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<sup>36</sup> Only two respondents responded negatively to this alternative and ended the interview.



### Chapter 3: Conceptual Framework<sup>37</sup>

In this chapter, I establish the framework upon which I base my analysis of Liberia's post-war restructuring of land relations. In order to effectively examine the complex interactions that are occurring in this turbulent landscape, I draw from a range of literature using concepts from legal pluralism, social capital and land tenure.

In the first section of this chapter, I examine theories of legal pluralism in order to accomplish three goals:

- to establish a basic typology of systems that operate within Liberia; the formal, the customary and the informal realms.
- to focus the analysis on the multiple loci of power that exist in the spaces where these systems intersect and exert their authority over land-based relationships.
- to provide the basis for a scalar analysis of interaction between these various systems.

In the second section, I use the expansive concept of social capital to develop a framework for understanding how the laws, norms and rules of the multiple legal systems are produced, accepted and rejected by members of the systems. This body of literature will also provide a basis to identify how power is projected, contested and maintained. These tools are central to be able to effectively theorise how these systems may change over time.

The literature on land tenure allows me to focus my analysis on the more concrete ways these interacting systems of authority affect social interactions in post-war Liberia. Land is the resource that underpins power relations in Liberia. Land tenure systems are bundles of rights and social obligations that can be severely disrupted through armed conflict (Unruh, 2003). It is such a vital resource, especially in the post-war period, that the failure build legitimate institutions that regulate its access and facilitates trust between the system's members can perpetuate instability and threaten long-term stability. As such, land is a unique lens which can be used to examine complex power relations and struggles between the multiple systems that structure Liberian society. This

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<sup>37</sup> Portions of this manuscript have been already published as Corriveau-Bourque, A. 2010. Confusions and Palava: The Logic of Land Encroachment in Lofa County, Liberia. *Canadian Journal of Development Studies*. 31(1-2):27-48.

thesis will contribute to the growing body of work (Alden Wily, 2007; Bruce, 2007; Keneah, 2008; World Bank, 2008; Unruh, 2009a; Corriveau-Bourque, 2010) that provide a better understanding of Liberia's protracted land crisis.

### **3.1 Plurality of Authority**

Throughout its history, the Liberian state has never hegemonically imposed a singular legal framework that applies to all of its citizens in the model of the ideal Weberian state. Instead, political authority in Liberia has been distributed among several systems across space and scale. Even at its zenith of power, during President William V.S. Tubman's regime (1944-1971), the Liberian territory was governed through a strategy that facilitated and even cultivated the existence of multiple powerful systems of authority outside of the official functions of the state. Each of these systems existed semi-autonomously from each other and was able to impose its own sets of rules and social structures, even though those structures might not be compatible with those of other systems in the same space.

In this sense, Liberia, as with many other African states, defies the classical 'Weberian ideal' in which state is defined is through its ability to monopolise force over a territory and to impose a common legal structure over its entire population (Jackson & Roseberg, 1982). As such, in order to truly understand the distribution of power structures in these societies, it is necessary to conceptualise society beyond being a mere function of the state (Roitman, 1990). State-centric analyses tend to neglect the plurality of power bases that exist in the African context (*Ibid*).

#### **3.1.1 Legal Pluralism**

In order to conceptualise how multiple, distinct legal orders can exist and operate in the same space, I turn to the concept of legal pluralism. Legal pluralism fundamentally challenges the assumption in legal theory known as 'legal centralism' (Griffiths, 1986; Merry, 1988). According to Griffiths (1986: 3), the legal-centralist approach suggests that all social structures are subordinate to the laws and institutions of the state and views the state "as the fundamental unit of political organisation." In this sense, states which cannot impose a unifying, dominant legal order are viewed as being not fully 'modern' or are labelled as 'developmental states' (Griffiths, 1986; Roitman, 1990). Pluralists

criticise centralism as being prescriptive rather than descriptive, a counter-productive normative judgement of how states and societies ‘should’ relate to each other instead of fully conceptualising how they interact in reality (*Ibid.*). The legal pluralist approach asserts that no matter what the context, social fields<sup>38</sup> are inevitably composed of multiple, overlapping bodies of law that are structured on distinct and often contradictory logics (Moore, 1973; Merry, 1988; Unruh, 2003). This is particularly the case in colonial, post-colonial and post-war societies where sites of power are distributed over a broader field of social organisations that have the capacity to make rules and to enforce them (Moore, 1973; Unruh, 2003). In this plurality, the state is only one of several systems of authority acting on individuals and interacting with other systems. All societies, even ones with non-colonial pasts, are considered to be legally plural (Galanter, 1981; Griffiths, 1986; Merry, 1988; Vanderlinden, 1989). Vanderlinden (1989) reasons that all societies are characterised by complexity, rather than simplicity, and argues that individuals in society are generally members of multiple social networks, as opposed to only one, and are therefore subject to the rules, norms and obligations of those different systems.

S.F. Moore’s (1973) concept of the semi-autonomous social field is particularly useful to examine how these various systems interact in space and scale. Each system “can generate rules and customs and symbols internally, but it is also vulnerable to rules and decisions and other forces emanating from the larger world by which it is surrounded” (*Ibid.*: 720). Put simply, systems of authority do not exist in a vacuum. They are constantly forced to adapt to changing economic and political realities and must contend with new ideas brought by members who straddle multiple systems at the same time. Systems can have multiple points of common contact without necessarily sharing the same symbols or logics that structure them (Vanderlinden, 1989). Their boundaries are often ambiguous as a result of this interpenetration. It is the struggle to control these sites of overlap that underpin present-day tension between systems in Liberia. However, interactions between them are not only marked by conflict but also by cooperation (*e.g.*

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<sup>38</sup> A social field is a defined space (for observation), in which multiple systems of social ordering overlap and intersect. That is not to mean that the systems are all confined within the space, only that they are being observed in their interactions with each other.

assimilation or exchange). This research demonstrates that systems can even be in cooperation and in conflict at the same time.

Moore (1973) argues that multiple fields can associate with each other in ways similar to that of social networks composed of individuals. Just as relations between individuals are not necessarily equal, neither are relations between systems of authority. For example, she suggests that a state-imposed law will often have difficulty being effective in a local context where social arrangements are particularly strong and well established, especially if that law's logic is incompatible with local forms of ordering. At that scale, local institutions are more powerful and have more relevance to everyday realities for members of these systems. This does not necessarily mean that the social arrangement in question entirely rejects the state or the services it can provide. Individuals operating within multiple systems also have the ability to strategically combine the 'facilitating institutions' with the 'mandatory institutions' (normative institutions) so that the tools of the former are used to carry out the functions of the latter (Griffiths, 1986). In Chapter Seven, I examine a case where customary leaders strategically utilised the state titling system in order to ensure the continued 'collective' ownership of the community's land. However, the same authorities refused to allow individuals to privately title their land within the formal system.

Legal pluralism is particularly useful in this regard, in that it provides a basis to examine how distinct systems can interact within the same field. However, this approach neglects the processes within systems which would explain how laws, norms and rules are produced, accepted and rejected by members of the systems. Legal pluralism also lacks the capacity to explain how power is projected, contested and maintained within systems. Merry (1988) admits that legal pluralism focuses primarily on interactions between systems and not within systems. In order to address this conceptual gap, I turn to literature on social capital in Section 3.2. Legal pluralism, however, does provide an excellent framework from which to categorise the different types of authority or 'legal realms' that regulate access to land resources in Liberia.

### 3.1.2 Typology of Realms for Land Tenure in Liberia

Since the end of the civil war in 2003, several studies have attempted to classify Liberia's many different legal realms that regulate access to land (Bruce, 2007; Wily,

2007; World Bank, 2008; Unruh, 2009a). From these, the three types of legal regimes have emerged, the formal, the customary and informal realms.

The formal narrowly refers to the institutions and interactions that are officially sanctioned, defined and contained within the structures of state law. Merry (1988) and Vanderlinden (1971) argue that the formal realm (state law) in itself is not a monolithic whole, but is also plural. Merry reasons that laws and legal institutions may have different meanings to different people. According to Vanderlinden, formal pluralism exists within ‘a self-consistent scheme.’ This means that there is a clear hierarchy of law that prevents internal contradictions. However, Liberia’s statutory legal system is anything but self-consistent. For instance, the Law of the Hinterlands was formally replaced in 1965 by Section 600 of the Aborigines Law, which was in turn, omitted from the 1973 revision of the Liberian Code of laws. To add to the confusion, the Law of the Hinterlands, 1949 version, was re-printed in 2001 and is assumed to be the basis of ‘law.’ In spite of their legally-ambiguous status, the customary structures of authority that these laws empowered are still in place and remain the most relevant form of authority in rural areas.

As such, the second legal realm in Liberia is the customary. In terms of land tenure, customary refers to ‘indigenous ‘systems for acquiring, holding and regulating land resources. Chapter One established that the notions of customary or ‘traditional’ do not imply that these are static, unchanging systems, but instead reflect constant processes of adaptation to changing land-use patterns and demographic, economic and political pressures. Liberia’s present-day customary institutions are the product of over a century of interaction between the settler state and the societies that existed in Liberia before the arrival of the settlers. The centralised hierarchies of power found in Liberia’s rural areas were codified into formal law in 1905. This law created statutorily recognised ‘chieftaincies.’<sup>39</sup> The administration of “Tribal Affairs” is left to the chiefs who are to “govern freely according to the customs and traditions so long as [they] are not contrary to law [of the Republic]” (Law of the Hinterlands, 1949/2001: Art. 29). The historical relationship between the customary and the formal will be further examined in Chapter Four. The Law of the Hinterlands created an administrative structure of chiefdoms

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<sup>39</sup> The official control of these local authorities falls under the auspices of the Ministry of Internal Affairs.

(which are further sub-divided into clans, towns and villages, also run by ‘chiefs’) that were imposed on space. However, the practices, norms and rules of these distinct chieftaincies are informed by local ‘traditions’ and political realities, differentiating customary systems from one another. As such, there are multiple local iterations of customary rule in Liberia. ‘Custom’, in itself, is to this day a primary locus of contestation within communities and is constantly being reshaped by internal and external forces.

The ‘official’ hierarchy between the formal and customary systems is identified as juristic pluralism (Merry, 1988). This approach maintains a conventional view of law, in that the state is the ultimate authority in a clearly delineated hierarchy. The term applies when a single authority (sovereign) has different bodies of law that apply to different categories of the population, such a caste, religion, geographical distribution (*Ibid.*). In order to create subsets of official law as opposed to a uniform system, the state must be able to formally classify who falls under what category and legislate which set of laws takes precedence in interactions between individuals who fall under separate categories (Griffiths; 1986). This form of plurality is a tool for the colonial administration of space, in which administrators attempt to impose structures that are legible and loyal to the state, yet attempt to reflect local identities and realities (Griffiths, 1986; Mamdani, 1996; Berman, 1998). However, Griffiths warns that this hierarchy of authority is simply one projection of law, and does not capture the full range or plurality in a social field. This projection (of the state) neglects the ability of the customary to operate beyond the purview of the state rather than as an extension of the state. Such is the case in Liberia, where the structures of customary rule (i.e. chieftaincies and elders) are officially recognised by the state, but the manner in which chiefs and elders deploy their authority may not be in accordance with formal law,<sup>40</sup> which can lead to confrontation between individual customary systems and the state.

By locating the customary specifically as the product of the interaction between the state and local practice, this approach requires an additional category to capture the realm of activities, networks and institutions that exist outside of official definition and

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<sup>40</sup> Certain practices such as *sassywood* (defined in Chapter Six), or the exclusion of women from land ownership are in fact against state law, but are still practiced by customary authorities.

recognition. In spite of the fact that these systems are not officially recognised, they thoroughly permeate the customary and formal realms in Liberia. This is what is referred to as the informal realm. The World Bank (2008) and Unruh (2009a) refer to informal relations of trust as being used to negotiate terms of land use or transfer in Liberia. Informal networks and institutions can manifest themselves as religious institutions and sodalities, kinship networks, age-set groups, wartime bonds between combatants and their units, patronage networks, work-based associations, or political organisations.<sup>41</sup> This list is by no means an exhaustive; instead, it is meant to give an idea of the broad array of informal networks that operate within Liberia. For this thesis, the ‘informal’ encapsulates all relations, exchanges, systems and networks that exist outside of official regulation. These systems, like patronage networks, may be embedded into formal institutions (*i.e.* the allocation of government positions as patronage resources, or the use of one’s formal position to secure unofficial benefits for allies and friends), but are relationships that are regulated by rules and norms that are defined outside of the official realm of state law. In fact, these informal institutions and networks may often undermine the value and legitimacy formal law if the rules and norms of the informal network are more powerful than those of state law. Informal institutions even play a role in shaping formal law.

Each of these three realms plays a unique role in shaping the strategies through which individuals access and secure land resources in Liberia. Even though they are structured on distinct (and occasionally conflicting) logics, they often overlap and are even dependent on each other to function. For example, one cannot formally purchase land from the state in Liberia’s rural areas without first negotiating with local customary authorities, after which, an individual must navigate the convoluted formal titling process. In order to acquire land, one must be able to draw on or create an extensive informal network of social ties as informal structures thoroughly permeate both formal and customary institutions, as I will demonstrate in Chapter Five. In a period of post-war uncertainty, in spaces where none of these realms is uniquely dominant, individuals and

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<sup>41</sup> The customary and informal institutions described above are far from homogenous, static or unified wholes. They are fluid and constantly subject to negotiation and tension as they interact with other systems and their members attempt to mould them to suit their needs.

groups are trying to diversify their strategies and ties through these realms in order to secure their interests.

### **3.2 Capital, Violence and Legitimacy**

The literature from the previous section identifies the types of structures that regulate land resources and establishes that several systems that regulate these resources can operate in the same space and can interact at different scales. However, legal pluralism does not explain how power is constructed, expressed and challenged within these normative orders, making it difficult to conceptualise how these systems operate or change. Therefore, in order to understand processes of social change in post-war Liberia, it is necessary to turn to the expansive concept of capital.

Wacquant (1998: 26) defines capital as “any resource effective in a structured arena of social action (or field) that allows one to obtain the specific profits that arise out of activity and contest within that arena.” This conceptualisation of capital broadens the notion of ‘resources’ over which actors compete from merely physical entities like land, labour and goods to less tangible resources such as relationships, narratives, and institutions of social order, for example. Five main types of capital emerge from the literature: economic, human, cultural, social and symbolic. However, there is significant disagreement as to what should constitute a capital and how each is to be defined. My objective is not to engage with the particulars of these debates but to extract tools that will be of use for this study.

The first of the five capitals is economic, which is also referred to as physical capitals (Fukuyama 2001). Economic capitals are the basic units of economic production (Bourdieu, 1985; Wacquant, 1998). The economic capitals that are central to this study include land, agricultural products, arms and United States and Liberian Dollars. Human capital, as defined by Coleman, (1988) is used to describe the skills and knowledges that can change an actor’s ability to interact with their environment, such as literacy or agricultural skills. However within Bourdieu’s framework, Coleman’s concept of human capital best fits into the notion of embodied cultural capital. This form of capital is defined as the knowledge and practices learned through exposure to actors or an environment which can transfer this information.



Bourdieu (1985: 724) vaguely defines cultural capital as “power over the field [...], and more precisely over the accumulated product of past labour [...] and thereby over the mechanisms tending to ensure the production of a particular category of goods.” Wacquant (1998: 26) refines Bourdieu’s definition, saying that cultural capitals are tools through which “valued cultural products” are controlled. This can be in embodied, objectified (in the form of cultural goods such as books or art) or in institutionalised forms. This latter category (institutions) fits within Bourdieu’s (1994) analysis of the state’s exercise in power. Cultural capitals, also referred to as informational capitals, are the tools with which the state can impose a framework of social ordering. However, as I discussed in the section on legal pluralism, the state does not necessarily have the monopoly on the imposition of rules and norms; however Bourdieu’s model is not limited to the state. It can apply to any dominant source of authority operating in a particular social field. Through the control of this ‘information,’ the dominant authority “can impose common principles of vision and division,” and construct the fundamental building blocks of group identity (kinship, ethnicity, religion, nationhood) (*Ibid.*:7). Group and individual oral histories, lineage claims, spiritual artefacts and memory are all therefore controllable resources which can be used to impose structures for ordering society. Watts (2008) identifies the power to tell stories (such as histories of place) as narrative capital. Specific informational capitals may have considerable power at a certain scale, but may be entirely irrelevant at another. For example, a localised history of settlement in a particular area is a powerful tool for the establishment of local hierarchies and identities; however, beyond the specific community to which it refers, this history may be obscured or made irrelevant by larger, more dominant national narratives. Therefore, the strength of informational capital is dependent on the context in which it is deployed.

The deployment of cultural capitals has a significant influence in shaping the social relations in a particular field. Groups use mutually recognised symbols and common points of identity to strengthen their bonds and create a consistent set of rules with regards to how these individual actors will access and use economic resources. These types of relationships are conceptualised through social capital. More specifically, social capital broadly refers to the ties, obligations, norms and rules that bind groups

together and facilitate interactions between actors (Coleman, 1988; Portes, 1998; Wacquant, 1998; Fukuyama, 2001). Essentially, social capitals are the tools that systems of authority depend on to regulate social interactions and access to resources. How these capitals are deployed is subject to significant debate; however, there appears to be a consensus in the literature in that “social capital stands for the ability of actors to accrue benefits by virtue of membership in social networks or other social structures” (Portes 1998: 6). If a system of relationships controls valuable resources, the social connections of that system also become valuable (Wacquant, 1998). Therefore, establishing a relationship or becoming a member of a social network is a strategic act to access resources controlled by other individuals. Norms and rules are created in order to facilitate interactions and exchanges between actors (Coleman, 1988; Fukuyama, 2001). An enforceable rule creates a sense of predictability within social interactions, preventing one actor from taking advantage of another. Failure to adhere to these ‘guidelines-for-interaction’ can result in sanctions. Norms can have a very local and specific function such as a sense of reciprocity between friends, or can affect a large network of individuals who do not all necessarily know each other. In the latter case, norms and rules are embedded into and enforced by institutions.

Coleman (1988) argues that trust is central to the functioning of institutions and to the maintenance of social bonds. Trust can refer to interpersonal interactions or can be conferred to an institution – an actor trusts that the system will enforce rules in a consistent manner. Wacquant (1998) places ties to institutions into two distinct categories, informal and formal social capital, though the distinction between the two is unclear. Ultimately this form of capital, which Goodhand, Hulme and Lewer (2000) refer to as structural social capital,<sup>42</sup> encapsulates a specific set of resources, obligations and values derived from membership in a system of authority like the state. Wacquant (1998) demonstrates that socially marginalised communities tend to have weaker ties to state institutions and therefore less structural capital. The members of these communities have less trust in consistent deployment of state power and allocation of resources.

Two additional dimensions of social capital have been identified in the literature. Social capital can refer to connections within a specific group, a unit that may be defined

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<sup>42</sup> This form of capital is equally referred to as linking capital by Colletta and Cullen (2002)

by its exclusivity or can describe ties to individuals and organisations that are more spatially and socially removed (Woolcock & Narayan, 2000). These two dimensions of social capital are called bonding and bridging capitals, respectively. According to Coleman (1988), a group derives its strength from the close nature of its social bonds. From this 'closure,' it becomes easier to ensure cooperation between actors as any deviance will result in rapid censure from the group as a whole (*Ibid.*). Accountability and cooperation within the group becomes much more difficult if the actors have limited or no contact with each other. Those actors at the focal points or nodes of interaction have a greater ability to regulate interactions and access to resources. Bridging capitals or linkages between distinct groups are therefore considered to be 'weaker' (Woolcock & Narayan, 2000). However, Fukuyama (2001) and Granovetter (1983) argue that these 'weak' ties between groups help to facilitate the flow of resources and can even 'strengthen' the different groups, through access to new ideas and opportunities. A group that is so close-knit that it is exclusive or that limits members' exposure to external influences can be at a disadvantage within a pluralistic social field comprised of multiple systems of authority, as they will be limited in their access to patronage resources or strategic alliances for security.

Even though social capital helps facilitate interactions within or between groups, the limitations and obligations inherent to social ties can also have a deleterious effect on its members or on the broader social field in which the system is located (Portes, 1998; Gilbert, 2009). This is what is referred to as negative social capital. For instance, in Liberia, formally educated members of the community are often burdened with significant social obligations to their social networks. While the collective resources of these systems may have helped them through school, the expectations placed upon them can be overwhelming afterwards. Since formal education is associated to wealth, these actors are often burdened with frequent requests for material assistance or requests for jobs, which they cannot always deliver upon (Moran, 1990). Failure to provide assistance within these networks can be seen as a moral affront, and met with social sanctions. Negative social capitals can also come in the form of downward levelling norms, whereby success by an individual is received by their peers with jealousy or resentment, a feature common in Liberia (Portes, 1998; Yoder, 2003). Also, membership in a system

can be tied to the expectation that others are excluded or marginalised from accessing scarce resources, such as land. A group can even attempt to build its internal bonds and strength through the production of chauvinistic narratives which are expressed through open hostility toward non-members in order to undermine non-members' ability to compete for those resources, as is the case with the attempts to exclude the Mandingo ethnic group from the Liberian national identity (Konneh, 1996; Ellis; 1999; Bøås, 2008; 2009). The rules and norms binding a group together may also be abused by those in power to deny those lower in the social hierarchy access to valued resources and opportunities. In the next section, I will discuss how negative social capital, particularly the abuse of power or excessive demands on members can undermine the strength and legitimacy of a system of authority. In spite of efforts to resist abusive systems, control of these resources may be guarded jealously, and efforts by individuals to obtain resources or services elsewhere (or from another system) can be met with brutal punishment.

Lastly, symbolic capital is defined by Bourdieu (1985; 1994) as the ranking or ordering of resources according to their value or prestige as symbolic capital, a category which Wacquant (1998: 27) dismisses as simply a “conversion rate between various species of capitals” and not a capital in itself. Whether or not symbolic capital actually constitutes a form of capital is beyond the scope of this framework. However, this debate reveals a useful point: the authors agree on that the primary site of contention between social actors, or in the case of this thesis, between the systems of authority mentioned in Section 3.1, is the “imposition of the legitimate vision of the social world” (Bourdieu, 1985: 731). In other words, the struggle between systems of authority is over the ability to dictate the value, hierarchy and meaning of the resources under a systems' control. Changes in what capitals are valued (and how they are valued) can precipitate significant social upheaval as the balance of power shifts to new systems and actors, as this thesis will demonstrate. However, this brings forth the question, how are resources deployed by actors within a system of authority to express power?

### 3.2.1 Bases of Social Power

Power is concentrated with those who control capitals that are seen to be valuable within a particular context. The authorities who represent these concentrations of capital use

their positions to regulate access to those resources. However, power has multiple directionalities; it is not only imposed from the above but can also be contested and resisted by members. An authority's ability to exercise control over a social field is also determined by the perception of their 'right-to-act.' In other words, authority is also a relationship that can be conferred, not only imposed. According to French (1956), there are five ways through which power can be expressed: expert-based, legitimacy-based, reward-based, coercion-based and attraction-based. The relations of power within most groups tend to be comprised of a combination of these bases.

Expert power is derived from the perception that authorities have "superior knowledge and information" than their subordinates (*Ibid.* 184). French's definition does not elaborate on the fact that the value or "superiority" of knowledge is contextually negotiated insofar as clients will only enter a relationship with an 'expert' if their (the expert's) knowledge is seen as valuable or gives the 'expert' a positional advantage in relation to the client within a particular social context. It is not necessarily the most educated, experienced or informed individual who holds power; for example, a university-educated youth in Liberia who specialised in agricultural sciences may be expected to defer to a chief (who may have inherited their position and was not educated within the formal system) in order to get access to farmland within a particular community. Within this relationship, it is not the university student who is the 'expert,' but the chief who controls knowledge of the land and local procedures of access. For my analysis, I would therefore like to refine the definition of expert power to: the control over access to and interpretation of esoteric symbols and information (cultural capitals) that are contextually valuable (referred to as 'valued knowledges' in this thesis). If an agent wields power proportionate to the perceived value of the capital which they control (Bourdieu, 1985), the power of an 'expert' is dependent on the continued perception that their knowledge is still valuable.

The perceived value of certain knowledge is a central to the shifting landscape of power in post-war Liberia, an issue that will be examined in Chapter Six. Occupying the position of 'expert' within a particular system gives an actor greater legitimacy to exert power by imposing rules and norms that regulate access to the resources under their control. For a system to be viewed as legitimate, it requires more than the control over

cultural capitals. A system of authority must be seen as beneficial to its members through the effective distribution of essential resources and services (French, 1956; Flacks, 1969).<sup>43</sup> In order to ensure that clients have access to valued resources, a variety of strategies come into play. Systems of authority can expand their control over new spaces and clients, using force (*e.g.* territorial conquest and slave-raiding) or by attracting new clients and their resources (*e.g.* an immigration policy which attracts new clients with high levels of economic and human capital). Systems can also establish strategic linkages (develop bridging capital) with other systems that can provide resources that are not otherwise available, or establish bonds as insurance against potential future crises, as Lonsdale (1992) demonstrates in his study of the malleability of ‘ethnic’ identity in Kenya. In situations of scarcity, legitimacy can be derived from an authority’s ability to exclude non-clients from access to valued resources and protect the interests of clients from each other by resolving disputes and enforcing rules. Within the framework of social capital, legitimacy can be interpreted as a form of structural or ‘linking’ capital, as defined by Goodhand, Hulme and Lewer (2000) and Colletta and Cullen (2002), respectively. This means that legitimacy is relational, in which a system’s strength and value is determined by its member’s perception of its ability to protect and increase members’ interests. A system’s failure to effectively enforce rules can threaten the interests of its members and therefore lead to a decline in the perceived legitimacy of authorities, as is increasingly the case with land in Liberia. As such, the use or threat of coercive force can be central to the maintenance of legitimacy.

An authority’s exercise of power through coercion is seen as legitimate as long as the action exists within the rules established in the creation of that power relationship. French, Morrison and Levinger (1960) link the notions of coercion and legitimacy such that an authority can legitimately employ coercive tactics if the client recognises the authorities’ ‘right-to-act.’ The ability for a legal system to constrain the behaviour of both the most and least powerful is the most fundamental principle for the presence of the ‘rule-of-law,’ which is essential for the stable functioning of any social system (Kritz, 2001; Plunkett, 2005). Kritz (2001) distinguishes between law’s ability to constrain power, through the rule-of-law and its use as a tool for unchecked domination as ‘rule-

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<sup>43</sup> French (1956) refers to this as rewards-based power.

by-law.’ In the absence of the rule-of-law, violence and impunity become the dominant arbiters of grievance instead of institutions and interpersonal trust. However, violence is not only destructive, but also has constitutive power (McGovern, 2004). The judicious use of violence or the threat of violence is central to the maintenance of the rule-of-law (Blomley, 2003; Plunkett, 2005). The governance of society and space implies restrictions or constraints on individual freedoms. The potential for the use of force as a sanction is often sufficient enough in order for individuals and groups to self-discipline their interactions (Blomley, 2003). These ‘legal’ or legitimate violences are not necessarily visibly articulated, such as the systematic exclusion of non-members from accessing resources contained within a system, or the marginalisation of the needs of an individual member if those needs are seen as antithetical to the stability of society (Ferme, 1998; Blomley, 2003). Members submit to a set of rules that have the force of law in exchange for the consistent delivery of services and access to a system’s benefits. This is the contract that underpins the relations between members and authority (Plunkett, 2005). Within stable societies, the dominant authority has the control of legitimate force at that particular scale. Traditionally, this dominant authority has been defined as the state (Blomley, 2003); however, systems within a pluralistic legal field may be stable or be able to maintain the rule-of-law even in the absence of a dominant state, which Plunkett (2005) refers to as ‘micro rule-of-law.’

Legitimacy can exist even if a relationship between elites and subjects is unequal. It continues to be seen as legitimate as long as the relations of power are internalised so as the norm and the rules are consistently enforced at all levels of the hierarchy (French, Morrison & Levinger, 1960). The violation of this contract through abuse or the misuse of power for the benefit of one particular group or an individual can lead to a decline in perceived legitimacy and can even produce resistance among those marginalised (Worchel, Hester & Kopala, 1974). The greater the imbalance and abuse, the less legitimacy is conferred to the authorities. Worchel, Hester and Kopala, add that the failure to effectively address these grievances can lead clients to react violently, or seek alternative systems which can address their needs. Additionally, if a set of norms, rules or symbols can no longer uniquely secure the interests of a group’s members (through the provision of services and benefits), members may seek to strategically distribute their

activities through multiple systems of authority as to mitigate risks and increase opportunities (Roitman, 1990; 2005).

Yet, exiting from or diversifying one's membership from a system of authority or the 'exit option' is not always a possible choice. Zald and Berger (1978: 831) argue that the strength of an organisation [group, system of authority] "is derived from its ability to control incentives [capital] and sanctions and the extent to which members can exit and obtain the same incentives elsewhere." An actor's ability to choose alternatives is constrained by the structural limitations of the systems within which they are already members. For example, in Chapter Seven I will demonstrate that there are significant social pressures against the use of formal courts to resolve civil disputes in rural Liberia, as the outcome of court cases has clear winners and losers. The zero-sum outcome of a resolution is said to create resentment and further tension. As such, social pressures and the threat of sanctions (shunning, the use of extralegal force) serve to dissuade potential users of the formal justice system. Only those actors who have the ability to escape those restrictive social norms are able to seek out this option.<sup>44</sup>

Relations of power can also be maintained in the absence of legitimacy through the illegitimate use of force, where authorities exceed their limits defined by the social contract which first empowered them in order to suppress dissent and challenges to their authority (Kritz, 2001). As mentioned earlier, the use of power which is seen as illegitimate can lead those marginalised by the system to resist violently. According to Plunkett (2005) the continued use of illegitimate force by either authorities or those who resist will erode the rule-of-law, producing a culture of violence and impunity. In Liberia, the opportunities for violent resistance against abusive power structures were limited until their monopoly over the means of violence was broken with the onset of the first civil war in 1989. What followed was an intense period of intimate, personalised violence, combined with wanton, untargeted opportunism in an environment marked by the absence of the rule-of-law.<sup>45</sup>

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<sup>44</sup> In the context of land disputes, the practice of seeking a system that will secure a favourable result is known as forum shopping (Unruh; 2003; Fitzpatrick, 2005; Isser *et al.*, 2009)

<sup>45</sup> Violence during the war was often directed towards symbols of former authority (Ellis, 1999; Yoder, 2003).



This conceptualisation of power relations allows for effective theorisation of the forces of change on systems, which is necessary when looking at post-war landscapes of authority. In many of these post-war spaces, no single system has a monopoly on violence and therefore cannot hegemonically impose their set of rules or norms, leading to increased opportunities for cooperation, cooptation and negotiation between systems competing to assert themselves. From the individuals' perspective, it is worth noting that those with more financial capital and broader (more powerful) social networks often have more options of mobility between systems than an individual with fewer assets, as the former can access a wider range of symbolic, institutional and economic resources to enforce their claims. These asymmetries of capital accumulation play a significant role in determining the outcomes of disputes.

### **3.3. Land Tenure Systems**

In order to more effectively ground these abstract theorisations of social organisation, I turn to land tenure. Beyond its inherent economic uses, land is a canvas upon which societies inscribe frameworks for social ordering (Blomley, 2003). Land therefore provides a unique lens into the production of power relations within the systems that regulate its access and use. Tenure systems, which regulate use, access and the ownership of, must therefore be examined as relational processes, as a system of rights and obligations that shape human interactions (Unruh, 2003). Tenure systems can deal with both individual and collective rights (Bromley, 1992). Ultimately, according to Colin (2008: 231) these systems

[help to] organize the economic and social relationships that define incentives, [define] who are the actors of the economic game, and the conditions of access to resources. Property rights [...] enhance interdependence between actors, and determine whose interest counts when interests are conflicting.

Therefore, as much as a tenure system is defined by the facilitation of interactions between members, one of its primary functions also that of exclusion as to regulate its use (Blomley, 2003). The process of determining membership and exclusion is central to the construction of social identity. In spite of his state- centric focus, A.B. Murphy (1990: 531) usefully observes that territory is as “the heart of national identity and cohesion.” The same can be said of non-state identities and specific spaces. In fact, land

in Liberia, as in many other countries, is a vital resource that is deeply tied to opportunities for social mobility, marriage rights, and notions of social belonging and autochthony (Korvah, 1995; Ellis, 1999; Wily, 2007; Unruh, 2009a; Bøås 2008; 2009). As such, it is one of the most fundamental determinants of Liberian political community (Sawyer, 1992).

As mentioned in Section 3.1, the systems that regulate access to land in Liberia are multiple. Therefore land tenure from a legal pluralism perspective is defined as “different sets of rights and obligations concerning land and property, within multiple social fields” (Unruh, 2009a: 52-53). These systems, built on often-divergent logics, can simultaneously impose their frameworks for regulating land relations over the same spaces. The ability to dictate the terms regarding how these relationships are constituted and what types of evidence (*e.g.* documents, the planting of trees, specific oral histories or claims of descent) represent legitimate claims are the central points of contention between these overlapping systems (Shipton, 1994; Unruh, 2003). Of particular concern is that these systems have different criteria of access and membership. Those who are excluded from one system may be included in another, leading to conflicting sets of claims. As Shipton (1994: 347) notes;

Nothing excites deeper passions or gives rise to more bloodshed than do disagreements about territory, boundaries, or access to land resources. Nor is anything more likely to prevent misunderstandings across cultures, harmful to both humans and their habitat, than are thoughtful definitions of landholding in the first place.

The symbols valued to give legitimacy to a certain set of claims may be rejected or seen as illegitimate by the members of the other systems operating in the same sphere, leading to potentially conflicting claims and conflict. For example, I will demonstrate in Chapter Six that the symbols of formal tenure in Liberia are often seen as illegitimate within customarily-administered communities. Similarly, the Liberian state rejects local communities’ claims of ownership of officially unregistered (titled) lands.

It is equally necessary to distinguish between rights of ownership or control and rights of use. According to Ribot and Peluso (2003), certain groups may have the right to work the land and control some of its products, but they may be denied the ownership or control of the land itself. Their access is maintained through their relationship with someone else or an institution which controls the land. The relationship can provide an

the individual with security of tenure, in that they will be able to return to use and improve the land in the future, but the system may not allow the individual with access rights the ability to transfer the land to someone else. Ribot and Peluso's main contribution is to move the analysis of the tenure regime away from relations dealing only with land and property. They argue that the systems that regulate land and property relations also play a much larger role in terms of determining social roles and reveal power relations between various actors. For example, in Liberia, those who controlled the mechanisms of access to land resources in the Liberian Hinterland also played a significant role in determining social mobility and dictating the opportunities for individuals to marry (Utas, 2003; Richards *et al.*, 2005). Even in the present, making a claim on a parcel of land is a negotiated process that often has more to do with the strengths of one's social networks than with a particular place. Land is therefore only one of many capitals subject to contest and negotiation within a particular tenure regime.

### 3.3.1 Tenure Relations in Wartime and Post-War Environments

Even if tensions over land are not a significant contributing factor to the outbreak of armed violence, land inevitably becomes a critical issue over the course of a war and in the post-war environment (Unruh & Corriveau-Bourque, 2010). The reason for this trend is that armed conflict and the subsequent humanitarian responses to conflict significantly alter settlement patterns and land tenure relations (de Waal, 2009; Unruh, 2003). War displaces people from their homes, often more than once. Property is seized and destroyed and armed groups capture and lose territory. Following the end of armed hostilities, displaced populations (or identity groups) often seek to return to their pre-war homes or resettle in new sites. Return to pre-war homes can occur even after decades or generations have passed, a period during which others may have settled and established claims to land (Stepputat, 2008). Overlapping claims can easily lead to renewed conflict. In agrarian-based societies in particular, (re)establishing land tenure claims rapidly becomes a central priority for constructing post-war livelihoods and sociability (de Waal, 2009).

In addition, armed conflicts tend to have a devastating impact on pre-war interpersonal, intergroup and institutional social ties. The civil institutions that regulate social interactions are often the first casualties of war (Unruh, 2003). Either they are

deliberately targeted (attacks on security forces, local forms of authority, courthouses, destruction of symbols of pre-war power) or may simply lose its capacity to effectively enforce the rule-of-law as its resources dwindle. For example, extended periods of displacement can result in social dislocation in which individuals are forced to adapt to new environments and forge new social bonds while pre-war bonds weaken (Unruh, 2009b). In the case of state institutions, crucial financial and human resources may be diverted from basic services to the war effort.

However, there is a growing body of literature which suggests that armed conflict not only causes an erosion or destruction of capitals, but instead creates an opportunities for new forms of social ties to be established. Economic, political and social crises tend to weaken the strength and legitimacy of existing systems of authority (Weiss, 1987; Meagher, 1995). Even though they may not entirely collapse, the effective scope of these institutions tends to significantly contract, creating power vacuums, or spaces for new, smaller and more flexible actors to emerge (Roitman, 2005). Crises also force individuals to build new networks upon which they can depend in lieu or in addition to their previous ones (Plunkett, 2005), depending on the scale of social disruption and dislocation.

Deng (2010) argues that different types of armed conflicts have unique impacts on the construction and destruction of social resources. Endogenous wars, which feature interpersonal violence between neighbours, tend to quickly erode forms of interpersonal trust while exogenous sources of conflict (e.g. inter-state conflicts, state-sponsored anti-insurgency campaigns, intra-community conflicts) can have the opposite effect by strengthening internal bonds of community which may have been previously weaker or less relevant. For example, inter-state conflicts (especially over disputed territory) tend to have the effect of strengthening nationalist sentiments within the competing countries (A.B. Murphy, 1990). Goodhand, Hulme and Lewer (2000) and Colletta and Cullen (2002) in their work in Sri Lanka and Rwanda, respectively, each note that symbols of bonding social capital such as ethnicity or tribe, can be easily exploited by ‘conflict entrepreneurs’ who, while destroying intra-community ties, may strengthen local ties.<sup>46</sup>

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<sup>46</sup> A more nuanced reading of ethnicity as discussed in Chapter One would suggest that certain intra-community ties would be weakened through chauvinistic notions of ethnicity or tribe while seemingly disparate and geographically distinct groups may be more tightly joined by this process.

Liberia's civil wars reflected both endogenous and exogenous patterns of violence, meaning that the strength of bonding, bridging and structural capital is highly variable.

Ultimately, the social relations that regulate access to land (land tenure systems) are not exempt from the devastating impacts of war. According to Unruh, (2003; 2009b), armed conflict and its repercussions reconfigure the network of social relations upon which all land tenure systems depend. If pre-war institutions survived the disruption caused by the war, trust in them can be low even if they remain the most relevant structures on the ground, as is the case in Liberia (Bruce, 2007, World Bank, 2007; Unruh, 2009a). These institutions will also inevitably face challenges from the alternative structures and agreements to regulate access to the land that emerged during the war. In addition, the weakness or absence of interpersonal trust can also heighten the sense of tenure insecurity as individual and group claims are difficult to enforce, increasing the opportunities for encroachment.<sup>47</sup>

Encroachment is a central concept within the literature on post-conflict land and property issues; however, it remains undefined. Instead, the term encroachment tends to be described by its practice, though even this use appears to be inconsistent. Lund's (1998) work on pastoralist-farmer land issues in Niger uses the term most conventionally, in that encroachment is gradual shifting of boundaries between individuals or groups or people. Fitzpatrick (2005) uses the term also to refer to the state's ability to assume ownership over customarily administered lands and to capture the process of land accumulation by 'outsiders' at the expense of the individuals with prior claims. Robinson (2005) uses the term to describe the process of adverse possession, or the direct occupation of 'unused' lands without permission from the lands' owner. At the root of each of these usages is the act of violation, usurpation or negation of a prior set of claims, through either the establishment of a physical presence, the adjustment (or destruction) of a prior boundary marker or through the imposition of an entirely different tenure framework through the replacement of the authorities who regulate its access. In this thesis, I term this last category jurisdictional encroachment. I also use encroachment to describe the physical occupation of land through adverse

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<sup>47</sup> Opportunistic or desperate individuals often take advantage of the fragile or weak rule of law to increase their holdings at the expense of others.

possession or force. Finally, I also mean it to describe the process in which a tenure system can undermine the legitimacy of an individual or group's present claim by revisiting and negating the past agreement which had secured their past rights to the land. I refer to this as temporal encroachment.

Encroachment is the 'on-the-ground' manifestation of low tenure security and is a symptom of weak interpersonal trust and the enforcement frameworks of institutions. Its unabated continuation in post-war Liberia is a destabilising force which threatens to send the country back into a new period of armed conflict.

### **3.4 Conclusion**

This conceptual framework now allows me to identify the various systems of authority operating in the same spaces and examine the ways in which these systems interact, either in cooperation or in conflict with each other. The literature on social broadens the field of resources over which I can examine how individuals and groups negotiate power within these systems that regulate access to land-based resources following violent conflict. Understanding these processes is central to effective policy making and sustainable peace in the future.

## Chapter Four: A Historical Context for Plurality in Liberia

Liberia has been at the intersection of multiple population movements and has been a key site of inter and intra-continental trade for several centuries. Liberia's dense forests served as a frontier for the population dispersals following the expansion and collapse of the West African empires of Mali, Songhai and Ghana between the twelfth and seventeenth centuries. The northern border region between the forest and the savannah shared with present-day Guinea was a key point of interaction with Sahelian trade routes. While the commodities exchanged at these points of contact have changed over time, the connection to Sahelian societies and trade networks is still incredibly important to northern Liberian communities. The coastal region identified variously as the Pepper or Grain Coast<sup>48</sup> by fifteenth century European traders was also a key point of exchange, especially with the expansion of the trans-Atlantic slave trade up to the nineteenth century. The coastal region also served as the entry point of settlers from the United States who founded the Republic of Liberia. As such, Liberia's history is far from monolithic, but is constituted of multiple histories of individuals and groups who have moved through and lived within its borders, constantly adjusting to new challenges and opportunities.

For the purpose of this thesis, my historical outlook will very much be from the coast inward, as this is the trajectory of the state's expansion. The objective of this chapter is to briefly sketch the processes that sculpted the complex matrix of authority over this landscape up through the end of the two civil wars. However before proceeding, it is necessary to mention as a caveat that the Liberian historiography is remarkably sparse.<sup>49</sup> In particular, there is a significant gap in the literature in terms of local histories and those of sub-national political communities. As my thesis is primarily focused on present-day processes, I will not attempt to address these significant lacunae but future research into Liberian history would be critical in order to construct a more nuanced understanding of the present.

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<sup>48</sup> These names were derived from the widespread presence of the melegueta pepper, also known as the 'grain of paradise.'

<sup>49</sup> The limited historiography has been exacerbated by the years of political instability and civil war between 1980 and the present which have made it difficult to conduct academic research. Historical work has been further encumbered by the disarray of the Liberian National Archives and the destruction or loss of many important historical documents.

#### 4.1 “The Love of Liberty Brought Us Here”<sup>50</sup>

Liberia was initially conceived of as a resettlement scheme for free African Americans and manumitted slaves during the tumultuous pre-civil war period in the United States. The rapidly growing population of free blacks in the early nineteenth century became a source of significant social and political tension as slaveholders saw this demographic shift as a threat to the institution of slavery (Zamba Liberty, 2002). Various ‘solutions’ to this demographic shift were considered, including the establishment of ‘black states’ in the newly-acquired Louisiana Territory (Liebenow, 1969). Ultimately, a West African colony was decided as the most viable option and the American Colonization Society (ACS)<sup>51</sup> was formed as a vehicle for the implementation of this vision in 1816. A presence on the West African coast provided a ‘solution’ to the United State’s problem of what to do with slaves who were intercepted by American warships that patrolled the Atlantic Ocean for illegal slave ships.<sup>52</sup> The colony would receive and ‘integrate’ recaptive slaves and would also provide a base for anti-slavery enforcement along the West African Coast. The colony would also provide a basis for spreading Christianity in West Africa.<sup>53</sup>

This scheme arose from the unlikely convergence of interests. The free African Americans who became settlers did so out of frustration with the limited opportunities for black social and economic mobility in the United States. While abolitionists also briefly supported the cause, southern plantation owners were amongst the colonisation movement’s biggest proponents. Slave-owners held influential positions in pro-colonisation organisations and free-blacks were excluded from management, leading to a

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<sup>50</sup> “The Love of Liberty Brought us Here” is the highly contested Liberian national motto. It is challenged on the grounds that it evokes a singularly emigrant history to the exclusion of the ‘indigenous’ majority who can trace their descent to groups already in the area when the settlers arrived from the Americas. The use of the term liberty is also said to obscure the history of exploitation, marginalisation and oppression of indigenous peoples at the hands of an emigrant-controlled state.

<sup>51</sup> Other colonisation societies based in the United States also established settlements along the coast. Their claims were joined in 1847 with the creation of the Liberian state. The southern coastal settlement of Maryland was annexed into Liberia in 1857.

<sup>52</sup> Roughly 6,000 recaptive Africans were brought to Liberia in this manner (Moran, 2008:2). The recaptive population and their descendants were referred to as the *Congo* people regardless of whether they originated from the Congo River Basin area. Presently, the term *Congos* is used to describe any presumed descendants of the settler population.

<sup>53</sup> The settlement mission had key support from prominent American political figures including Speaker of the House Henry Clay, the future president Andrew Jackson, Francis Scott Key and President James Monroe, namesake of the Liberian capital (Liebenow, 1962).



fear that the African colonisation initiative was a guise for the eventual forced migration of free blacks to Africa (Zamba Liberty, 2002). This perception was reinforced by the fact that resettlement to Liberia was often a condition of slave manumission (Staudenraus, 1961; Allen, 1982). This approach rapidly alienated free black and white-abolitionist support, quickly undercutting the movement's momentum and limited the amount of free blacks who were willing to go (Zamba Liberty, 2002). Of the 12,000 to 13,000 settlers who came from the United States from 1822-1867, only 4,500 were born free, the rest were manumitted slaves (Moran, 2008:2).

The descendants of these African-American settlers came to be popularly referred to as the Americo-Liberians, a term that Liberians now use conterminously with 'Congos' to refer to the descendants of the original settlers from the United States and the West Indies and recaptive slaves.<sup>54</sup> Zamba Liberty (2002) usefully classifies this grouping that monopolised the control of the Liberian state until the 1980 coup as emigrants; in reference to their settlement of Liberia by sea, to distinguish from those Liberians who settled the territory by land. In this thesis, I will use the terms 'indigenous' and 'aboriginal' to categorise those Liberians who trace their roots to communities who settled the region over land. Even though these terms are highly problematic,<sup>55</sup> they bear significant meaning for those in Liberia who identify themselves as 'indigenous' or 'aboriginal' and was a colonial distinction in Liberian statutory law.

After a failed settlement attempt in present-day Sierra Leone in 1821, the ACS finally established a permanent presence in West Africa in 1822 on Cape Mesurado, site of the present-day capital, Monrovia. Several other settlements along the coast at were established in the following years, including the settlements of Buchanan and Harper. The colonisation societies 'purchased' the lands for settlement from African leaders<sup>56</sup> with trade goods and cash. Resistance to these land transfers by local populations were

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<sup>54</sup> This powerful grouping also includes 'indigenous' Liberians who integrated within settler society. As a benefit for loyalty to the settler state, the children of rural chiefs and elders were often sponsored by emigrant families to live and be educated in Monrovia. These children often adopted their patrons' 'American' names after having been raised and educated in Monrovia by emigrant families.

<sup>55</sup> Indigeneity like autochthony are highly problematic concepts in the African context as they can be used to construct timeless connections to specific lands with little regard for the movement, assimilation, fracture and displacement of populations over time, both before and after the arrival of colonial settlers. These concepts can also be easily captured for exclusive narratives of 'national' or 'tribal' entitlement (McGovern, 2004; Bøås, 2009; Pelican, 2009).

<sup>56</sup> These leaders' right to sell the land in the first place was often contested (Alden Wily, 2007).

quelled by force. The settlers enlisted the help of the United States Navy and African allies who benefitted from the settlers' presence to secure their new claims.

In spite of American support for establishing the colony,<sup>57</sup> it received minimal official protection from the United States in its dealings with international partners, particularly the British and the French, who encroached on the settlers' territorial and commercial interests (Liebenow, 1962; Sawyer, 2005). In order to remain viable, the settlement had to be able to claim the rights of sovereignty through international law and therefore declared independence in 1847 (Sawyer, 2005). For the rest of the nineteenth century, the state's territorial control was limited to a narrow forty-mile coastal strip known as the Littoral or County zone. Areas beyond this scope of control were referred to as the Hinterland. While Liberian claims extended well into present day Sierra Leone (Sherbo River), Guinea (source of the Niger River) and Côte d'Ivoire (San Pedro River), the state had insufficient funds to maintain relationships with leaders in the interior or to establish an effective administrative or military presence in these territories (Akpan, 1976). The French and British seized upon Liberia's marginal territorial control by encroaching on Liberian claims once the European 'scramble for Africa' began in the late nineteenth century.<sup>58</sup>

#### **4.2 Colonising the Hinterland**

In response to growing pressure from their imperial neighbours, the Liberian government gradually increased their influence in the Hinterland, beginning with a re-organisation of the Interior Department<sup>59</sup> in 1892 as a means to increase their administrative presence (Alden Wily, 2007). In 1908, the government created the Liberian Frontier Force (LFF), a military force that served as a 'blunt instrument' of the settler-state's expression of colonial power over the Hinterland, brutally suppressing rebellion or civil unrest.<sup>60</sup> It was also during the early twentieth century that the Liberian government developed their framework for indirect rule, as a strategy to administer their territory with limited state capacity and resources. Through indirect rule, the colonial state consolidated and

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<sup>57</sup> In addition to military support, the ACS received a \$100,000 grant from the United States Congress.

<sup>58</sup> Boundary negotiations with France and Great Britain continued well into the twentieth century. The present-day territorial boundaries were not fully established until 1930.

<sup>59</sup> The Interior Department later became the Ministry of Internal Affairs.

<sup>60</sup> The Liberia Frontier Force 'lived off the land' by extracting provisions and sexual partners from local populations and forcibly recruiting labour (Ellis, 1999).

centralised the power of local authorities into ‘tribally-demarcated’ chiefdoms and clans regardless of whether these systems reflected local realities of political or social organisation (Ellis, 1999; Moran 2008).<sup>61</sup>

Indirect rule was implemented through the construction of a juristically dual legal system<sup>62</sup>: one set of laws applied to those who were of emigrant descent and those who were ‘civilised aborigines’ and the other set to ‘uncivilised’ aborigines. The legal distinction between the statuses remains unclear. ‘Aborigines’ who became ‘civilised,’ were entitled to formally deeded lands either as Aboriginal Land Grants or title in fee simple (Law of Public Lands, Section 53; Title 1, Liberian Code of Law, 1956: Chapter 11: Tribal Lands)<sup>63</sup> even if the distinguishing criteria for ‘civilised’ or ‘uncivilised’ remained undefined. Since formal land ownership was, at the time, a prerequisite for the right to vote<sup>64</sup> and participation in government (rights and obligations of ‘civilised’ citizens), it appears that through the formal acquisition of land, an ‘aborigine’ became *de jure* ‘civilised.’ While it was expected that an ‘aborigine’ adopted the socially recognised attributes of *civilisation*<sup>65</sup> (*i.e.* literacy, Christianity, manner of dress and speech – discussed in greater depth in Section 4.3.1) to acquire land, there does not seem to be a formal procedure through which one officially acquired ‘civilised’ status (Interviews with government officials and elders, 2009). The differentiation between the two categories of ‘aborigines’ suggests a framework for rule-of-people in which one set of laws applied to ‘civilised’ persons (statutory law) and one to the ‘uncivilised’ (customary law).

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<sup>61</sup> In south-eastern Liberia, the centralised administrative structure of the chiefdom was an entirely artificial feature of the colonial period with little to no relevance with pre-colonial structures of social ordering (Ellis, 1999; Moran, 2008). However, Alden Wily (2007) does credit the Liberian government for its attempts to consult with rural chiefs during the drafting of the Hinterland Rules and Regulations during the Suehn Conference in 1923.

<sup>62</sup> Juristic plurality’ denotes a contrast with the ‘unofficial’ dimensions of legal plurality as explained in Chapter Three.

<sup>63</sup> The law adds that as a landowner, they were compelled to plant marketable crops on at least one quarter of their plot (for farms) or build a dwelling in the case of

<sup>64</sup> Formal land ownership was the primary criteria for suffrage until the 1940s when women of emigrant descent and indigenous persons who owned huts (property) and paid their taxes were allowed to vote. Universal suffrage was not granted until the 1970s.

<sup>65</sup> From now on, the colloquial usage of civilised and uncivilised will be distinguished from the more fixed legal usage of the terms by italics, as the italicised version will capture its use in contemporary Liberian English, as a vehicle of contested social status.

For administrative purposes, this distinction-in-people also required a spatial component. The Law of the Hinterlands, and therefore customary authority, extended over all areas, including within the coastal littoral zone, “as are wholly inhabited by uncivilized natives in the same manner as if those areas were within the Hinterland Districts” (Law of the Hinterlands, 1949/2001, Amendments, Section 2). In the case of ‘uncivilised’ aborigines and those ‘civilised’ aborigines living within the boundaries of Aboriginal Land Grants, chiefs and elders were empowered to rule in accordance with ‘local practice and custom,’ just as long as it did not contravene formal law. Chiefs could be locally selected, but had to be approved by the president, making the position a key patronage resource (Liebenow, 1962; Ellis, 1999).

In accordance with formal law, slavery was officially ended,<sup>66</sup> and inter-group warfare was banned. Local leaders were also required to collect revenue on behalf of the state (of which they could keep a percentage), known as a hut tax, enforce the production of market crops, recruit *corvée* labour for public works projects and provide (forced) labour for Firestone Rubber plantation. Allegiance and effective administration (*i.e.* ‘keeping the peace’ and producing revenue for the state) was rewarded with access to patronage resources in the form of material wealth, formal land titles, the formal education of their children, access to *civilised* social organisations (*e.g.* Freemasons, United Brothers of Friendship, Society of Oddfellows) and positions of political authority (Liebenow, 1962; 1969; Wreh, 1973; Ellis, 1999). On the other hand, opposition to the expanding colonial state was met with force (Schick, 1980). Leaders who refused to ally themselves with the Monrovia government were replaced by more willing successors (Akpan, 1973).

By making local authorities (chiefs and elders) their clients, coastal elites secured much-needed local allies who, as agents of colonial authority, could enforce state directives while remaining rooted in local society. This strategy facilitated the

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<sup>66</sup> Ironically, in 1930 a League of Nations investigation revealed the abuses of the government’s forced labour system and exposed ongoing use of slavery in Liberia. In addition, government officials were profiting from the sale of contract labour to Spanish plantations in Fernando Po (present day Equatorial Guinea). Local abuses of power also produced slavery-type power relations between leaders and their subjects (Richards *et al.*, 2005).

governance of a diffuse and profoundly ‘illegible’<sup>67</sup> population. In the codification of the customary, a common, ‘legible’ administrative structure became, and largely remains, the primary point of contact between the state and rural populations in Liberia. As the official arbiters of local civil disputes, their positions gave them significant influence over the distribution of resources and the management of relations of production. With these resources and the ability to control of local symbols of legitimate power (defined in Chapter Five), chiefs and elders were then able to extend their own patronage networks to among their supporters and within their family networks. Previously autonomous domains of rural sociability now fell under the purview of the chiefs as their authority and coercive arsenal grew (Ellis, 1999).

As in other colonial societies<sup>68</sup> the power of local authorities was underpinned by the force of the state (*e.g.* the LFF), eliminating or weakening pre-colonial checks on their power. Limited checks on local power enabled the creation of rural fiefdoms in which local authorities abused their positions to punish enemies or extort extra-legal benefits from the populations under their control. Mamdani (1996) refers to this characteristic of colonial rule as ‘decentralised despotism.’ These abuses were a significant source of pre-war generational grievance and eroded the legitimacy of local authorities (Utas, 2003; Yoder, 2003; Richards, 2005).

### **4.3. Erosion of Customary Land Claims**

In spite of the close interdependence between state and customary authorities, the relationship was also fraught with tension, especially when it came to control over the distribution of land-based resources and the governance of people who had the ability to move between multiple legal realms, a characteristic that applies to almost all rural Liberians. As mentioned earlier, the dual nature of the legal system was designed more as a ‘rule-over-people,’ to divide the governance of those who were ‘civilised’ and those who were ‘uncivilised.’<sup>69</sup> This duality was poorly adapted to the reality of fluid identities

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<sup>67</sup> Scott (1998) uses the term ‘illegibility’ to describe the nuances of local practice that often elude state’s authorities in their attempts to impose homogeneous, unifying structures.

<sup>68</sup> For an excellent discussion on customary law in African colonial states, see Mamdani (1996).

<sup>69</sup> It appears that the legal distinction between ‘civilised’ aborigines and ‘uncivilised’ aborigines remained until the passing of the most recent constitution in 1986. The words ‘tribal,’ ‘aboriginal,’ and ‘civilised/uncivilised’ make no appearance as legal identifiers in the document. In fact, Chapter III Articles 11, 13 and 22 of the 1986 constitution clearly establish the inalienable rights of all Liberians, including right to property, regardless of their ethnicity or race.

and mobile populations, conditions that became far more apparent following President Tubman's 'unification' of the coastal counties and Hinterland the 1950s, 60s and 70s (Ellis, 1999). Even though the points of differentiation have become less applicable over time, the dualistic structures of differentiated rule have inharmoniously persisted.

The interaction between of formal and customary legal systems was further complicated by the ambiguously defined boundaries between administrative areas in rural spaces (*i.e.* cities, towns, clans and chiefdoms). According to Unruh (2009) there are also no legal working parameters with regard to the land and property rules that apply to these administrative areas. As a result, local authorities have had to create *ad-hoc* solutions in which the systems tenuously co-exist. The manner in which the systems intersect varies from one community to another.<sup>70</sup>

As such, the current legal framework is particularly ill-suited to the spatial and scalar intersection between customary and formal tenure systems, not to mention the complexity added by the pervasive presence of informal relations which will be discussed in Chapter Five. The relationship between the customary and formal legal frameworks is problematic as the latter rejects the ownership claims of a significant portion of the Liberian population. Rather than establishing a consistent, harmonised legal framework that protected the rights of all citizens, the official legal structure was used to disenfranchise the majority of the Liberian population to the benefit of a narrow class of 'indigenous' and 'emigrant' elites.

Alden Wily (2007) speculates that the erosion of 'aboriginal' property rights in the hinterland began with a 1920 supreme court ruling (The Dossen Ruling) that provided a legal justification for the state's assumption of territorial ownership over all lands that were not 'privately'<sup>71</sup> owned within the country, which by then included the Hinterland. In other words, all non-formally deeded lands were deemed to be the property of the state, or categorised as "public lands." Prior to the Dossen Ruling 'aboriginal' ownership of their lands was recognised by the state, demonstrated by the

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<sup>70</sup> The balance of power shifted during and after the civil wars as pre-war systems became weakened and new systems came into the field.

<sup>71</sup> Private ownership refers to lands surveyed, deeded and sold by the state or ACS to citizens.

explicit purchase of lands from ‘natives,’<sup>72</sup> even though the state’s land purchases from ‘aboriginals’ were not necessarily with the consent of all those affected. The ruling, which was inspired by the British and American colonial models, established that the “extension of political sovereignty diminished any local title that existed to a right of lawful possession” (*Ibid*: 80). However, the country’s laws towards hinterland spaces did not reflect the precedent set by this ruling until the 1950s when the Aborigines Law replaced the Law of the Hinterlands (*Ibid.*). In the Law of the Hinterlands (1949: Article 66a), ‘tribes’ had a “right and title” to their lands whereas in the Aborigines Law (Title I, Liberian Code of Laws 1956-1958, Chapter 11, Section 270)<sup>73</sup> ‘tribes’ right’s with regards to their land was reduced to “use and possession.”

This changed wording is significant, as it established that Hinterland communities no longer owned their land unless they acquired a formal deed. They instead had usufruct rights to land owned by the state, meaning they could use the lands but lacked the legal right to transfer it and lost most statutory protections against land alienation. This distinction has played an important role when the government decided to grant concessions or signs lease agreements for the exploitation of natural resources or the creation of plantations leading to large-scale dispossession.

#### 4.3.1 A brief note on social status in Liberia

Beyond their now-irrelevant functions for legal differentiation, the terms *civilised* or *kwi*,<sup>74</sup> and their counterpoints *uncivilised* or *country*,<sup>75</sup> remain powerful idioms for social differentiation in Liberia. Throughout this thesis, I will be employing this term as it is colloquially used in Liberian English to denote status while recognising the problematic primordialism that the dualism invokes. According to Fraenkel (1964), the term *civilised* serves as a class-based contrast to distinguish symbols of manner, dress and achievement associated those of the settler and acculturated indigenous class from the ‘uncivil’ or ‘tribal’ indigenous peoples. The contrast can be employed as a simple commentary on

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<sup>72</sup> Individuals were prohibited by law from purchasing land from indigenous persons; only the state and the colonisation societies that preceded it could negotiate for the purchase of land from indigenous leaders.

<sup>73</sup> The reference from the Aborigines Law comes from the version printed in Alden Wily (2007).

<sup>74</sup> According to Burrowes (2004), *kwi* is derived from the term for white people in the Bassa and Kra languages in Kwa language group in coastal Liberia. The term has now lost its racial distinction in exchange for a meaning that differentiates cultural attributes (‘Western’/‘African’).

<sup>75</sup> *Country* can also be synonymous with the terms tribal or traditional depending on the context in which they are expressed.

someone's appearance, be it their manner of dress, their hairstyle or their mode of transportation. It can also serve as a statement of value of a persons' occupation (if they are formally employed with the government, an NGO or 'respectable' businesses), their religious affiliation<sup>76</sup> and formal educational attainment. Thus, it can be viewed as a vehicle of capital accumulation wherein an individual acquires symbols of success, valued (forms of) knowledges, and prestige. Accumulating these symbols also facilitates the cultivation of relationships and increases the perceived value of the capitals controlled by an individual. For example, having a government job potentially gives you access to patronage resources or at the very least positions an individual close to those who can access patronage resources.

Brown (1982) further refines the concept by challenging Fraenkel's interpretation as being overly reductive to a merely positional point. He observes that the terms can also serve as a moral assessment, speaking to the individual's ability to peaceably relate to others and adhere to established social mores. Brown suggests that the 'moral' attribution of civilised is contextually attributed and cannot simply be defined by *a priori* terms. One respondent in Monrovia clarified this point providing the example that, a formally educated government official who has their own car may be seen as morally *uncivilised* due to public displays of drunkenness or their public airing of disputes. As such, one who may project the physical qualities of *civilisation* may also be viewed as *uncivilised* due the way they manage their social relations and fail to respect dominant norms.

#### **4.4 The Rise and Decline of the Liberian State**

The Liberian state reached the zenith of its power during the presidency of William V.S. Tubman, who ruled from 1944-1971. A strategic cold-war alliance with the United States and a shift in policies which opened the country to foreign economic investment (The Open Door Policy) provided the government with unprecedented revenues. Tubman used these revenues to build onto the existing structures of clientelistic Liberian politics. Through the cultivation of an extensive patronage network he constructed the notion of himself as "the national symbol of sovereign statehood" (Bøås, 2001: 704) and expanded

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<sup>76</sup> In which Christianity is primarily seen as *civilised*, 'indigenous' affiliations such as Poro and Sande as traditional and Islam as an ambiguous 'other.'



the presidency (as the state) through personal rule (Wreh, 1976). Appointments to government positions (judges, magistrates, army officers chiefs, county administrative officials) were at his discretion, as were positions of elected office (legislature), as he consolidated his power through the creation of a one-party state (*Ibid.*). Those who expressed opposition to his rule were either co-opted into the network of relationships or were marginalised, ensuring the presidents unchallenged dominance (Liebenow, 1969; Bøås, 2001).

Before the Tubman era, the Liberian government relied primarily on the use of force to maintain control over Hinterland areas (Liebenow, 1962). The expansion of the economy provided the government with more incentive-based tools with which they could secure rural compliance to state rule. Tubman also made efforts to cultivate stronger relations with rural peoples, travelling to the interior frequently to hear grievances against government officials and personally mediating disputes between chiefs. Because of their closer ties to the government, chiefs' power over their communities also substantially increased as their access to resources for patronage and the deployment of force increased (Ellis, 1999). The President also pushed through a series of administrative and political reforms beginning with the Unification Policy in 1944 that increased the political representation of and economic opportunities for 'aboriginals.'<sup>77</sup> In an attempt to gain greater legitimacy among Liberia's rural 'aboriginal' populations, Tubman assumed the position of Grand Zo,<sup>78</sup> the symbolic head of the powerful Poro society.<sup>79</sup> The accumulation of personalised relations to rural authorities, the control of state patronage resources and powerful spiritual symbols ensured that the presidency became the ultimate locus of political authority in the formal, informal and customary realms.

Tubman's policies also brought about significant social and economic changes to the interior. The president promoted economic integration, through building roads and schools and encouraging the enforcement of laws to make farmers plant cash crops, even

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<sup>77</sup> It was under Tubman's rule that Hinterland Provinces were abolished in 1964, granting the territories equal status as counties. The first extension of suffrage to 'uncivilised' aboriginals also occurred during his presidency.

<sup>78</sup> Zo (pl. zoes) is one of the titles used for the heads of the Poro and Sande societies.

<sup>79</sup> President's Tolbert and Doe also assumed the title of Grand Zo

using threats of force to ensure production (Alden Wily, 2007).<sup>80</sup> The Open Door policy, attracted foreign investors to exploit the land for rubber production and for the extraction of timber, iron and gold resources, transforming the rural landscape (*Ibid.*). Since most of the land in the interior was unregistered, it was identified as public land, and therefore available for exploitation by outside interests. Deeds documenting the formal acquisition of public land had to be signed by the president and almost all of government and customary positions that were part of the land-allocation process were presidentially-approved appointments. As a result, the land acquisition process was inevitably folded into the informal realm. Land became a primary resource for political patronage. According to Liebenow (1969: 209), those close to the President were able to “[engage] in one of the most extensive programs of private land acquisition outside of South Africa, Rhodesia and Portuguese dependencies.” President Tubman and his successor, President William R. Tolbert, also acquired significant tracts of land in the hinterland to convert into plantations for themselves and their families.<sup>81</sup>

Ellis (1999) notes that even though the power of chiefs expanded under Tubman’s rule, the president’s reforms also planted the seeds for their eventual decline in legitimacy and power. The expansion of educational and employment opportunities beyond the immediate control of customary authorities increased social mobility and “undermined the social mechanisms by which elderly men maintained control of rural life” (*Ibid.*: 218), the consequences of which I will examine in further depth in Chapters Six and Seven. The expansion of educational opportunities also created a new class of educated youths, who ended up forming one of the most vocal bases of political opposition to his rule (in the later years) and his successor’s rule (Sawyer, 1992).

Because of the personalised nature of political power in Liberia, the fate of the state was directly intertwined with the ability of the president to sustain these complex relations and effectively deploy force (Bøås, 2001). However, in the late 1960s and 1970s, global prices for Liberia’s primary products began to decline, as did foreign

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<sup>80</sup> According to Sawyer (1992) chiefs often served as key motivators for the production of tree crops and other commercial agricultural products. In the 1970s, the government expanded rural tree crop production by establishing Rural Marketing Cooperatives, many of which issued documents to farmers as contracts for assisting in the development of their lands. Many of these documents are still used today as ‘evidence’ of land claims, even though they are not formally recognised.

<sup>81</sup> The families of both Presidents Tubman and Tolbert owned significant land holdings in Salala District and reportedly had several other large land holdings in other parts of the country.

investment, reducing government revenues. As a result of these dwindling resources, the state's capacity to finance infrastructure projects, the army and civil service declined, as did the president's ability to maintain the patronage networks which were so critical to their continued legitimacy and dominance.

Sensing the need for change, Tubman's successor, President Tolbert, attempted to liberalise the political system. However, his efforts were counteracted by his own corrupt and autocratic tendencies (Sawyer, 1992; Bøås, 2001). By 1979, Tolbert's grip on the country rapidly waned and as riots over plans to increase the price of rice, the Liberian staple, gripped Monrovia. Invoking emergency powers, the president deployed the military to crack down on the rioters and round up opposition leaders. In the ensuing violence, two-hundred protesters were killed and the president's legitimacy was left in ruins. One year later, President Tolbert was executed during a coup led by a group of 'indigenous' non-commissioned military officers. The coup's highest ranking officer, Samuel K. Doe assumed the mantle of power, marking the end of the emigrant elites' monopoly of state power.

#### **4.5 The Liberian Civil Wars**

In December 1989, a group of rebels<sup>82</sup> led by Charles Taylor entered Nimba County from Cote d'Ivoire with the intent to overthrow the Doe regime. In Nimba, members of the Mano and the Gio tribes flocked to join the rebel group, known as the National Patriotic Front of Liberia (NPFL). The Mano and Gio had been persecuted by Doe's regime, as the leaders of the political opposition<sup>83</sup> and the leaders of an attempted coup hailed from these groups. By May 1990, Charles Taylor's rebel group split due to a rivalry between Taylor and one of his deputies, Prince Johnson.<sup>84</sup> The result was two rebel groups (NFPL and the Independent NPFL, or INPFL) now fighting each other and fighting the government troops (the Armed Forces of Liberia, or AFL). Some of the NPFL's supporters took this opportunity of power to target members of the Krahn tribe (President Doe's tribe) and Mandingo tribe, who were seen as having benefitted in

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<sup>82</sup> The initial rebel group were composed of a combination of West African mercenaries and Liberians who trained in Libya and Burkina Faso.

<sup>83</sup> The 1985 Presidential election was massively rigged in favour of Doe, which led to the subsequent coup attempt to remove him.

<sup>84</sup> 'Prince' is a common given name in Liberia, not a title.

Nimba County (through land acquisitions) from Doe's rule, adding a dimension of ethnic cleansing to an attempt to capture the state. As the NPFL spread their control into Bong and Lofa counties, they continued to target the Mandingo, ultimately massacring over five hundred people in Bakedu, located in present-day Quardu Gboni District in Lofa County, an incident which Ellis (1999: 79) says was "an atrocity which was to spark off an ethnic feud within Lofa County which was to have far-reaching consequences."

As the rebels rapidly closed in on Monrovia, an international peacekeeping force (composed of mostly Nigerian Troops) organised by the West African Economic Community (the force was called Economic Community of West African States Monitoring Group - ECOMOG) also joined the conflict in order to support the faltering government. In September 1990, Prince Johnson's troops captured, tortured and executed President Doe. Following Doe's death, an interim government led by Dr. Amos Sawyer was established in an attempt to restore a legitimate state structure. In spite of support for the interim government by the West African peacekeeping forces (which were later absorbed by the United Nations Observer Mission in Liberia - UNOMIL), the interim government failed to secure the recognition from the NPFL and were unable to consistently hold territory outside of the capital, Monrovia.

In response to the collapse of the state and the perceived targeting of Krahn and Mandingo people by the NPFL factions, another armed group emerged in 1991 to counter the NPFL. The group, the United Liberation Movement for Democracy in Liberia (ULIMO), entered Liberia from Sierra Leone into Lofa County. They too, eventually fractured into two groups ULIMO-Kromah and ULIMO-Johnson, named after their respective leaders. During their movement through Lofa and Bong Counties, Loma and Kpelle people were targeted as they were perceived as having supported the NPFL and benefitted from the purge of Mandingo. Poro and Sande religious sites were sacked by ULIMO-K forces, and important spiritual artefacts stolen or destroyed. Zoes were also beaten and humiliated (Ellis, 1999; Interviews with residents in Lofa County, 2009). The NPFL factions and local armed groups also targeted symbols of Mandingo worship,

imams and mosques.<sup>85</sup> The attacks on religious sites and figures have produced grievances that continue to fuel inter-community tensions to this day in Lofa County.

In spite of some of the tribally-mobilised dynamic of some of the violence, it would be overly reductive to see the wars in simply those terms. Even though the initial recruitment for armed groups may have occurred within certain identity groups, those lines quickly became muddled over the course of the wars due to forcible and voluntary recruitment across tribal identities. Throughout the remaining years of the war, other armed groups emerged as local defence forces or to control valuable extractable resources (e.g. timber, gold, diamonds and rubber), which became the primary source of revenue for armed groups.<sup>86</sup> The wars created an environment of impunity in which individuals took advantage of the breakdown of the rule of law to settle personal scores, to capture lootable resources and to invert oppressive power structures through the deliberate targeting of symbols of authority. Participation in armed groups also presented fighters with new opportunities for social mobility, for the accumulation of wealth, to gain the *upper hand* in land disputes with neighbours, to accrue sexual benefits (often through rape), to secure physical protection, and to access drugs, which became widely available during the war (Utas, 2003).

By 1997, the Economic Community of West African States (ECOWAS) brokered an accord between the main armed factions to end the war. The United Nations mission coordinated a disarmament, demobilization and reintegration (DDR) campaign and facilitated the holding of elections, which Charles Taylor won by a landslide.<sup>87</sup> However the peace was short-lived. By 1999, another civil war erupted. This time, the war manifested itself as a rebellion against the corrupt and brutally repressive Taylor government. The new rebellion was launched from Guinea and by Liberians United for Reconciliation and Democracy (LURD) and from Cote d'Ivoire by the Movement for Democracy in Liberia (MODEL). LURD entered through Liberia through Lofa County,

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<sup>85</sup> Not all Mandingo are Muslims and not all Muslims in Liberia are Mandingo even though the two are frequently conflated.

<sup>86</sup> As control over individual units was often decentralised, supplies and payment for members of armed groups were not necessarily organised so units took supplies and compensation from looting and pillaging communities.

<sup>87</sup> For an excellent analysis of the dynamics of this election, see Mary Moran's *Liberia: The Violence of Democracy* (2008).

again making it a significant theatre of the war. Many of the patterns of violence, resource capture and recruitment mirrored those of the first civil war.

The second civil war in Liberia ended in 2003 with an agreement in which the rebels put down their arms in exchange for Taylor's abdication of the presidency and subsequent exile. A transitional government ruled until 2005 when elections were held. Current President Ellen Johnson-Sirleaf became the first woman elected as president in Africa. The United Nations has spearheaded an effort to rebuild Liberia's devastated state institutions and physical infrastructure while maintaining security and retains a significant presence to this day.

Over the course of the two wars, over eighty per cent were displaced and some 270,000 people killed (Alden Wily, 2007). While most of those displaced have since returned to their homes or resettled, there remain many who have not yet returned from the war, living in camps or with communities in Guinea, Côte d'Ivoire and Ghana. Nearly half of the country's population now lives in the capital, Monrovia, placing tremendous pressure on the city's fragile infrastructure and scarce land resources. There are many obstacles limiting the resettlement of Liberia's rural areas. Many of those who have chosen to remain in the cities have done so as a result of a lack of government services and economic opportunities in the rural areas. After years and even generations of displacement, many are now rooted in their present locations, having established new livelihoods and social networks. Others fear to return to their pre-war communities because the stigmas they carry as a result of their roles in the war (having committed violence against their neighbours) or have been threatened from returning because of their tribal affiliation (Interviews, 2009). In spite of the disruptions of the war, customary authorities have largely reassumed their former positions and remain the most relevant structures of local governance. As a result, many urban youth assert that they did not want to return to rural areas to live under the domination of customary authorities (Utas, 2003; Richards *et al.*, 2005; Hill Taylor & Temin, 2008).

#### **4.6 Conclusion**

Liberia's realms of legal authority (the formal, the customary and the informal) emerged from the coastal settler state's strategic attempts to the control and colonise the Liberian territory. Even though the official structure was legally dualistic, rural

authorities and communities altered state's administrative devices to reflect local economic, social and political realities. At the same time, state power was deployed in such a way that placed its functions for resource extraction and distribution squarely into the informal realm. The concentration of these resources and ability to deploy force onto select elite, cultivated a system in which land and other patronage resources were accumulated to benefit of the few while dispossessing the majority of Liberians. These power imbalances and abuses ultimately helped in the mobilisation of armed groups which deliberately targeted pre-war symbols and institutions of authority, decimating the structures that regulate access to land based resources. These systems have struggled to reassert their authority in a post-war field where they must now compete with each other to remain relevant and with new systems which challenge their legitimacy to operate. In the absence of a dominant system of authority, it stands to reason that the rule-of-law will be weak and therefore produce high levels of insecure tenure.

## Chapter Five: Kola Nuts & *Cold Water*: The Moral Politics of Land Access<sup>88</sup>

On 04 August, 2009 President Ellen Johnson-Sirleaf signed into law an Act creating the highly anticipated Land Commission for Liberia. The Commission was established in recognition of the destabilizing economic and social disparities created by the existing national land system. Among its many tasks, the Land Commission was empowered to evaluate the effectiveness of the formal mechanisms through which land is administered and secured.<sup>89</sup> It was also charged with the task of suggesting policies for the integration or harmonisation of the formal and customary systems of land administration.

In spite of their divergent tendencies, these tenure systems are inextricably interlinked. In this chapter, I trace the manner in which the dominant pre-war tenure systems controlled and distributed land-based resources. In particular, I trace the way in which these systems created narrow channels of power and accumulation in which only those with sufficient capital (social, economic and cultural) can access and secure land in the formal and customary systems. This chapter will begin by examining the formal titling process, then focusing on local gatekeepers and the logics upon which they base their control of land relations.

In order to illustrate the relationship between the formal, the customary and the informal, I employ the terms *kola* and *cold water* as devices to identify the points that control the flow of resources within these systems of land access. The terms are euphemisms in Liberia for *tokens* given to persons of authority in recognition of their dominant position and are at the core of almost any interaction which requires a service to be provided within the land system. These concepts demonstrate how profoundly embedded informal relations are within the process of acquiring or securing land in both formal and customary systems. While these practices are commonly framed as immoral by the media and external observers, I adopt de Sardan's (1999) more nuanced approach that views these exchanges as part of the moral economy of the system. Providing preferential access and services to friends and political allies and the establishment of

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<sup>88</sup> Portions of this manuscript have been already published as Corriveau-Bourque, A. 2010. Confusions and Palava: The Logic of Land Encroachment in Lofa County, Liberia. *Canadian Journal of Development Studies*. 31(1-2):27-48.

<sup>89</sup> It was given only the power to "propose, advocate and coordinate reforms of land policy, laws and programs" (MoFA, 2009: 3.1) but the Commission's proposals are not binding.



relationships through *tokens* is part of a system of obligations in Liberia which must be observed and maintained through social norms and sanctions.

Giving kola<sup>90</sup> is a practice common throughout the Upper Guinea Coast. It serves as a lubricant to social interaction, from the banal sharing of the actual nut between friends, to giving of gifts to greet local authorities upon first arriving in a community, to sealing pacts of marriage, peace and war (Ferme 2001; Lovejoy, 1980). While the term kola has remained, it is often replaced in practice by Liberian or United States dollars, although palm wine, chickens, and rice can be exchanged. According to Ferme (2001: 118), who conducted research with the Mende in Sierra Leone, “kola [...] signified the intention of establishing a long-lasting relationship characterised by more important and sustained exchanges.” Within a social capital framework, these interactions fuel the deepening and strengthening of social bonds, bridges and ties between individuals and the institutions of power.

As in Sierra Leone, *kola* in Liberia is offered in recognition of a unique service provided or to access the esoteric knowledge controlled by a specialist. The amount of the *token* is rarely openly negotiated. As one elder in Salala explained: “we can’t ask you for anything, you just bring what you have,” suggesting that the gesture has to be perceived as given willingly, without coercion or demand. However, the reality is a bit more complex. The *token* is generally expected to reflect both the receiver’s position in society and the status of the giver. While the amount is generally not challenged in public, a gesture that is seen as stingy will incur a negative reputation for the giver in private discussions. Ferme (1998) adds that *kola* given in a group setting should also reflect the status differential between the participants.

‘Giving *kola*’ is often used conterminously with *cold water*;<sup>91</sup> however, the terms can be used to identify the realm (informal or customary) in which transactions take place. *Kola* is primarily used to describe exchanges with customary actors while *cold water* is used for informal transactions with government officials. Whether these practices are perceived to be immoral is an entirely different question. While some

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<sup>90</sup> This refers to the nut *Cola nitida*, a key commodity traded through the Sahel for its ability to give energy and suppress hunger and thirst. Italics are used to distinguish between the nut (*kola*) and the practice (*kola*).

<sup>91</sup> Refers to the small bags of purified fresh water sold by street vendors sold in Monrovia for 5 LD.

exchanges have a fundamentally moral basis, as mentioned above, an authority can also abuse their position by demanding or expecting excessive *tokens*. de Sardan (1999) calls this kind of abuse predatory, when an authority sees tribute as an entitlement of their position rather than as part of a series of mutual obligations, especially when they fail to provide any service in return. Within this context, the relationship between the actors loses its moral basis of legitimacy. The tight control of the processes to secure and access land in both customary and formal realms by a small cluster of actors often leads to predatory abuses of the *kola* and *cold water* mechanisms. However, the practices can also be used to extend social networks and increase tenure security for those individuals who are able to access those systems' benefits.

Because government officials, chiefs and elders were the focal points of authority who controlled pre-war tenure systems, the descriptions of these different relational processes strongly reflect their present understandings of how the systems 'ought to function.' However, the analysis of these tenure frameworks takes into account the effect of 'selective nostalgia'<sup>92</sup> on representations of the past. These reflections often obscure the mutable and contested nature of these systems even before the distortions of war (Ellis, 1999; McGovern, 2004; de Waal, 2009). In order to address the divergence between expectations and reality, I refer to these projections of how the systems 'ought to function' as the 'idealised' forms of the tenure systems.

### 5.1 Formal Land Titling

According to the government, there are only two channels through which an individual, a corporation, or a community collective can legally acquire land for purchase: the government or a private land holder that has a deed that can be traced back to an initial government sale. The legal property right protected by this transaction is referred to as 'fee-simple.'<sup>93</sup> In the view of the state, all lands that are not held in 'fee-simple'

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<sup>92</sup> The term 'selective nostalgia' was used by de Waal (2009) to refer to the reinvention of the past by traumatised populations who dream of returning to pre-war social structures and livelihoods. Certain elements of the past are idealised and new, more exclusive identities are constructed.

<sup>93</sup> According to the World Bank (2008) a 'fee simple' holding is a strong form of property right derived from Anglo-American common law. More specifically, it is defined as "the right to possess the land in perpetuity; the right to exclude others from it; the right to use the land and retain the fruits of its use; the right to devise land to heirs by will and to have such land pass to heirs according to rules of intestacy where there is no will; and the right to sell, mortgage, lease or otherwise alienate rights over the land, temporarily or permanently" (*Ibid*: viii).

ownership, leased as a concession or officially demarcated as an Aboriginal Land Grant are the property of the state. As discussed in Chapter Four, all people living on non-deeded lands are deemed to be unofficial ‘squatters’<sup>94</sup> or ‘custodians’ with usufruct rights, but do not own the land, no matter what alternative ownership claims they might make. As one government official explained, “they can own their rubber tree and the rice, but they do not own the land.” This statement captures the nuance that rights to private property (*e.g.* built structures, planted trees) are recognised, even though the rights to the land on which they may be embedded are not recognised. The legal status this provides is that of occupancy but not of ownership, meaning that should the government want the land (to sell, lease or develop) compensation is provided for the property that will be lost, but the individual or group who occupy it have limited rights of refusal. In a court setting, evidentiary proof of title that is not a government-issued deed is not considered to be legally viable when challenged by a title claim supported by a government-issued deed.

#### 5.1.1 Transfer Deeds

The most direct way of purchasing land in Liberia’s officially recognised system is from the current (private) owner, who can demonstrate ownership. Proof of formal ownership comes through either a transfer deed, which indicates a purchase from a previous owner, or through a mother deed, which is the original document for the transfer of public land to private ownership. Both the transfer deed and public land sale deeds contain detailed survey coordinates of the plot in question and a map drawn by an officially registered surveyor, which details the land’s precise geographic coordinates (See Appendix I). It is expected that all formally surveyed properties will be demarcated by the presence of cornerstones. Once the sale is completed, the deed is probated at the court and registered at the archives. The courts for this purpose are located in the county seats (Voinjama City for Lofa County and Gbarnga for Bong County).<sup>95</sup> The new owner then has to register their transfer deed at the Registrar of Deeds at the National Archives and separately at

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<sup>94</sup> This is distinct from the formally recognised (document-based) squatting rights given to some individuals in the capital city, Monrovia.

<sup>95</sup> The travel costs for these steps often prove to be expensive and time-consuming for individuals living outside the designated cities.

the revenue office at the Ministry of Finance.<sup>96</sup> There are branch offices for both in the county seats.

Throughout this transaction, the original public-land sale deed remains unaltered. This particular feature has proven to be extremely problematic in the post-war period as many unscrupulous or financially desperate (former) landowners have seized the opportunity provided by the institutional breakdown and have begun to re-sell the same parcels of land they had previously sold. Because those who hold the unaltered mother deed retain documentary proof of their ‘ownership,’ it has been easy to defraud suspecting buyers. This kind of dispute is extremely common and these cases have overwhelmed the judicial system.

### 5.1.2 Public Land Sale Deeds

The first step to buying public land in Liberia is to contact the County Land Commissioner (CLC) to have them identify if any public land is available within their jurisdiction.<sup>97</sup> Once suitable land is identified, the CLC will instruct the buyer to obtain written permission from local authorities.<sup>98</sup> Proof of permission can come in the form of a Tribal Certificate or a City Certificate. In contrast to the precise map on a surveyed deed, the certificates only situate the plot in relation to the person’s neighbours, an ambiguity which can cause future confusion (see Appendix II & III). It is assumed that the local authorities who signed the document have extensive knowledge of land claims in a particular area and that these authorities will represent the interests of their

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<sup>96</sup> A decree issued on 17 June, 2009 by the Minister for Lands Mines and Energy, the Honourable Eugene Shannon stated that both steps could be accomplished at the archives, that the archives would notify the ministry of finance of the change (Daily Observer, 2009). Whether this procedural alteration is in practice needs to be confirmed.

<sup>97</sup> Bypassing this step (for instance, if a purchasing interest already knows the specific parcel of land they want to buy) is unlikely since this step serves as a key gatekeeping mechanism, ensuring that all prospective buyers of public land pass through them. This places the CLC in a position of considerable power and provides them with access to a potentially significant source of *cold water*. According to my interviews, failure to go through with this step can lead to administrative hang-ups further down the road when the CLC is asked to sign the Tribal Certificate (or in some counties, City Certificates), a step which usually also needs to be lubricated with *cold water*.

<sup>98</sup> It would be a valuable future inquiry to identify if there remains any publicly owned land in the historical littoral (coastal) area. This information does not yet exist on record. There is also no official data on the extent or concentration of private land ownership throughout the country.

constituents.<sup>99</sup> The role of local authorities will be revisited in greater detail in Section 5.2.

Once the appropriate local-authority certificates are acquired, the purchaser needs to go to the Revenue Office where the government is now paid for the land. In theory, all private lands are to be purchased at the constitutionally defined price of fifty cents per acre<sup>100</sup> for farmland and thirty dollars for city lots.<sup>101</sup> Up until June 2009, the signed local-authority certificate and the revenue office receipt would then be taken to the President of Liberia for review and to be granted permission to be officially surveyed. However, according to the 17 June Decree, this particular step is no longer necessary and an officially accredited surveyor can proceed without this added gatekeeping mechanism of acquiring presidential permission, which not only encumbered the bureaucratic process.<sup>102</sup> In the past it was necessary to establish a relationship with someone close to the president in order to bring the survey request to the top of the pile. Presidential control over land access has, in the past, made the process of formal land acquisition highly vulnerable to political manipulation (Liebenow, 1969).

The surveyor's task is twofold: first to survey the terrain and map it, and second to prepare a survey notice informing local residents and authorities of a planned survey exercise.<sup>103</sup> The survey notice is designed to draw out any potentially contesting claims

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<sup>99</sup> Both these assumptions have proven in many cases to be terribly problematic. It is not uncommon for two public land sale deeds to have overlapping claims. According to interviews with government officials, if brought to court, such a case would be ruled in favour of the earlier of the two claims, identified by date of purchase. The oral history from all of my sites is pervaded with laments that those entrusted with custodianship 'sold' community or individually claimed lands with little consultation with those who would be most affected by the sale.

<sup>100</sup> The Law of Public Lands does not specify the currency; it only states fifty cents and thirty dollars. However, the official currency of Liberia has changed since the passing of the law; at the time, it was the United States Dollar (USD). It is currently the Liberian Dollar (LD). However, the Liberian Dollar does not have cents denominations and has lost such value that the United States Dollar amount (without adjustment) is generally accepted by the government in these transactions. An additional, third category of land is listed: on the margins of a river for one dollar per acre.

<sup>101</sup> There are four lots in one acre. The official 'cities' I visited in Lofa County include: Foya, Voinjama (the county capital) and Zor Zor. In Bong County, I visited Salala City.

<sup>102</sup> This decree has only removed the President from one step of the process, but the President still has the final say on the sale of the land.

<sup>103</sup> The main channels for posting survey notices are radio, newsprint and through delivery to local authorities. These means of information distribution appear to be inadequate as the newspapers are rarely circulated outside of Monrovia while rural radio access is somewhat limited. Most often challenges to survey are brought up when an individual (or a person's friend) sees the survey team on land that they claim. This is particularly problematic considering that thousands of Liberians remain in refugee camps abroad or are attempting to make their living in Monrovia, away from 'their lands.'

to the land being surveyed; however, ensuring adequate dissemination of the information is a serious challenge to the land survey sector. As there are only seventy-one officially accredited and certified surveyors in the entire country (the most recent certifications having been issued in the 1980s), their services are in high demand. The cost of conducting the survey varies because no officially posted prices exist. They are based on the size of the land to be surveyed,<sup>104</sup> the distance from the surveyor's office (which are usually based in the county capitals, also known as county seats), the travel and lodging costs, and the amount of time and labour it will require. Each of these factors of cost can be influenced additionally by the relationship between the land purchaser and the surveyor. For example, familial or friendship bonds with a surveyor can secure a relatively lower price for their services.

According to respondents, the exorbitant surveyor fees are the primary reason why individuals fail to acquire title deeds for their land. The costs are simply inaccessible to the average Liberian, as the cost of surveying can be several hundred to thousands of US dollars. It is a common practice for individuals to draw on their extensive friend and family networks to get assistance to pay the fees to acquire land. Limited social networks and/or personal assets (land can also serve as a *token* that can be offered to authorities) often means that private formal titling is out of the question. Should the owner be capital-rich enough to have the land officially surveyed, the deed must then be drawn up by the land commissioner (CLC) and once again goes to the president for final signing.

Having noted the widespread abuse of the system, current President Ellen Johnson-Sirleaf imposed a moratorium on the sale of public lands until further review of the process can be done. Despite her refusal to sign public land sale deeds, it has not stopped the actors in all of the previous steps from operating. The sale of public land goes on even though the purchasers do not obtain a legally binding document out of the process. As one wearied respondent in Salala District told me, "it better to have some deed than no deed and have someone take it [the land] from you."

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<sup>104</sup> These prices are listed in the Law of Public Lands, but are either ignored or subsumed by additional costs not accounted for in law.

To be legally valid, the Presidentially-signed deed would then have to be probated at the court, which according to interviews could be a very slow process<sup>105</sup> unless you have the right relationships to expedite it. Again, with costs of travel, time, and often unofficial costs required for getting the deed probated, it frequently does not fit within the economic calculations of land purchasers. Civil servants and NGO operatives working on land issues cited the lack of probate as a frequent cause of invalid or incomplete deeds. The final step is for the deed to be registered with the Registrar of Deeds at the National Archives.

### 5.1.3 The Impacts of Policy on Deed Distribution

When asked what they thought were the primary reasons behind the limited use of title deeds in Lofa County or the array of incomplete customary and formal documents in Salala District, civil servants and government officials overwhelmingly responded that it is the ignorance of local populations about their responsibilities as citizens to the state. As one high ranking-official in Monrovia told me, “traditional people are entrenched in their ways [...] they claim all the land around their villages for them [but] it is their responsibility to make themselves known to government.” One County Land Commissioner admitted that he depended entirely on Traditional Authorities to disseminate information about government policy and procedures to their constituents, a practice that seems to be fairly common for the dissemination of most government information to the country’s more remote areas.<sup>106</sup> This approach not only further privileges chiefs’ access to critical information about land access,<sup>107</sup> but it also does not have effective follow-up mechanisms to ensure that the information was entirely or accurately disseminated.

The Commissioner struggled to explain why, if the chiefs were armed with this information, that the government’s procedures were not being followed, beyond

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<sup>105</sup> The 17 June Decree also indicated that probate courts would approve deeds within 5 business days of its submission (Daily Observer, 2009).

<sup>106</sup> The National Traditional Council is a government body based in Monrovia with subsidiary offices throughout the country composed of local traditional leaders. One of their main functions as described to me by one their Monrovia officials (and confirmed again by a representative based in Voinjama) was to settle disputes between “indigenous peoples.”

<sup>107</sup> Much of the transfer of information occurs through letters. It is worth noting that many Traditional Chiefs are illiterate in English, though many have secretaries appointed to read and interpret written texts for them.

assumptions of local ignorance. It is hard to believe that after over a half-century of the essential principles (the administrative nuances have been altered over time) of the public lands policy being in place in the Hinterland areas, that ‘ignorance’ is the underlying element fuelling this gap between policy and on-the-ground reality. When qualitatively tested, the ignorance hypothesis did not consistently hold true.

Respondents from all social categories, age groups, geographic locations and educational levels were able to provide a basic explanation of the government policy toward public lands (*i.e.* that the government owns all ‘public’ land, surveys are required and that documents must be signed by authorities ranging from the town chief to the president) even if they themselves did not possess a title deed or even a Tribal Certificate. Their knowledge of the policy was derived from personal or second-hand (friends and family affiliations who had acquired title deeds) experience, demonstrating that information can flow outside the control of the chiefs, upon whom the government so strongly depends. In my Lofa County field sites, the authorities in many communities were aware of the official policy towards land but refused to recognise the legitimacy of the formal tenure system and refused to issue land-based documents, an issue that will be discussed in greater depth in Chapter Six.

However, there is evidence of some confusion. Some respondents claimed that alternative documents (*e.g.* contracts with agricultural development agencies that operated in the area before the war) issued outside of official formal or customary structures were proof of title to land.<sup>108</sup> In Salala District, every respondent who claimed to own land also claimed to have title deeds. Upon review, many held only Tribal Certificates as official ‘proof’ of title,<sup>109</sup> though I found this information to be carefully guarded as incompletely deeded land was more vulnerable to encroachment.

Confusion regarding the official titling process primarily arose from the procedure rather than the policy due to the convoluted bureaucratic process through which petitions for land must pass before being fully recognised. It was even difficult to get a clear and consistent picture of the formal titling process from civil servants and

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<sup>108</sup> The confusion may come from the fact that the contract was issued by a government-operated agricultural development agency and was signed with the consent of local authorities.

<sup>109</sup> This observation was confirmed by several NGOs working on land issues in the County. As mentioned earlier, many among those who did have a title deed held incomplete documents, with one or more steps missing.



government officials who are ostensibly the most intimate with the system. Whether or not the confusion is deliberate is beyond my ability to assess, but a convoluted process requiring obscure knowledge to fully navigate has the summary effect of maintaining highly exclusive and expensive access to the system. The concentration of knowledge of the titling process on those who have the authority to enact policy and distribute resources has created a series of gatekeeping mechanisms where power is concentrated on the individuals who provide services rather than on the institutions themselves. The process is susceptible to individual abuse because of personalised control over the resource distribution process.<sup>110</sup> The official land registration system has created a niche for specialists with suitable knowledge and effective social networks to navigate the field on a buyer's behalf, albeit for a fee.

Those who cannot afford to pay both the official and unofficial costs are effectively denied the services to which they are entitled as citizens under the Liberian Constitution (Right to Property). It is for this reason that the formal tenure system is widely by rural Liberians seen as a vehicle for elite accumulation, rather than as a legitimate guarantor of rights.

## 5.2 'Official' Customary Authority

As discussed earlier, before being eligible to purchase public land from the government, a *stranger* must secure permission from local authorities and regional administrators by acquiring a Tribal or a City Certificate.<sup>111</sup> Because of the former Hinterland status of Bong and Lofa Counties, these local authorities are predominantly 'traditional authorities.'<sup>112</sup> However, signatures from both customary and formal authorities are required on the Tribal Certificate. The formal authorities represented are as follows: the

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<sup>110</sup> These focal positions of authority are key are valued patronage tools for the very reason that they can be exploited for individual gain.

<sup>111</sup> According to the Public Lands Law, there are some specifically detailed limitations on lands that local authorities are entrusted to accord for government sale. First, they are not allowed to sign certificates for lands already privately owned or otherwise occupied, although occupation goes undefined which is particularly problematic for lands that are left fallow under locally-used swidden systems. This opens the door to potentially alternative claims made through formal titling, claims that may deprive a local agricultural systems of the flexibility they need to sustain themselves. Such tensions will be examined in greater detail in Chapter Six. The second category of land that cannot be sold are officially demarcated Tribal Reserves or Aboriginal Deeds. Tribal Reserves are a unique category of tenure that recognise and secure collective indigenous claims to a particular area. According to officials at the ministry of Lands Mines and Energy, this titular status is no longer being offered.

<sup>112</sup> Unless these spaces fall under city jurisdiction, in that case a city certificate is necessary.

County Superintendent, the County Land Commissioner, and the District Commissioner.<sup>113</sup> The customary authorities whose signatures are required include the Paramount Chief, the Clan Chief and the General Town Chief. As these documents are not uniform across the country, some certificates also require sectional and chieftdom clerks to sign. The signature of local elders is also needed although the number required tends to vary.<sup>114</sup> At minimum, Tribal Certificates require eight signatures and I was shown some documents with as many as a dozen. In order to acquire a signature from a customary authority, a petitioner must offer *kola* to each, as a form of recognition of their authority and the exclusive service they provide.<sup>115</sup> Formal authorities also tend to expect some form of token for their services and valued knowledge, in the form of *cold water*.

Additional local fees may be levied on the land itself by the local authorities, although this practice was rarer in the Lofa field sites than in Salala District where it appeared to be institutionally embedded. In the case of Salala District, fees for the land tended to be fixed within a particular locality with price variations for a town and farm lots. This reflects a significant disconnect from the government's official view of land, in that the transaction is not a purchase of land since no one can sell the land but the state. Officially, the token viewed as only a symbol of recognising local authority, while the signature of the authority 'officially' recognises the land as not part of the 'tribal lands.' As a result, this process legally excises the land from customary tenure jurisdiction, which has significant social and political consequences for customarily-administered communities.<sup>116</sup>

### 5.2.1 Politics of Customary Representation

Because the state assumes territorial ownership over all non-privatised lands or tribal reserves, an 'indigenous' person who wants to formally secure their claims to land which their family may have used for generations must also go through the official process obliged on a *stranger*. This includes securing permission from local authorities. However, due to their familiar relations, local politics often come into play to the

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<sup>113</sup> Each of these positions is a Presidential appointment.

<sup>114</sup> Generally no fewer than two elders' signatures are needed.

<sup>115</sup> The Public Lands Law (Chapter 3, Article 30) specifically refers to this practice, "In consideration of such consent; he shall pay a sum of money as token of his good intentions to live peacefully with the tribesmen." It makes no reference that formal authorities are similarly entitled to such tokens.

<sup>116</sup> These consequences will be discussed in greater depth in Chapter Six.

petitioner's advantage or disadvantage. While the *kola* that is negotiated for a transaction between people with previously established social bonds may be considerably less than for a *stranger*, the size of the *token* is subject to negotiation based on the perceived wealth and social status of the petitioner. One chief in Foya also explained that it also depends on "how you talk to them," meaning that the person requesting a signature must show sufficient humility and respect for the authority's position. The relationship between the petitioner and the authority also plays a significant factor. Close friendships, intimate familial bonds, the mutually recognised membership in a religious sodality and the high social status of the petitioner are among the factors reported to facilitate the exchange in favour of the petitioner. The transaction in itself can be seen as a point upon which a relationship is built, which would facilitate future interactions.

However, animosity between the kinship groups or families represented by the two actors or even a dispute between the individuals can substantially increase the cost of a *kola*. In some cases, especially when the dispute in question is over land, the request may be denied unless a more powerful actor can appeal to the resistant authority on the petitioner's behalf. The personalised control over who can access formal tenure protections is especially problematic when a specific gatekeeping authority uses their position to affect intra-kinship or familial disputes and claims.

The issue of individual gatekeepers being the sole sources of access to formal tenure is of particular concern in Quardu Gboni and Voinjama Districts, where the politics of representation play a significant role in the perception of secure tenure. More specifically, some Mandingo respondents indicated that they had struggled to acquire required the signatures for local certificates (City or Tribal) from district and county-level government officials, who are predominantly Loma, especially when the lands claims were in territories with conflicting Loma claims. Whether Loma petitioners were similarly denied remains unclear; however, the perception that these gatekeepers are biased is the cause of significant resentment. More important is the perception that district and county-level authorities do not have the legitimacy to represent them when interacting with the state. This perception was central to the push by Mandingo leaders for a distinct "Mandingo" district to be established after the war so that a Loma District Commissioner would not be charged with representing their interests.

Even if these authorities are not abusing their power, in the highly pressurised powder keg that is the region, politicised perceptions can quickly gain traction and be accepted as fact unless measures are taken to build confidence that formal tenure institutions represent each community's interests equally.

### 5.2.2 *Stranger-Fathers* and *Uncle-Nephews*: Idioms for Social Hierarchy

Localised norms of access to land-based resources and positions of political power are deeply tied to notions of identity, particularly with regards to the differentiation between those who have the ability to claim autochthony or *citizenship*<sup>117</sup> rights within a particular community and those who are 'newcomers' or *strangers* to the community. Throughout the Upper Guinea Coast these differential relations are articulated through the *stranger-father* and *uncle-nephew*<sup>118</sup> institutions. The principle of these institutions is to establish a hierarchy of symbolic legitimacy between lineage groups in order to manage social interactions (such as marriage) and land resources (Bellman, 1984; Leopold, 1991; McGovern, 2004; Bøås, 2008; 2009).

In terms of land relations, this institution establishes a hierarchy of access and political authority based on presumed or claimed 'order-of-arrival' of ancestors. Those actors who can effectively claim to be part of the 'first' lineages present in a particular space control a powerful piece of informational capital, central to the maintenance of the legitimacy of authority. While there were certain subtle and localised variances, community-origins stories in all of my field sites<sup>119</sup> were expressed in terms of conquest: the subjugation of prior inhabitants and/or the suppression of nature. The historical figures that established initial control over lands and brought development are held in high esteem and often mythologized. Origins myths are important not for their veracity, but more for the ways that these symbols become central to the groups' understandings

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<sup>117</sup> The italicization of *citizenship* is used to differentiate it as a reference to the local use of the term, which comes with specific rights and obligations to the town or village to which it links an individual and national use, which is bound to a different set of rights and obligations.

<sup>118</sup> The principles of this institution have also been described in terms of wife-giving and wife-receiving. This means that the group that gives their 'sister' away will be the 'uncles' to all children born from the woman who was married to the *stranger*. This relationship translates to *keke- daabe* in Loma and *ngala-maleng* in Kpelle. *Keke* and *ngala*, respectively, translate as mother's-brother (*uncle*) while *daabe* and *maleng* translate to sister's son (*nephew*). The journal in which I wrote the Mandingo and Kissi terms was lost in travel. However, the uncle-nephew relationship is also central to social ordering in both groups.

<sup>119</sup> Among respondents who identified themselves as Kpelle, Loma, Mandingo, Kissi and Gbandi in Salala, Voinjama, Quardu Gboni, and Foya Districts.

of social identity and provide power-through-legitimacy to those who can control these symbols. The frontiersman-like figures in these stories were reported to have left more densely populated areas in order to find new lands to bring under cultivation. After they had successfully established these new settlements, having either driven out (or enslaved, according to some stories) the previous inhabitants or having cleared the forest for settlement and cultivation, subsequent waves of settlers would have followed, hearing of the initial groups' success (Interviews with elders in Foya, Quardu Gboni, Voinjama and Salala Districts, 2009).<sup>120</sup>

Claims of direct lineage to the founders of a particular community or to the warriors who fought for this land within local oral histories are a “valuable symbolic resource” (Sarró, 2009: 52) that can be used to assert ownership over land and positions of political authority (Korvah, 1995; Sawyer, 1992; McGovern, 2004; Interviews with elders in Foya, Voinjama, Quardu Gboni and Salala Districts, 2009). However, a claim of lineage does not necessarily mean that an individual is actually from that line, only that they have the power to claim it in an attempt to bolster their legitimacy (Sawyer, 1992). It is the idiom through which notions of *citizenship* and social belonging are determined. The ability to claim *citizenship* within these communities is one of the most fundamental bases to determine land access and ownership rights. There are multiple forms through which customary ‘ownership’ rights are articulated in central and north-western Liberia. While the specific norms of land ownership, access and use in each community vary, ‘ownership’ in this section refers to the general authority conferred to leaders, based on lineage, to allocate access and use to land resources within a community.

As such, when subsequent waves of settlers into followed the ‘founders’ they, were compelled to become the clients of those who preceded them, especially in order to access farm land. Prior to the *stranger*’s admittance into the community, they must enter a subordinate relationship with a *citizen*<sup>121</sup> of the community who will serve as their *father*, or patron, who will vouch for the *stranger*’s future actions and intentions. The

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<sup>120</sup> The settlement of a new town would often occur because an individual’s farming village had become too far to walk to on a regular basis so they decided to make a permanent settlement from this original temporary satellite.

<sup>121</sup> The definition of what constitutes citizenship or autochthonous status in a community is variable from site to site and highly contested.

father has the responsibility to teach the newcomer the community's rules, ensure their obedience, find land on which the *stranger* can farm, and to serve as a representative of the *stranger's* interests within the community (Interviews in Lofa and Bong Counties, 2009). From then, the *stranger* is bound to the social norms and land-use practices of the area, subject to limitations on ownership and use and be compelled to provide labour if so required for community endeavours.

By serving as a *stranger's father*, a *citizen* of the community increases their power and standing within the community through their ability to mobilise the labour and political support of his clients and therefore increasing the scope and value of his social capital. In order to be an effective patron, a *father* must be able to provide benefits to their clients such as allocating land resources, sponsoring their participation or advancement in *society-business*<sup>122</sup> or by establishing kinship bonds with their clients by marrying them to their daughters. As the wife-givers, or *uncles*, the patron's lineage would therefore ensure that the client and their descendants would forever be socially subordinate (*nephews*). In Section 5.4, I demonstrate that these hierarchies were highly mutable as possibilities existed for *strangers* and *nephews* to change their status to even claim autochthony rights and in turn become *fathers* and *uncles*.<sup>123</sup>

However, these institutions go beyond merely describing relations between lineages, they also serve as metaphorical idioms to express power relations between different social groups and people of different social classes (Sarró, 2009). Failure to respect the social norms which bind these relationships is seen as threat to these social institutions and a shattering of the social contract between individuals and between groups.<sup>124</sup> Because of the subordinate nature of these relationships, younger generations have begun to reject these frameworks of social ordering. In fact, the rupture of this hierarchal relationship is frequently cited by Loma as a grievance toward the Mandingo, whom many Loma assert are their *nephews*. In the most chauvinistic narratives, which are prevalent to a destabilising extent, Loma claim that Mandingo can own no land and

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<sup>122</sup> Refers to the multiple religious organizations operating in rural areas which require

<sup>123</sup> Considerable work on the nuances of these relationships has been conducted by Bellman (1984), Leopold (1991), McGovern (2004), and Sarró (2009).

<sup>124</sup>

can have no political authority (especially over a Loma) because of their status as *strangers*.

### 5.3 Memory and *Live Crops*: Unofficial Forms of Evidence



**Figure 5.1: Soap trees are used as boundary markers throughout Liberia. (source: A.Corriveau-Bourque.**

Communities where land rights were allocated without the use of documents tended to value lineage symbols most as they were entirely dependent on unofficial forms of evidence for establishing tenure claims. For instance, the boundaries between farmers and communities are identified through oral histories of the land: the point of juncture being where each farmer had *brushed* (cleared the forest) in the past. Therefore, oral histories and symbols of autochthony were key elements to the assertion of one's rights and the establishment

of one's obligations to the broader community.

Within this framework, boundaries could be also be demarcated by planted soap trees<sup>125</sup> (See *Figure 5.1*) or natural markers such as streams or hills. However, markers do not necessarily indicate the exclusive use by one individual or family as the lands and owners may continue to be bound by social obligation to community systems of production. As mentioned earlier, 'ownership' entitles a land-controlling authority to allocate resources and direct labour. Their role is to effectively manage the resource on behalf of the community, which is why when these authorities are asked "who owns the land?" they will often reply that it belongs "to the community." Only further questioning about the nature of their authority and the history of the community will reveal that their lineage claims entitle them to this role. Communities depend on these focal actors to manage communal resources and enforce local norms and rules of land use, ownership and access.

<sup>125</sup> Soap trees (most likely *Dracacena manii*) or are reportedly very hardy and can survive in a number of environments, which makes them excellent markers for claims. They are used to demarcate boundaries as in all my sites in Lofa County and in Salala District, located in southern Bong County.

Even though land is often expressed as belonging ‘to the community’ in customary-administered spaces, individual customary claims to land also exist. One ubiquitous norm to that effect in central and north-western Liberia is the notion of individual ownership *live crops*,<sup>126</sup> or trees, as they are the ultimate symbol of a personalised, permanent claim. However, the question of who in the community is entitled to own or plant *live crops* varies significantly and is directly tied to the politics of local *uncle-nephew* and *stranger-father* relations. Many communities insist that *strangers* are not allowed to plant *live crops*. However, I observed that this rule is contextually enforced; depending on the strength of the relationships between *citizens* and *strangers*, the fluidity between these identities and local perceptions of land scarcity. I observed that several communities that presently refused tree-planting rights to strangers had allowed and even encouraged the practice in the past, suggesting that tenure norms in these communities are flexible and reflect current economic and political realities. The current political potency of this norm lies in its ability to exclude individuals or groups from tenure rights and has emerged from a combination of land-use changes dating to before the civil wars and an increased distrust of those perceived to be *strangers* following the violence and social disruption of the civil wars.

From a land-use perspective, land ownership and access rules reflect perceived land and labour demands for local agricultural practices. Food production in central and north-western Liberia is generally subsistence-based and is almost exclusively produced through swidden agricultural techniques, also known as shifting cultivation, where farmers clear a section of forest and cultivate it in a sequence of crop phases. These phases include a swidden of annual subsistence crops (rice, cassava) for a few planting seasons, potentially a transition phase of marketable crops (pepper, sugar cane, peanuts, *bittaball*) followed by a return to fallow, where forest growth will be allowed to reclaim the land and replenish its nutrients for several years.<sup>127</sup> As the land lies in fallow, farmers shift their farming activities to other forest plots that are cleared and brought into the swidden cycle. Once farmers are ready to reuse the parcel, the secondary growth will be

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<sup>126</sup> The main *live crops* in my field sites include rubber, cocoa, kola, and coffee. Woody perennials are also known as *live tree*. While palms are considered to be high-value trees, they are rarely planted as they grow naturally. Their management system is entirely different, unless cultivated in plantation form.

<sup>127</sup> The number of years a plot remains in fallow varies according to population pressures on the land.



cut down and turned into charcoal and the cycle will begin again. This form of land use requires large quantities of land, and a flexible management system so as to not exhaust the soil. Those who ‘own’ the land must carefully manage and allocate use rights at the beginning of each new planting cycle. Since clearing and cultivating new land requires a great deal of labour, these systems of production have become particularly efficient at accumulating labour (Sarró, 2009). Since the official end of slavery, the control over labour has manifested itself in the maintenance of asymmetrical power relations between generations, genders and between *citizens* and *strangers* (McGovern, 2004; Richards *et al*, 2005; Sarró, 2009).

The primary product of the swidden system is upland rice, which is the main staple in Liberia. Because of its annual nature, rice is not considered to be a *live crop*.<sup>128</sup> Land for annual crops can be allocated for both personal (family) use and communal use.<sup>129</sup> Lineages that have authority over the use of large tracts of unused land are often expected to provide some of their ‘surplus land’ to less fortunate farmers although a portion of the harvest is often expected as a *token*. Land-poor farmers explained to me that failure to share land reflects poorly on the authorities who manage it which can undermine the authorities’ perceived legitimacy among their constituents and could be used to undermine their political aspirations.

The *token* noted above can be explicitly negotiated or maintained through unspoken norms. In the latter case, an individual who ‘rents’ land may not provide a portion of their harvest to the landowner and can do so without suffering a direct penalty, as it was not explicitly stated. However, failure to do so may incur a bad reputation for the offending party and prevent them from ‘renting’ land in the future from any landowner in the community. In short, providing a *token*, usually in the form of seed rice, secures rights to the next year’s planting.

According to the ‘idealised’ post-war narratives of the *stranger-father* institution, a *stranger* is not entitled to plant *live crops* on their patron’s land without the patron’s

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<sup>128</sup> However, in some areas, it was reported to me that “swamp-land” that has been cleared for wet-rice production can be farmed more intensively (for two-four years with one-year fallow periods) and is more difficult to initially clear. Therefore, the claim on that land is more personalised and is given a status comparable to the planting of a *live tree*.

<sup>129</sup> Currans (1976) suggests that the increased personalisation of rice plots was a development emerging from the commercialisation of the sector.

permission as it would symbolically transfer its control. The effect of this system is that strict social hierarchies are often preserved by limiting access to independent wealth, maintaining a dependence on local authorities who control the access to resources and the flow of labour. A land-poor<sup>130</sup> man in his thirties from Salala District explained that “you poor if you can’t plant tree.” He was bound to a relationship with a large landowner where he was only able to plant annual crops. One third of his harvests would go back to the landowner. His limited cash income came from the tapping of wild palm trees for palm wine and harvesting palm kernels for oil which he would sell to acquaintances or to vendors at the local market. Since the trees were not on land that belonged to him, he was equally bound to share his product with those on whose land the trees were located. He highlighted the fact that because of his limited cash income, he was unable to pay his children’s school fees and feared that they too would be bound to this system when they grew up as they had few other options available. In communities where customary mechanisms dominate, individuals often also have the obligation to provide a portion of their harvests to collective food stores, to be used for celebrations, emergencies, and ceremonies. These stores can also be supplemented by tracts of land that are being reserved for the exclusive cultivation of rice. In order to cultivate this land, members of the community are expected to donate their labour. While elders in Foya district explained that these obligations help to strengthen community bonds of inter-dependence, these social expectations are increasingly being contested by the younger generations on the ground that these demands violate their individual rights to be compensated for labour, as I will explain in Chapter Six.

Increased market opportunities and government pressure for cash-cropping in the 1950s, 60s and 70s led to the extensive planting of *live crops* such as coffee, cocoa and rubber trees,<sup>131</sup> which substantially altered local patterns of agricultural production and land management (Currens, 1976).<sup>132</sup> Once a family or individual’s plot had been

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<sup>130</sup> As a *stranger* in the community, he was not bound within any kinship network which would be able to grant him access to land on which he could plant permanent crops. As such, he was dependent on his ability to temporarily rent land from kin.

<sup>131</sup> Coffee and cocoa are dominant in Northern Lofa (Foya, Quardu Gboni and Voinjama Districts) while rubber is the dominant cash crop in Salala District.

<sup>132</sup> Tree-ownership rights had been well-established prior to the twentieth-century introduction of coffee, cocoa and rubber. Kola nuts had previously been a major cash crop and were particularly valued in

cleared for upland rice cultivation, tree seedlings were planted between the rice plants. Instead of being allowed to go to fallow following the end of the rice cycle, the trees were allowed to grow while the forest's return was kept at bay by constant weeding. By planting a permanent crop like a tree, a farmer removes the land from the swidden cycle for the duration of the tree's productive life, which typically spans at least two decades.<sup>133</sup> Due to the extended temporal fixture of *live crops*, they represent a permanent claim into the specific parcel of land where they are located. In central and north-western Liberia, these permanent claims are held by individuals or families, in which the authority lies with the eldest living son.

As tree-based crops were a key entry point into the cash economy, those who claimed *citizenship* or autochthonous status planted *live crops* extensively. However, the ensuing land rush rapidly diminished land available for rice cultivation prior to the war, a problem that remains to this day. As such, people and communities can make themselves 'landless' through the over-planting of permanent crops on their land such that they no longer have the ability to produce food (Alden Wily, 2007). This land-use pattern has had wide-ranging consequences for maintenance of social relations within tenure systems and food security, consequences that will be discussed in greater depth in Chapter Six. Alden Wily (2007) and Unruh (2009a) suggest that 'landlessness' in Liberia is less is also due to the breakdown of sharing or lending mechanisms amongst kin and *strangers* due to a lack of trust, which I will discuss in greater depth in Chapter Seven.

Perceived land scarcities have also heightened the stakes when it comes to establishing rights-to-land, particularly with regards to notions of autochthony (Bøås, 2009). This debate has taken a particularly tribalised tone in northern Lofa County (Voinjama and Quardu Gboni Districts), where chauvinistic narratives exclude Mandingo from the right to plant *live crops*, or privately own land, as they are often classified within these narratives as *strangers* with no permanent rights. As such, many 'landless' Loma youth express a sense of entitlement to Mandingo-owned lands, arguing that the Mandingo 'stole' the lands that they presently claim.

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Sahelian trade routes (Lovejoy, 1980; Ford, 1992). However, kola production had never been on a scale which began to reduce available farmland for

<sup>133</sup> Coffee, cocoa and rubber trees can be productive for twenty-five, thirty and thirty-two years respectively.

#### 5.4 The Mutability of Identity and *Citizenship*

While the politicisation of autochthony has produced exclusive and rigid interpretations of social belonging, the identities central to the *stranger-father* institution were and still are incredibly malleable. Such malleability of identity suggests that the rights to which individuals are entitled within a particular social group are equally negotiable. As mentioned earlier, *strangers* were often incorporated into a particular community through marriage. In addition, local authorities were often known to adopt the sons of *strangers* or slaves into their own ‘autochthonous’ lineages and position these adoptees to inherit their positions of authority (Korvah, 1995; Interviews with elders in Voinjama and Quardu Gboni Districts, 2009).

Through marriage, a *stranger* would often be given some land where he can plant “anything he wants” so that “our daughter don’t starve” (Interview with an elder in Salala District, 2009). However, other elders assured me that even though land is granted to the *stranger* to plant *live trees*, the agreement is based on the understanding that the land remained within the *uncle’s* lineage. If the marriage were to fall apart, the land would revert to the wife’s family. So while the *stranger* could stake claim on the land, he (and his lineage) would in theory be denied rights to transfer it.

However, it is easy to see how this network of lineages could be quickly convoluted and hierarchies of lineage would become hard to define over time. The ability to claim a dominant lineage therefore becomes a highly contested political resource to assume legitimacy to rule (Bøås, 2009). For example, once the original stranger and his wife had children of marriageable age, they too in theory would be in a position to be ‘wife-givers’ and become *uncles* to another lineage group. The original ‘wife-giving’ group could become a ‘wife-receiver’ to the initially ‘subordinate’ lineage. Members of the ‘subordinate’ lineage, once entrenched in a community, could also become a *stranger-father* to new arrivals and position themselves as brokers for local land resources. Within a few generations of exchange this network becomes extremely muddled, producing a situation where two individuals may be each others’ *uncle*. Whenever these individuals meet, they will negotiate their statuses, with each attempting to claim dominance over the other (Bellman, 1984). This negotiation also serves as a reminder of the common bonds between the actors, which can be invoked to diffuse

conflicts between them (*Ibid.*), as will be discussed in Chapter Seven. Additionally, the stranger's status as an outsider could also be somewhat altered if they agreed to be initiated within local *bush societies*.<sup>134</sup> Through initiation into a local *society*, they become morally bound to the community (*Ibid.*). Given sufficient effort and funds, an individual may also move up within the hierarchies of these societies or become a member of several different societies (Harley, 1941). Longevity and a long-term commitment to the community may also contribute to the integration of an individual, as was seen in Salala, where many respondents recognised as respected elders even though they were not originally born there. McGovern (2004:292) coins the term “fictive autochthony” to describe the distortions used to grant *strangers* who are seen to be valuable additions (or in the case of conquest, to acquire legitimacy to rule) to the community autochthonous rights and status. These adaptations reveal that post-war claims of exclusive, rigid identities neglects extensive past fluidity of status and interaction between social groups.

### 5.5 The Gendered Politics of Land<sup>135</sup>

A central pillar of the present-day tenure frameworks ‘idealised’ by many authorities is the continued denial of women’s rights to land. Much of this is reflected in the instrumental manner in which that rural male authorities speak about women; as mobile units of labour or vehicles for the production of children. Differentiated labour roles are often mentioned as the reason why women are denied land ownership rights. As men are the ones who “clear the bush to make farm” (Interview with a middle-aged man in Foya District, 2009), the land belongs to them according to the recognised symbols that is their oral tradition. However, labour roles are far more fluid than the ‘idealised’ discourses suggest. The need to stay close to roads for access to markets, schools and government

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<sup>134</sup> The term *bush society* is used by Liberians to refer to Poro, Sande and a number of other rurally-based exclusive social organisations.

<sup>135</sup> My sample for this section is admittedly biased and will need to be addressed in future research. Most of the women I was able to interview were advanced in age and most likely represent a generationally biased outlook on these issues. This is most likely due to the fact that my interviews had to be conducted during the day, when women are expected to be working. I recall at least a dozen times that younger women refused to be interviewed because they were too busy. In the five interviews with younger women that I was able to conduct, the women’s husbands insisted on being present in two of the interviews, a condition which most likely influenced their responses. Men and older women tended to be far more available for discussions. As a result, my understanding of this issue will be inevitably distorted by my biased sample.

services has also reduced incentives for farmers (especially young men) to clear new, isolated lands. These shifting economic priorities have had a significant impact on the perception of the masculine identity. As discussed earlier, the frontiersman-warrior ideal is central to the construction of the male social identity in central and north-western Liberia; however, in the absence of opportunities or incentives to conquer new lands,<sup>136</sup> there is an increasing perception that today's male youth are "lazy" (Interviews with elders in Bong and Lofa Counties). The theme of lazy youth who seek to benefit only from the work of their forefathers was a recurring theme in discussions with elders in all my field sites and is apparently a significant source of inter-generational tension. Even before the war, high levels of urban migration by men resulted in women taking on labour roles that had been 'traditionally' for men (Currrens, 1976) further subverting 'traditional' notions of masculinity and femininity.

In spite of these changing realities, tree crops are generally considered to be the property of men<sup>137</sup> while certain products and types of land (for wet rice cultivation) can be controlled by women for their own personal income. Women who were able to accumulate independent incomes were often able to buy land in 'cities,' increasing their independence from customary structures of male domination (Moran, 1990; Fuest, 2008). The challenges of the war and post-war periods contributed significantly to the blurring of 'traditional' gender roles. Women assumed a wide range of roles within the household and society (as combatants, heads of households, main economic providers, as students, as the victims and aggressors of war), roles which challenge 'traditional' forms of gender-based differentiation and domination in rural areas (Fuest, 2008).

Denying land ownership rights to women is also rooted within the practice of exchanging women for bride wealth. Within this system, women are generally expected to leave their homes to live with their husband's family, which many men view as a net loss of actual labour and potential labour (the children the woman is expected to bear). Through marriage, a woman becomes a member of her husband's community, though

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<sup>136</sup> Within the present-day context, the 'conquest of land' refers to the figurative battle with nature rather than the expulsion of previous inhabitants. During the war, many youth appropriated the symbols of community defence and sought to benefit from the spoils of war, only to be later marginalised for their role in the war. For a more thorough discussion post-war challenges for social reintegration, see Utas (2003), Richards (2005) and Hill, Taylor and Temin (2008).

<sup>137</sup> There are exceptions, as noted by Carter (1970) cited in Currrens (1976).

these rights can be lost through divorce. The children produced within that union also ‘belong’ to her husband’s lineage; although one elderly woman in Voinjama City explained that her husband had disowned their children following their divorce. Upon return to her birth community, responsibility for her children was assumed by her brothers, or the children’s uncles. As she was not entitled to inherit her father’s land when he died, she had to ask her brother for permission to use a plot of land to plant. Because of women’s potential ‘mobility’ between lineage groups, women tend to be denied the rights and entitlements of *citizenship* within their birth communities, including rights to own or inherit lands, since her property becomes the property of her husband by marriage.

Within this logic, to give a woman land would be to cede its control to her husband’s family, who are socially distinct (not *citizens*) (Interviews with male and female respondents in Lofa and Bong Counties, 2009). Since a woman is typically married to someone from outside of her community, she can be viewed as a *stranger* within her birth community. Several male respondents in both Bong and Lofa Counties mentioned that they did not trust their sisters because they could “carry the *secrets*”<sup>138</sup> of her birth community to her husband’s, to whom she is expected to bestow loyalty. This pattern was also noted by Sarró (2009) in his work among the Baga in Guinea. He explains that the lack of trust in women was rooted in the history of inter-group warfare. Should the lineage groups of a woman’s brothers and husband come into conflict, men expected their sisters to side with their children, who are part of her husband’s lineage (*Ibid.*).

## 5.6 Conclusion

In spite of their many points of contradiction, the formal, customary and informal of land tenure are inextricably intertwined. It is impossible to fully capture the full scope of one system without tracing the way it is influenced and shaped by its interactions with the others. Prior to the war, the systems that I identified in this chapter maintained their control over land, labour and social relations by concentrating valuable capitals within their scope of control. However, the de-concentration, re-evaluation and distribution of

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<sup>138</sup> In Chapters Six and Seven, I further discuss the role of secrets in constructing bonds of social trust and identity within communities.

the capitals they previously controlled over a broader field of systems as a result of economic changes to Liberia's rural areas and political crisis has threatened the future viability of these systems. And while Liberia's present-day structures for regulating access to land remain firmly rooted in these pre-war 'idealised' systems, they will have to reconcile their contradictions with each other and with the new systems that have since emerged in order to pave a path to future stability.



## **Chapter Six: Land and Labour Relations in Flux: Disputing the Terms of Authority in post-war Bong and Lofa Counties<sup>139</sup>**

The civil wars of the 1990s and early 2000s served as terrible catharses during which Liberians were forced to confront their tumultuous relations with pre-war authority. The repeated displacement of populations in Lofa and Bong Counties and the intense (interpersonal) violence of the period both physically and symbolically disrupted or destroyed relationships, social institutions and the symbols which bound them together. At the height of both the wars, the state ceased to be a viable entity for the provision of basic services and was no longer able to assert even the most basic territorial control.<sup>140</sup> Symbols of governmental authority such as court houses, archives, and administrative offices were looted and/or destroyed. Basic infrastructure like roads, bridges and hydroelectric dams fell into disrepair or became strategic targets for military operations. Rather than being a force for ensuring security and enforcing the rule of law, the government security services merely melded into a field of predatory factions, who looted and committed crimes against the Liberian population with impunity.

Pre-war customary and informal authorities also saw their relationships to those over whom they had held power change substantially. Chiefs and elders were frequently targeted for abuse, humiliation and/or killing by armed groups during the wars. Public displays of these abuses inverted the symbol of their authority, demonstrating that they no longer held a monopoly over the local institutions of violence (Utas, 2003; Richards *et al.*, 2005). Even those who were spared physical violence often had to flee their homes along with the members of their communities and settled in areas where their authority no longer necessarily held the same meaning. In addition, the collapse of government services and the removal of formerly powerful officials also led to the deterioration of patronage networks, as former patrons could no longer provide the same security guarantees, services or benefits to their clients.

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<sup>139</sup> Portions of this manuscript have been already published as Corriveau-Bourque, A. 2010. Confusions and Palava: The Logic of Land Encroachment in Lofa County, Liberia. *Canadian Journal of Development Studies*. 31(1-2):27-48.

<sup>140</sup> Presidents Doe and Taylor only controlled pockets of the capital city and the country at the end of their respective presidencies.

As a result, individuals sought protection and services from a wider range of actors; from the warlords who ruled pockets of the country, by joining armed groups as combatants,<sup>141</sup> by fleeing to neighbouring countries or areas within Liberia to live with extended networks of friends and kin. International organisations for humanitarian relief and/or peacekeeping also presented themselves as providers of security, shelter and basic services. Instead of relying exclusively on one of these alternative systems, I found that individuals often had extensive ties with more than one system. This was a strategic attempt to maximise their benefits by widening their networks of social relations. Participation or access to these other systems required individuals to construct and accept new identities to create a sense of social belonging based on the norms, narratives and social expectations of these alternate systems. These new systems provided opportunities for both empowerment and marginalisation, often contrasting with pre-war structures ‘idealised’ by present day authorities. For example, within these different systems women, children and youth could simultaneously embody multiple roles: as victims, aggressors, heads of households, dependents, vulnerable/marginalised populations, sex-workers/slaves, drug addicts, war criminals, community defenders, among many others (Swift, 1996; Utas, 2003; Fuest, 2008). Each of these roles came with access to certain resources (food aid, agricultural implements, war booty, access to sexual partners, physical protection, psychosocial counselling, drugs, household implements) and was laden with complex, often contradictory social perceptions of agency and power. For example, Ellis (1999) and Rincon (2010) argue that during the war, combatants became used to their ability to seize resources without having to face consequences from ‘traditional’ sources of authority and developed a sense of entitlement to these resources, which included land. Following the war, these opportunities social mobility and access to wealth have generally diminished (lack of jobs, stigmas attached to wartime roles), leading to considerable disillusionment (Utas, 2003; Hill, Taylor & Temin, 2008; Rincon, 2010). Many former combatants, especially women, have struggled to

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<sup>141</sup> The term ‘combatants’ is misleading as many of those demobilized during the two DDR programmes were not necessarily fighters in the armed groups but may have served as porters, cooks, sexual partners to those who fought. Participation in groups could be the result of both coercion and voluntary will.

reintegrate into society, which often expects them to resume pre-war roles which they felt had marginalised them (*Ibid.*)<sup>142</sup>

The longer individuals were exposed to and depended on these alternative structures, the weaker the bonds became with pre-war relations (Unruh, 2009b). This prolonged estrangement was further accentuated by the emergence of an entire generation of individuals who grew up knowing little else than these wartime structures.<sup>143</sup> According to the World Bank, in 2009 forty-three per cent of the Liberian population was under the age of fourteen, meaning that a significant proportion of Liberians were not even born or were young children when Charles Taylor first became President in 1997. This means that an even a larger proportion of the population is too young to remember a time before the start of the first civil war in 1989.<sup>144</sup> No matter which roles individuals adopted for themselves or were forced upon them during the war, the pre-war idealised hierarchies of power would no longer apply in the same way. Also, many of those who were in positions of power, who had the legitimacy to claim positions of authority before the war, have since died.

The control over symbolic, economic and social capitals had been de-concentrated from pre-war sources of authority and spread across a much larger field of actors. For the most part, in the seven years since the end of the fighting, pre-war authorities have not been able to recapture control over these capitals and the bonds that tie them to their constituents remain weak. I observed that the extent of weakened pre-war institutions varies spatially as the customary authorities in more remote communities face fewer challenges from alternative actors and have been able to recapture much more of their former authority and legitimacy. In areas where competition for land is high and where customary law no longer holds the monopoly over legitimate force, individuals have begun to seek alternative ways to ensure their tenuous land claims.

In the seven years since the war ended, Liberians have mostly returned to their homes or settled in new communities. This chapter examines the way in which

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<sup>142</sup> In a survey of former combatants in Lofa County, nearly a third responded that they could conceive of conditions that would lead them to fight again (Hill, Taylor & Temin,

<sup>143</sup> After the end of the war in 1997, Utas (2003) noted that former combatants were hesitant to return to their former communities, and tended to rely primarily on war-time bonds, rather than returning to their original homes.

<sup>144</sup> There are no specific figures currently available.

individuals and groups are using these new networks and tools to assert claims over land, their labour and their identities within society. In particular, I trace the way in which the relationships that form the basis of pre-war tenure regimes are being fundamentally altered by both internal and external influences.

While the war served as a catalyst to accelerate the weakening of ties between individuals and pre-war authorities, these processes were in motion long before the first outbreak of hostilities. The actions of those who deliberately targeted symbols of pre-war authority were informed by pre-existing tensions and weakening bonds of trust and legitimacy (W.B. Murphy, 1980; Ellis, 1999; Utas, 2003; McGovern, 2004). What the war did was to provide opportunities counter and eliminate the enforcement mechanisms which had allowed pre-war authorities to perpetuate their control. It also created an environment where individuals were compelled to establish new relationships, decreasing their dependence on pre-war systems and symbols.

### **6.1 “Buy land? From who?”**

As argued in Chapter Five, the formal mechanisms for securing tenure claims are only accessible by an exclusive class of individuals who have both the financial and social capital to access that system. According to the state, any land that was not privately deeded belongs to the state. It rejects any form of ownership claim expressed through other evidentiary means. Therefore, if a community or an individual wants their claim to their lands to be formally recognised (and legally protected), they must symbolically accept the fact the state is the legitimate owner by purchasing the land from it and go through the process described in Chapter Five. It is on this point that the legitimacy of the state land tenure system is often questioned. Leaders in all of the communities where I conducted research claimed that their founders were present and ‘owned’ the land prior to the arrival of the modern state. Based on this logic, many customary authorities have refused to allow formal titling in the spaces under their control.

When confronted with the possibility of his community purchasing land from the government to secure their claims, one male elder in Voinjama District rhetorically questioned “uh, and how I will buy this land? Then we must buy from who?” He proceeded to provide a history of the community, explaining that his ancestors who had come to this area and “cleared the bush” to make the land arable and had built a rice-

kitchen. According to this logic, no other entity had the right to legitimately sell the land to this community and its *citizens* as they were already the owners. Therefore, according to their ‘traditional’ notions of making claims, what right had the government to ask for money for land that was already theirs?

This sentiment was repeated regularly in all of my field sites, even in communities that had allowed formal titling to come in. There was an overwhelming perception in these localities that “government don’t know land business,” to use a phrase that came out of several interviews on the subject.<sup>145</sup> The feeling that government policies did not reflect local needs, nuances and realities was omnipresent.

As mentioned in Chapter Five, many officials and civil servants working in land-related positions had an equally dim view of people who did not acquire formal titles, chalking their lack of participation within the formal system to ignorance. One senior civil servant working at the county level explained to me:

I think I told you something earlier as to the ignorancy, is partly responsible for this [the failure to purchase land from government]. One, some of the tribal authorities think that they are not even supposed to buy the land, because they feel that they are custodians [of the land]. Like for example [gives name of a town], that’s where I’m from, we have tribal boundary with Voinjama, [...] and other towns around us [...] while the land is within their [the elders]’ jurisdiction, *they feel like the land it is for them*. (Emphasis expressed by respondent.)

Even though the civil servant uses the same terms to describe the disjuncture as the elder mentioned earlier, the logics upon which they assess the situation appear to be unintelligible to the other, and consequently they each claim that the other is ignorant.

However, assuming the local actor’s ignorance obscures the distinctly strategic nature of their actions. In addition to resisting formal titling on the basis of historical primacy of arrival, there is a distinct political logic to the denial of formal titles, especially with regards to the provision of individual deeds. In several customarily-administered communities, property can be individually held through the presence of permanent structures or crops (*live tree*). However, even with these individualised claims, the land and the individuals are integrated into a fluid system resource access and social obligation as described in Chapter Five. Within these systems of customary tenure,

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<sup>145</sup> Even a high ranking government official from the Ministry of Lands, Mines and Energy admitted this to me when his colleagues were out of the room.

the use and transfer of land remains tightly controlled by the institutions that allocated it in the first place. If the farmer left or lost their rights as a *citizen*, “the land stayed with the community,” no matter what was planted on it (Interview with Mandingo Elder in Quardu Gboni, 2009). They and their children would always be entitled to a parcel (not necessarily the same specific one) if they ever returned.

In a similar approach, an elderly Kissi woman in Foya District explained that an owner of trees is not allowed to transfer his<sup>146</sup> land to someone who has not been brought into the fabric of social relations that structured the community. The owner can grant a *non-citizen* permission to plant rice on it, but not to own it. Allowing someone who was not bound to local norms and rules to own land would be to abstractly remove that land from the community’s present and future systems of production, “because children tomorrow may need it.” Removing land from this system would weaken it, not only from a productivity perspective but also remove critical social and human capitals from the system’s realm of control.

The jealous guarding of land resources stems from first or second-hand experiences with the consequences of land alienation. In every district I visited for my research, I was told stories where an individual (*citizen* of the town and/or *strangers*) had purchased large tracts land from the local authorities (then bought it from the government) and removed it from local systems of production. The resulting scarcity of land had produced food insecurity and increased competition for increasingly limited land resources, a source of social discord.<sup>147</sup> One elder from a town near Voinjama City went as far as to suggest that it was the introduction of individual private titling that was the local source of the war:

Our lands (no longer) safe, because government now can give it to anybody, anytime, that give them (the government) money. First time, it was not so, we not buying land. That purchasing land thing bring the trouble and this war here.

With a deed, the owner’s right to the land is guaranteed by statutory law, rather than local authorities. Enshrined in these formal rights is the ability to transfer it to anyone, even someone with no ties to the local community. In addition to the land’s legal

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<sup>146</sup> In this particular community, only men could own land, trees or buildings.

<sup>147</sup> Blaming scarcity of land for food (especially rice) production exclusively on title deeds neglects the tremendous impact of privately owned permanent crops, as discussed in Chapter Five.

removal from customary jurisdiction, a formal title also has the potential to symbolically excise the parcel from the community. A land owner with a formal title has the legal prerogative to refuse anyone access to their land. They even have the right to not put the land into productive use. The formal court system and police can be called upon to defend these rights against counter-claims. However, Chapter Seven will establish that even formal land claims can be made insecure through social pressures and informal coercive mechanisms.

Privately deeded land not only has the potential to remove the land from collective systems of production, but also has the potential to remove the owner's labour. I observed that some private holdings with cash crops can sustain a family, allowing them to reduce their dependence on tight localised relationships which alternatively serve as economic and social safety nets. In the tightly controlled systems where power over local resources is concentrated on customary authorities, these authorities have the ability to require all members of the community to contribute labour and a portion of their harvests for 'communal purposes.' Notions of social belonging are tied not only to claims on the land itself, but those claims are tied to notions of broader social responsibility. Within these systems, one's rights to access land are linked to institutions of civic participation such as labour on communal rice farms and the contribution of one's output (rice, palm wine, oil and meat) to lineage heads. If the social ties between private land owners and the community where their land is located are weak, private owners can refuse to participate in communal activities or deny the community part of their harvest. The spatial or social separation of the private owner from that community can limit the impact of localised sanctions, therefore weakening the ability of local authorities to exert their power over that individual and their land.

Therefore, the erosion of customary authority through the expansion of land titling has resulted in strong perceptions of tenure insecurity, a process hastened by what is perceived to be a diminishing legitimacy for customary claims by younger generations who have access to alternative narratives and power structures.

## **6.2 "These human rights are ruining our lives"**

Private titles are not the only limiting factor on the power of local authorities. As previously mentioned, during the war women and youth were exposed to a wide range of

opportunities and tools with which they were able to return to pre-war communities and challenge pre-war power structures. Within the pre-war systems, power was tightly concentrated on a few individuals and local authorities had a wide arsenal of enforcement mechanisms at their disposal to ensure compliance with their rule. Failure to participate in communal activities to the satisfaction of local authorities could lead to a range of sanctions including fines, denial of access to services in the community, being cut off from their own homes and farms and enforced shunning. One Mandingo elder in Quardu Gboni explained that according to local rules, failure to participate in community activities or follow laws could lead to a person “not being allowed to cut palm or making farm on communal land.” A Loma elder in Voinjama City described that in the pre-war days, defiance of local rules could lead to the use of “corporal punishment.” He explained:

We [would] have you bound! We have shackles, you know that thing like cuff. They lay a little piece of log down and put you on that cross and nail you up and you are put there until you comply. You will lay there until you come to yourself. Sometimes if we can't put you on the cross, we can say go over there and do some hard labour for the elders on their farms. You go sometimes three-four days. Labour, that your punishment.

The abuse of these means of violence to maintain social order has been reported to have been a significant mobilising factor for youth joining armed groups in the first place (Utas, 2003; Richards, 2005). Ultimately, failure to comply with local rules could lead to loss of *citizen* status and the rights to local resources to which one is entitled with that status.

In addition to the weakening of these institutions of power during the war, there is an extensive campaign being waged by the government and NGO community to eliminate localised coercive mechanisms. These campaigns particularly target the practice of *sassywood*, a form of ‘trial by ordeal’ which is described by Isser *et al.* (2009) as a means used to elicit confessions from suspected offenders through the feeding of poisons or the placing of heated farming cutlasses on the skin. These coercive practices have been criminalised through law using human rights as its basis.<sup>148</sup> While the continuation of these practices of physical coercion are rumoured to still continue, they

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<sup>148</sup> Government attempts to eliminate localised coercive practices is not a new endeavour. A court ruling from as early as 1940 declared ‘trials-by-ordeals’ as illegal and unconstitutional.



have been driven out of the public realm and would be difficult to identify as an outsider who is often associated with these ‘foreign’ rights-based discourses.

Therefore, instead of trying to identify physical violence as an indicator of these institutions’ strength, I measured the dominance of local authority through the availability of divergent views expressed by local populations, a method that has been used in other post-war contexts (Woods, 2006.) In sites where local authorities were dominant and tightly controlled the means of violence and the means to produce dominant narratives, limited space existed for the expression of public dissent. I found that in the sites where local authority was weak, elders and chiefs would frequently complain that human rights, women’s rights and child rights constrained their ability to ensure order and residents were more likely to criticise their leaders.

In fact, very few of the communities I visited have been able to construct the authority necessary to restrict dissent and ensure compliance in the post-war period. I only encountered these in remote locations in Voinjama, Foya and Quardu Gboni Districts that had limited presence of government or NGOs.<sup>149</sup> It was much more difficult to elicit divergent opinions and perspectives in these more isolated communities as compared to ones closer to ‘official cities.’ And while the dichotomy between strong and weak systems of authority lacks the subtlety sufficient to describe the different ways power was expressed and contested in these sites, I found that there was a noticeable shift in the way both authorities and residents spoke about power relations and the expectations and rights that constituted *citizenship*. In the ‘strong’ systems, generational tensions were routinely denied by both elders and youth respondents, despite the fact that youth respondents explained that they (the youth) were rarely given permission to participate in substantive decision making processes, the reasons for which are discussed in the next section. In these sites, local hierarchies of power were clearly defined and their legitimacy was not openly contested.

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<sup>149</sup> I did not come across any such communities in Salala District, though I was not able to go as far from the main road in that district as I was in the others.

One elder in a community where customary authority was weaker succinctly expressed that “these human rights are ruining our lives.” His sentiment captured the frustration regularly confessed to me during interviews with individuals in positions of authority. According to Isser *et al.* (2009: 85), “‘human rights’ [...] is becoming a dirty word to a broad spectrum of Liberians, viewed by a growing number as complicit in the aggravation of social tensions.”

A Town Chief with who I spoke in Foya District detailed this tension with the following:

Human rights have caused many youth to become very frisky and argue with the elders. When the elders say to do community work, the youth say ‘human rights – my father left me my own farm and I will work there. I don’t work for you.’

He explained that in the old days if you refused to do community work in his town, “Your own house, you can’t enter, your own cocoa, you can’t enter. We [would] take them to the authorities and we lock them up. After they come back, they will participate.” Now the chief described the situation as “if you take them to the authorities they [the police] will say ‘human rights’ and ask to show love.” Because of the fear of sanction from the government or retribution through extra-legal means,<sup>150</sup> he admitted that he can no longer dole out punishment. He sunk into his chair and sighed “I don’t exceed my limitations.” This inter-generational tension was palpable even in Salala City where youth are more actively incorporated into local decision-making and conflict resolution mechanisms.

During the wars, individuals were exposed to Western human rights, women’s rights and child rights narratives while living in displaced persons camps or during the disarmament, demobilisation and reintegration programmes for former combatants. Human rights discourses were then appropriated as a tool with which these groups could assert themselves in spaces in which they had previously been marginalised. In the context of land relations, notions of ‘human rights’ have been largely appropriated to claim compensation for labour and having control over the product of their labour. One youth in Salala District explained his interpretation of labour rights:

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<sup>150</sup> Many elders are afraid of ex-combatant youth who disregard ‘traditional’ authority structures (J. Moore, 2010).

its not like you people from the west who respect labour a lot, unlike we Africans, especially Liberian that much, we do not have too much respect for labour, but you from the west, you believe in labour. You respect it. If I took your bag from here over there, you would want to give me compensation. Because you feel that I have (done) labour, and you feel that you should respect it because you see that some level of energy have been burned (and) so should be replaced.

Within this framework communal obligations are seen as infringing on individual rights. According to youth respondents, labour is generally seen as an individual resource which can be used for personal financial advancement while the social bonds that are created through unpaid labour are seen as having less value. This comes into direct contrast with Currens (1976) pre-war observation that no Loma *citizen* would accept paid employment to do agricultural work on a fellow citizen's farm.<sup>151</sup> Only *strangers* of the community could be hired. This notion is clearly being renegotiated. The tension over the control of local labour is strongly linked to the history of abuse of youth labour in Liberia's rural areas by local elites, abuses which have contributed to the pervasive inter-generational distrust in Liberia. Even though the dominant pre-war systems maintained strong social bonds between members of the community, the stability of these systems was derived from negative forms of social capital such as the threat of social sanctions, physical coercion and the suppression of dissent, undermining the legitimacy of those who controlled it (Yoder, 2003). Ellis (1999) argues that these systems contributed to the flight of labour to coastal plantations and Monrovia prior to the war.

The challenges facing these communities are to find ways that labour can be mobilised, resources can be allocated and rules enforced within a normative framework viewed as legitimate by all actors. Previous tools for managing resources and social relations have been eroded and replaced (among some sectors of the population) with an alternative framework that values individual rights while neglecting social obligations to the community that would guarantee those rights. This is not to suggest that local authorities are entirely not able to enforce rules, allocate resources, mobilise labour and manage social relations, only to highlight the significant difficulties that these systems are facing in constructing new, legitimate, social contracts.

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<sup>151</sup> Currens does not elaborate into the nature of this trend or provide a broader context for the existence of this norm.

Another point of internal tension is the changing norms relating to gender, as I discussed earlier in Chapter Five. Women have also been able to appropriate rights-based discourses to assert their claims to land, particularly through inheritance. Recent legislation has mandated that women be given the same inheritance rights in customary systems as in the formal system (MoFA, 2003). Integrating women's claims to lands has been much simpler in spaces that can be individually partitioned (*i.e.* lands that are formally titled or in the process of deeding); therefore, the use of this tool was more common in Salala District and near Lofa County's 'official cities' although even in these spaces, women could be denied claims. However, a formally educated woman has a greater ability to access land, as they are considered to be *civilised* in the eyes of local authorities and therefore a separate social category from an uneducated woman (Moran, 1990; 2008). With literacy, they are also better equipped to navigate the formal land titling system. In spite of the law and the possibilities for social mobility through formal education, some customary authorities have refused to allow women to individually claim lands. In some cases they have been able to claim trees or are able to access land to make *rice-farm*, however, the lands themselves remain managed by their *uncles* or brothers. One elderly Loma woman in Voinjama District outlined her options which were typical in my field sites:

The reason I say it for me, any time the quarter elders or the people in this quarter go to survey their village, that spot will be for me, I will tell them. Then I will survey. I will tell the elders that I want my father's spot, if they agree, they give me the place, I will go ahead and survey the place and do some development. If they say 'well you woman, we can't give you the place', then I will leave it, because [I am a] woman. That my fathers [the elders] there anything they say, I will agree. [...] If I was man, there no question that property for me. But because I woman, if they don't give me the place [trails off]. [Translated from Loma by VK]

A middle-aged Kissi woman in Foya District also confided her sense of powerlessness when it came to land issues: "tomorrow when my pa dies, the land it will go to my brothers. If we (the sisters) go and ask they can give. If they don't want, we leave it [don't press the matter further] because we are women."

These examples demonstrate that even with new tools with which women (and youth) can assert their rights; they must still overcome significant structural obstacles

that maintain the pre-war relations of asymmetrical domination. For instance, I was reminded by youths that local authorities still have tools in their coercive arsenal. Poor relations with local authorities can result in denial of access to communal resources and to the denial of the signatures required on Tribal Certificates to formally title land.<sup>152</sup> The sanction that appears to be most important to youth respondents is that they can be denied the mobilising capacity of the community to fund their education. In addition, filing a formal complaint with the police or in a court for ‘human rights’ abuse requires financial capital and/or political connections. The concept that a woman or a youth can openly question or challenge an elder or an authority is still highly contentious as it violates the norms of gerontocratic deference in these communities, making effective communication between the divergent parties difficult.

Ultimately, rights-based discourses have become tools with which individuals can choose to renegotiate, and often reject, their relationship to authority. These discourses also provide a lens into the way in which individuals have begun to draw on wider networks of capital for support while simultaneously weakening their association with local institutions of social bonding.

### 6.3 Valued knowledges

In addition to human rights discourses, the accumulation of positional *civilised* capitals, as defined in Chapter Four, has played a significant role in challenging pre-war rural hierarchies. Formal education, referred to in Liberian English as *book learning* or *book knowledge*, is generally seen as the pinnacle of acquired *civilised* capitals. Academic achievements are celebrated not only in recognition of the hard work required to reach them, but also as a promise of future return for both the individual and the community which they represent.

Having *book knowledge* is seen as an invaluable tool to access formal employment and as a catalyst for upward social mobility. Ellis (1999) suggests that even before the war formal education was pursued primarily for this latter goal, so that an individual could become *civilised* and therefore assume status of citizen of the Republic. With formal education, a young person would no longer be confined to the channels of

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<sup>152</sup> Alternatively, poor relations can result in an expected increase in *kola* costs for the process.

personal advancement which were tightly controlled by elders and lineage leaders (*Ibid.*). Even without education, military service and migrant labour became sought-after avenues to escape the domination of these authorities (*Ibid.*) With sufficient independently accumulated wealth, a person could return to their home communities and pay marriage dowries without indebting themselves to local elites. By acquiring the rights of a citizen of the Republic they became eligible to purchase lands from the state. Having *book knowledge* is therefore a key ingredient<sup>153</sup> in being able to cultivate the social networks with political actors and acquire sufficient wealth to purchase and privately deed land.

In fact, *book knowledges* are intricately associated with the local histories of land dispossession. In every district I visited, I heard stories of both *strangers* and *citizens* who came with *book knowledge* and “took away” local lands (Interviews in Bong and Lofa Counties, 2009). The following is only one of many examples I heard:

In the past a [...] man with book learning came to the community and married a local girl. When he approached the local chiefs to sign his tribal certificate they did not know what 150 acres was so they signed it. Today the [remaining] land is too small for the town. And the [...] man does not allow people to even plant rice on his land. The children of that village want the land back but now it is legally impossible. Now only way to acquire it is through buying land from the man. (Business owner in Foya City talking about his home town, also in Foya District)

The stories suggest that when titles were first introduced, local authorities lacked understanding of the symbol represented by the Tribal Certificate and Title Deed. The interactions were instead interpreted by authorities as an extension of the *stranger-father* institution with an underlying assumption that the authorities would retain control over those resources. While this narrative certainly has roots in actual past events in Liberia, the ‘ignorance hypothesis,’ that local leaders were duped or misled by better educated individuals, needs to be examined more closely within localised contexts. The dominance of this narrative obscures the agency of and many of the individual gains (of land, *tokens*, establishing personal and trade relationships with government and mercantile elites) of the authorities who happened to be in power at the time of land transfers.

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<sup>153</sup> Non-formally educated individuals can also acquire formal titles, but have some structural obstacles to accessing the system (*i.e.* the inability to read).

This popular narrative is repeated throughout the country and is used to delegitimize the claims of formal landowners in rural communities that are facing land scarcities, the impacts of which will be discussed in greater detail in Chapter Seven. However, having an educated individual as a member of the community is also seen as a critical tool to resist encroachment by external forces on community resources. The businessman from Foya District went on to add that “now it is difficult for chiefs to do that [give land away] since in every village there are at least two-three boys with book learning.” A central notion conveyed by this narrative is that formal education is a weapon that can be wielded by those removed from local moral bonds to usurp resources from ‘indigenous.’ However, it is equally seen as a means of defending local interests. Because of their knowledge of the formal system, they can be called upon to advise on essential decisions (such as whether to grant Tribal Certificates to a petitioner) or establish relationships with civil servants, patrons or political actors on behalf of the community. In short, their formal education gives individuals more legitimacy to speak in circles that may have once excluded them.

These changes in social status have muddled the entrenched hierarchies of the dominant pre-war systems discussed in Chapter Five. The widely perceived inability of those with *country* or ‘traditional’ knowledge to protect local interests has also undermined the legitimacy of many of the authorities that control ‘traditional’ symbols. The power and relevance of those very symbols and knowledges (oral histories, esoteric spiritual knowledges, notions of custom and tradition) upon which their power rested no longer hold the same significance or meaning for a new generation. Ellis (1999: 217) remarks that even before the war the

[p]ositions of power and authority in ‘traditional’ society dominated by the chiefs who claimed to represent the pure tribal culture were unattractive to members of the younger generation who found education an alternative source to advancement. This considerably diminished the grip of chiefs and elders on rural society.

My discussions with youths (even those who were illiterate) confirmed this trend. They often showed little interest or even disdain for elders, especially those without formal education. One young respondent who said he did not want to participate in communal labour in Voinjama District explained that he did not listen to authorities because “that old man there, he uncivilised [...] he don’t know anything. He don’t have car, he don’t

have no money, he just sitting.” While his statement may have been fuelled by a particularly antagonistic relationship with local leaders, his words reflected a common sentiment that ‘traditional’ knowledges are useless to an individual seeking to advance themselves financially and socially.

Youth are not the only ones to perceive the social distance between those with *book knowledges* and those with ‘traditional’ knowledges. When I spoke to a group of elders in Foya District one commented that “When a young man goes to school, when he come back he may not trust as much his brother or his father, he may say they are not civilized.” Another added that “some youth know where they come from and are ok, others think they the old man does not know anything, especially if he does not speak English, they will not look for an interpreter.”

In Chapter Three, I established that an authority derives its legitimacy from a client’s perception that the capitals the authority controls are valuable. People also confer legitimacy on the basis of their perceptions that authorities and the system that the authorities represent can provide benefits (such as secure tenure) to members. These anecdotes reveal that the symbols from which customary authorities once derived their legitimacy are increasingly being viewed as less valuable than those which individuals are able to access outside of the customary system. While chiefs and elders retain control over the allocation of local land resources and funds to access formal educational opportunities, youth increasingly seek to reduce their dependence on these institutions by moving to cities, seeking out alternative channels for social mobility or by challenging authorities’ legitimacy to impose rules upon them, their labour and their property. These pressures further weaken customary land tenure systems and risk intensifying the cycle of inter-generational conflict.

### 6.3.1 Hierarchies of Knowledge and the Role of Poro and Sande Societies as Institutions for Deepening Social Bonds

An effective way to evaluate the level of influence still held by pre-war dominant institutions of power is to examine the way people discussed the Poro and Sande



societies which are powerful symbols of ‘traditional’ knowledge and authority.<sup>154</sup> These institutions have underpinned local power structures for generations (W.B. Murphy, 1980; Bellman, 1984). These societies are far from homogeneous across Liberia or even Lofa and Bong Counties in their rituals and practices. In fact localised bonds of identity are often based upon these localised practices and bonds of membership (Harley, 1941), meaning that evaluating their dominance in a particular can reveal tensions and trends for change. Due to my uninitiated status, I was unable to participate in or witness these systems in practice so my investigation focused primarily on the ‘visible’ social role of these institutions. I am dependent on the work by Harley (1941), Murphy (1980) and Bellman (1975; 1984) for further insight into the workings of these societies even though their work preceded the upheavals of the civil wars. These institutions serve multiple purposes, many of which are beyond the possible scope of my investigation. However, the fundamental social function of these societies is an aspect that initiated seemed comfortable enough to openly share with me. As such, a few of these roles were described to me by a societal elder from Foya District who claimed to be a member of Poro:

We call it African bush school [referring to both Poro and Sande societies], okay? Its purpose is for you to know, to be completely taught how to respect elders, how to behave well in community. And then you will learn trade, like weaving mat, [inaudible]. It just to have you train for lifetime. Like they say in Europe, if a child goes to school, to learn to know about himself and the world, but the same thing is here. So here in our African bush school, you learn everything that you are supposed to do in your future. Then beside that, recognition to be kin, so if you are member and I am member anywhere we meet, you are highly welcome by me or I’m highly welcome by you. So there will be recognition. That is the purpose of the society.

When I asked him to elaborate on the kinds of obligations members have towards one another he replied:

As you are taught, that is how you approach him, if it is herbalist, you know how to approach the herbalist. How to shake hands, how to bend, how to go down – if he is older than you, you don’t just stay erect and greet him, you know you greet him ceremonially so that he will know that you are well-trained. [ACB: What is the responsibility of youth within

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<sup>154</sup> Poro is accessible only to men while Sande is accessible only to women. Harley (1941) and Ferme (2001) however mention that some Poro societies can include specific women, who have unique roles within the sodality and ritually become men.

this society] That's schooling! You have to go to that school and learn for your own future. That all the purpose of the youth. Because it is the elders that will impart what they have learned to you too. That their purpose of going there.

Discussions with several other individuals who claimed to be members, and even zoes, of Poro and Sande societies confirmed that these institutions' primary function is the training and initiation of young generations as to how to be complete members of society. In fact, according to Harley (1941), the initiations often symbolise the death of the child and re-birth of a young person as an individual bearing adult *citizen* status. Prior to initiation, a person cannot be included in important discussions "as [they] are not considered trustworthy" (Bellman, 1984: 8). As 'complete' members of society, they were expected to behave in accordance to local norms and rules, which includes deference and respect to elders, and be able to sustain themselves and a family. The process, which in the past stretched over several years, is designed to imbue a sense of social responsibility and discipline within the existing hierarchies while also facilitating the generational transfer of knowledge.

However, throughout my stay in Liberia I was told regularly by those who claimed to be initiates that the sodalities had become a shell of their former selves. Due to constraints on time (so that children could attend formal school), the *bush schools* lasted only a few weeks or months at the most. According to respondents, the societies still maintained their functions for social initiation, but lacked the time to instil discipline, respect, or to imbue initiates with distinct moral ties to a particular community. In addition, the societies have faced increased competition from alternative sources of spiritual fulfilment and social belonging, namely Christianity and Islam. While both religions were present before the wars, displacement to other countries and communities and the provision of humanitarian assistance by religious organisations inevitably exposed people to a wider range of alternatives.<sup>155</sup> My rudimentary understanding of the societies suggests that practices are often tied to specific objects and sites. I speculate that participation in Poro or Sande activities in another community would therefore require being initiated anew, not necessarily as an adult, but as a

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<sup>155</sup> Utas (2003) suggest that Pentecostal Churches played a significant role in post war ex-combatant reintegration, attracting members who sought forgiveness for their war-time acts and wished to reintegrate into their communities.

member of that specific community's society.<sup>156</sup> As I will discuss shortly, participation in these societies is strongly tied to localised bonds.

Financial considerations are also affecting membership. One initiate in Foya District explained that "it's all money-business now," and that it had become too expensive to participate. For this reason he did not want to allow his son to join. It is well-recorded that to become a member and to advance to different levels within the hierarchy (and become privy to more exclusive knowledges) one must provide significant payments (Harley, 1941). More telling though, is the observation by a Sande zo in Voinjama City that no young girls had been brought to her in several decades to train<sup>157</sup> to become a zo. She explained that she was afraid what would happen to her knowledge when she and her also-elderly fellow-zoes died. A Poro zo in Salala District also indicated that fewer young people were being taught *zo-business* than in the past, but refused to comment as to the number of young trainees. Whether this would have an impact on future intra-community land relations remains unknown; however, in the past a community's power and rights to land with relation to their neighbours had been determined by *zo-business* (Bellman; 1975; 1984). According to Bellman, these institutions played a significant role in managing boundary disputes between communities. Whether these roles remain relevant today is beyond the scope of this research; however, if their ability to construct social ties within communities and manage conflict between communities has diminished, this means that there is a significant institutional vacuum that would need to be filled. Based on my observations, there is no single consistent institution in Liberia that has the capacity to consistently and legitimately perform these critical functions. What these findings do demonstrate is that the value and role of these institutions is being reassessed. Further studies would be needed to truly understand to what ends these institutions are being transformed.

In spite of this transformation in these institutions, membership in the (local branch) of the society appears to remain a critical, but increasingly contested, bonding ritual to establish one's status as a *citizen* in a town. In fact, it is on this point that many

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<sup>156</sup> The rank of individuals with high status will be recognised in other Poro societies and due respect is given. Bellman (1984) adds that Poro societies which are geographically close may share certain *medicines*.

<sup>157</sup> To become a zoe, one must be brought to a *diviner* as an infant, who can determine whether the child is endowed with specific spiritual properties.

Loma reject the rights-to-land of their Mandingo neighbours, arguing that as Muslims, the Mandingo<sup>158</sup> are not privy to the *secrets* of a particular community and do not understand their traditions, as they have not been “brought into the bush” and are therefore “*strangers*” (Interview with Poro Zo in Voinjama District, 2009). Though dual membership is possible,<sup>159</sup> one old Mandingo man in Voinjama City assured me that he was both a devout Muslim and was a member of Poro, it is not commonly expressed in public as it is strongly discouraged. An Imam with whom I spoke with equally assured me that dual membership was not possible, that “true Muslims do not get involved in that devil thing.”

Regardless, the exclusivity of the initiation process into Liberian societies is designed to establish tighter bonds of social trust. According to Bellman (1984), the sharing of secrets is a tool to create a tighter community identity and to be able to assess who is a member. He argues that the content of the secret itself is secondary to its metacommunicative element, in that the sharing of a secret comes with implicit rules and norms. In joining Poro or Sande, an initiate is taught how to keep a secret and the consequences of revealing them in inappropriate contexts. In particular, the process determines the ‘right-to-speak’ on particular issues and in certain contexts, patterns which are replicated beyond the confines of Poro and Sande. For example a woman would not be able to participate in a discussion on topic reserved only for men (and vice-versa), youth are unable to speak of issues reserved for elders and non-*citizens* prevented from participating in situations in which only *citizens* are allowed. Violating these norms comes with penalties, given in accordance to the gravity of the crime, which help to reinforce these hierarchies of knowledge access. According to respondents, revealing *society* secrets to a non-initiate could result in death for both the revealers and the uninitiated receiver of information.<sup>160</sup> In lieu of death, I was told that exposure to society secrets could lead to forced initiation, a fate many non-initiated Liberians greatly feared.

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<sup>158</sup> Not all Mandingo are Muslims and not all Muslims in Liberia are Mandingo, but the identities are often conflated by exclusory nationalist discourses. For example, a man I interviewed who identifies himself as a Loma and a Muslim, was described by a Loma neighbour as a Mandingo.

<sup>159</sup> Many respondents in Foya, Voinjama and Salala Districts openly identified themselves as Christians and members of Poro society.

<sup>160</sup> Bellman (1984) noted that content of the secret itself was not necessarily what was protected, for example an initiate could teach a non-initiate how to make a specific medicine, as long as the initiate did not reveal that the medicine was part of the society’s repertoire.

This mechanism had a dual impact on the structuring of land tenure in central and north-western Liberia. The first impact was to create a sense of social responsibility among initiates to their community, a responsibility to which they are perpetually bound. As such, they are entitled to the protections and benefits of membership. The second impact was that a tightly controlled hierarchical network of membership was formed through which non-initiates would be easily identified and always viewed as less-trustworthy. As such, those with a lower rank would be less entitled to positions of power, rights to express themselves or rights to community resources, such as labour and land. According to respondents, initiates in various societies would support each other in the resolution of disputes or give preferential treatment to a fellow member if they were in a position to mediate or arbitrate a dispute. The threat and use of physical punishments and death derived from the esoteric of *societies* to control non-initiates and lower-level initiates<sup>161</sup> had been a cornerstone of elder power prior to the war (W.B. Murphy, 1980; Ellis, 1999; Yoder, 2003; McGovern, 2004). However, during the war, many ritual sites of the Poro and Sande were pillaged and ransacked by non-initiates and the secrets shown in public, diminishing their perceived power. In an interview with an elderly man who claimed to be a Poro member, he explained that,

[non-members] used to respect that culture. They used to give full respect to that culture. But after the war now, everything was devastated. Nothing was intact, everything was brought to light, society things were brought to light by the war. So therefore after the war, people begin to say, to make remarks to say ‘well everything I know already in the war, so there no reason to me giving respect to that!’

In addition, the influx of alternative religions prior to the war, the scale of social dislocation during the war and the shortened period of training and knowledge transfer has caused this defining aspect of community *citizenship* to be increasingly contested.

Beyond the institutions of Poro and Sande, the generational transfer of knowledges of place, or the oral histories of specific communities, is also being eroded. After having completed a two hour session with a Loma elder whom I was told was the expert in local history, he remarked that the only people who were interested in these stories anymore were journalists and academics, that the young people did not value his knowledge anymore because he didn’t “know book”. A Mandingo elder who I spoke to a

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<sup>161</sup> There are several levels of access to knowledge within the Poro and Sande.

few days later made a similar comment. To confirm whether the transfer of place-based knowledge was occurring, I asked my younger respondents if they knew the histories of their particular communities. A few respondents could give shortened versions (as compared with those I obtained from elders from the same communities), when I pressed them for details, they suggested that I speak to the elders, saying “I can’t tell you about a thing I don’t know.” Youth respondents generally appeared to be well-versed in the iterations that dominate the national narrative, particularly with relation to the perceived *strangerhood* of the Mandingo ethnic community. These narratives neglect often extensive localised histories which would reveal nuance on the complexity of ethnic identities in Liberia.

In terms of social capital, the decline of institutions that transfer ‘traditional’ knowledges presents several potentially destabilising trends. As historical narratives are homogenised, the points of inter-community differentiation become starker while at the same time constructing common symbols with which members of these differentiated groups can identify. Politicians and warlords have been able to capture these points of inter-community differentiation for their own political gain and thus raise the stakes of political competition. By obscuring the complexity of past historical interactions, these narratives can also be used to deny individuals their plural identities and rights to land resources. While new forms of ‘tribal’ solidarity are being constructed at a regional and national scale, moral ties between individuals within towns and villages are weakened by heightened distrust among neighbours and deterioration of the symbols upon which local land tenure systems construct norms for resource access rights.

## 6.4 Conclusion

Just as the country is seeking to rebuild the physical structures that were destroyed during the war, it is also in the process of rebuilding the social relations that define and bind it. However, even though pre-war structures of authority remain the most relevant for local governance, their legitimacy and capacity to regulate social relations, regulate access to land and mobilise labour is increasingly being challenged through both internal and external pressures. The discursive trajectories found in the rural areas of central and north-western Liberia appear to be widening the gap between entrenched interests who want to hold onto ‘idealised’ pre-war institutions and a new generation of individuals

attempting to assert themselves and establish their rights to land and their own labour. Tensions are particularly emerging as formerly marginalised people struggle to reconcile their war-time identities and expectations with post-war realities and social pressures. In this tension, the bonds which define 'community' and the rights, entitlements and obligations tied to the access and use of resources are being weakened. I observed that the extent of weakened pre-war institutions varies spatially as the customary authorities in more remote communities face fewer challenges from alternative actors and have been able to recapture much more of their former authority and legitimacy. In areas where competition for land is high and where customary law no longer holds the monopoly over legitimate force, individuals have begun to seek alternative ways to ensure their tenuous claims. As a result, the mechanisms through which norms and rules are enforced for the maintenance of social order, or structural social capitals, no longer have the capacity to act in an effective and legitimate manner, undermining the rule-of-law and interpersonal trust.

## Chapter Seven: *Confusions* and *Palavas*: Disentangling the Logics of Land Encroachment<sup>162</sup>

“This land, it is not for you. It is for me.” This phrase or its equivalent is heard daily throughout Liberia. It captures the tension produced by decades of civil conflict, preceded by generations of divisively unequal power relations. Following the end of the civil war in 2003, Liberian tenure systems were in shambles. As discussed in Chapter Six, many of the institutions which regulated access and use of land based resources no longer had the legitimacy or the capacity to enforce rules or norms or to construct the moral bonds of group identity, which are central to a stable tenure system. This created an opportunity for individuals and groups who out of desperation, grievance or sheer opportunism (re)claimed land resources through the use of tools that they perceived would give them the strategic advantage or the *upper hand*. In this chapter, I examine how the various tools for asserting claims are being produced, appropriated and used by these strategic actors to secure existing claims or to justify encroachment on previously claimed lands. In particular, I assess the consequences that these strategies of claims-making will have in shaping the post-war tenure landscape and the impacts this will have on durable peace.

The result of competing claims is commonly referred to in Liberian English as a *confusion*. This is a form of dispute that has not yet escalated into verbal or physical violence, but which puts two parties at odds with one another and causes tension. It is typically characterised by the expression of a grievance in private to some form of authority, with the aim to investigate and find a mediated outcome. *Palava*, presumably derived from the English ‘palaver,’ for a discussion, is the public airing of a dispute. If the airing of the dispute is done within the appropriate context (*e.g.* an informal mediation),<sup>163</sup> it is not seen as necessarily disruptive. The act itself of making or bringing *palava* is seen as negative, but can be institutionally contained before the dispute brings social unrest. However, the term is more commonly used today to describe non-institutionally contained airings of disputes, especially when the exchange is

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<sup>162</sup> Portions of this manuscript have been already published as Corriveau-Bourque, A. 2010. Confusions and Palava: The Logic of Land Encroachment in Lofa County, Liberia. *Canadian Journal of Development Studies*. 31(1-2): 27-48.

<sup>163</sup> The site used to resolve inter-community disputes is called a *palava* hut.



characterised by either verbal abuse or physical violence. In post-war Liberia, *confusions* and *palavas* are particularly destabilising.

### 7.1 ‘Historical’ Pretexts for Land Occupation

In Chapter Six, I examined respondents’ claims that land acquisitions in the past had often been carried out without the full understanding and consent of the communities where the lands were located. The resulting perception of weakened local livelihoods and social bonds were therefore attributed to these contested titles. Such narratives that question the legitimacy of the present ‘owners’ claims are proving to be effective in mobilising efforts to (re)claim lands across the country, as noted not only through my fieldwork but also by the reporting of land conflicts in Nimba and Bong<sup>164</sup> Counties (Keneah, 2008; Malayea, 2008). These efforts undermine or even ignore the relationships (oral agreements or title deeds) upon which current owner’s base their tenure.

Assertions that the original ‘intention’ of the agreement had been corrupted by the offending party often accompany these narratives of ‘illegitimate’ land alienation. For example, the individual who had purchased large tracts of rural land may have promised to “bring development” to the community. If this land had remained undeveloped but inaccessible to others who might put it to use, or the resulting plantation failed to bring benefits perceived to be sufficient (generally defined as jobs), then this would be considered as grounds to revisit and invalidate past ‘agreements.’ Most of these ‘agreements’ were made informally so enforceability was dependent on the strength of the level of ‘trust’ between the parties without documentation as a ‘legal’ basis of proof. ‘Trust’ in this context is interpreted as both the ability and intention to deliver on the promise of development but also as confidence in the ability of the system to enforce the agreement.<sup>165</sup> A strong bond of trust therefore means that the community may enter the agreement ‘trusting’ that the individual will deliver on the informally-made promise while the individual trusts that certain sanctions will be imposed should they fail to uphold their end of the deal. However, bonds of trust are weakened when one of those

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<sup>164</sup> The case cited is from Sanoyea District, beyond the scope of my fieldwork in Salala District.

<sup>165</sup> As defined in my conceptual framework, trust in this context is interpreted as facilitating interactions through interpersonal trust and trust in the institutions that enforce it (structural trust).

actors has the means to remove themselves from obligations of the local agreement. Instead, landowners with a deed can turn to the state as a guarantor of their title claim.

The exact nature of past agreements is also a point of contention in situations where no formal or even customary document had ever been produced. A scenario that regularly emerged from my interviews was that those authorities who managed land resources on behalf of a particular community before the war had since died. The responsibility to uphold the pre-war tenure agreement thus fell onto the new generation of authorities. However, faced with increasing land scarcity, current poverty, or a dislike of the claimant based on pre-war and wartime grievances and jealousies, the new generation of management place themselves in a position to revisit the original terms of the agreement. I observed that new authorities often take advantage of this temporal rupture in the structural bonds between title holders and authorities to dispossess the claimant of their rights to their lands. The death of pre-war authorities has also been taken advantage of by land claimants. Knowing that a particular authority of land was dead and that other claimants were displaced, actors who supported the armed group controlling a particular territory often occupied lands (Unruh, 2009a; Rincon, 2010) claiming they had purchased the lands from the deceased manager of the holdings. Both manipulations have undermined broader confidence in the ability of tenure systems to protect claims and erode social trust between neighbours.

The renegotiation of past agreements is also occurring on a much wider scale, on the basis of identity. As mentioned in Chapter Five, those seen to be *strangers* at the local, regional or even national scale are seen as having no permanent rights to land. Since, according to the dominant narrative, Mandingo are considered to be *strangers*, their claims to land made by live crops, buildings or title deeds are now being questioned on the basis that as *strangers*, they would never have been allowed to establish a permanent claim in the first place. Based on this understanding, many Mandingo have been threatened to prevent their return to their pre-war communities. I visited three primarily-Loma towns where former Mandingo residents were still too afraid to return to establish their claims.

Two perceptions of encroachment are revealed within these tensions, revealing an overlap of potentially legitimate claims that are divided by a temporal lens. One group

perceives that their land had been physically and symbolically encroached upon in the past through unequal access to institutions and information. On the other hand, from the present ‘owners’ perspective, the challengers to their claim are reaching into the past and invalidating an agreement that had been based on some form of exchange, and mutual understandings of trust, rights and obligations. In some cases, one or neither of the current parties was present at the time of the initial transfer of rights-to-land. Temporal encroachment occurs when present-day actors revisit past agreements to invalidate previously-established rights. As this form of encroachment symbolically ruptures past social ties, it risks undermining the integrity and perceived security of tenure relations made within that particular system.

Narratives of historical dispossession are being used to mobilise force to take the contested lands, which is a highly destabilising exercise, even if the actions are based on legitimate grievances. At present, there are no institutions in Liberia that have the ability or legitimacy to process, mediate or arbitrate solutions to these conflicting claims in a consistent, judicious manner at the scale at which these disputes are emerging. The government, UNMIL and NGOs have targeted the area where land disputes are most likely to erupt in violence, Nimba County (Keneah, 2008), and thus far have been able to respond to crises when they flare up in violence (Inquirer, 2008; Malayea, 2008), but no institutions are in place to handle the volume of disputes throughout the country. Even if an institution to handle these types of competing claims were in place, it would have to navigate a minefield of politically charged questions. How far into the past is it feasible to restore claims? Will restitution be further destabilising to a highly unstable post-war environment? Also, on what basis of evidence is the legitimacy of one claim over another determined? I am not sure that it would be possible, much less feasible, to answer these questions in a consistent manner in central and north-western Liberia.

## **7.2 ‘Bringing Development’**

In addition to the historical basis for (re)asserting claims to land, the notion of ‘bringing development’ resonates powerfully as a basis for establishing a claim; however, what ‘bringing development’ exactly means is subject to multiple interpretations. In Corriveau-Bourque (2010), I demonstrated that the term ‘development’ has been appropriated to assert control over space, even if that assertion displaces or marginalises

a pre-existing claim. Groups and individuals are projecting their own interpretations on this necessarily vague term not only to establish control over specific parcels of land but also to expand the sphere of their system's authority. Because 'development' is generally accepted as a positive in Liberia, considering the extent of poverty and wartime destruction, its normative value is not the focal point of the debate. Instead, it is its varied interpretation that provides fodder for land encroachment. Parties within both customary and formal systems of land management have employed development-themed discourses as a mechanism to assert their control over disputed spaces.

For instance, several customary authorities argued that formal titles had the potential to hinder community development. One town chief in Voinjama District argued:

It can make the city dirty. Somebody buy land and not ready to build house they take it. And you poor man, maybe you got materials to build house but you don't got money to buy land, but now, you can't build it because the government say that land is for someone else.

The chief went on to explain that under "traditional law," claims on land are made by the ability of an individual to build on and make use of a particular parcel. The formal title provided by the deed, without subsequent use of the land was therefore counterintuitive and undermined the 'development' of a community by creating an unused space in a town. Such spaces are perceived as unclean due to the rapid overgrowth of "bush" that would occur on the lot. An ill-maintained space characterised by overgrowth was described by respondents using terms of wilderness, for example, "if the bush remain in the town, it becomes somewhat dangerous for the people in the town, because snake will come there and different thing will come from there and harm the people." The frontiersman mentality through which individuals and groups assert their rights over a particular piece of land through the suppression and development of the wilderness renders illegitimate the reservation of house-spots for previous owners. This development-based logic therefore provides a basis for the occupation of 'vacant' lands.

A chief from Quardu Gboni explained that those returning in the future would always be welcome, but would not necessarily have the same house-spot that they previously held:

so when this person (the former owner of that spot) come and he wants that spot, and that man has already build his house, it is the responsibility of the town chief to relocate him (...) that can also help to enlargen the town.

While this is a manageable approach in a smaller town or village with dominant system of authority and a smaller, more ethnically homogenous population, the situation becomes far more problematic when the particular parcel in question is a valued commercial or residential space in a city. The return of the former owner may be delayed by a myriad of factors, including their own sense of security, or their financial situation which is currently preventing them from rebuilding on a particular lot.

Whether to extend this logic of occupation to underused agricultural lands remains the subject of debate among several communities, particularly when it comes to claiming lands on which *live crops* have been planted. Due to the slow recovery of the coffee and cocoa sectors, there has been little incentive for farmers to clear the overgrown brush from their pre-war plantations, as a result some tree-owners have begun to clear some of their own tree crops for subsistence food production. In cases where the owners are absent or lack the labour/capital due to poverty, many of these lands are now being (re)claimed by other members of the community, either for rice production or to plant their own trees, often with the result of dispossessing widows or the elderly, who do not have the ability to manage their holdings. The lack of available labour is having a particularly strong impact on widows and the elderly, who have returned to their homes but lack the physical strength or the capital to re-cultivate their lands.<sup>166</sup> Younger respondents often complained that a great deal of potentially arable land remains unused in communities as those who control it are no longer willing to share it. Unruh (2009a), suggests that the use of 'development' to stake claims on land has had a significant impact on the lending and renting of land, as landowners fear that tenants will attempt to use improvements on lands as evidence supporting a permanent claim to the land that was being rented, violating the trust that made the land accessible in the first place. Others, who do not have sufficient social capital to access land, are taking matters into their own hands and seizing it by force, by cutting down another person's trees and planting their own seedlings or erecting buildings.

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<sup>166</sup> Alden Wily (2007) also notes that there is a labour shortage in Liberia's rural areas, but does not elaborate on how labour is organising itself in response to changing realities.

This type of encroachment occurs frequently in spite the fact that respondents agreed unanimously that to cut down someone else's tree without permission was to "bring *palava*" to the community. And while this encroachment is at times justified through 'traditional' notions of development, the process also literally and symbolically uproots the foundations for customary claims-making by rendering such claims insecure. The lack of trust between individuals further erodes strained relations between those who control the land and those who do not, making land less accessible to those who are willing and able to cultivate it. Not only does this further decrease the legitimacy of those powerful figures, since local norms often dictate that those who control land ought to share it, but it also can have significant impacts on food security (*Ibid.*).

One elder explained that local authorities can even encourage some forms of development-based encroachment as "development is not for one person, if I see you doing development, I will go and do it elsewhere." This approach was formulated on the logic that by seeing someone else being successful, others would be encouraged to emulate and compete, stimulating local development. This means that the lack of tenure guarantees by the system that regulates access to the land was being used to incentivise investment and construction on the land as individuals would feel compelled to build on their lands in order to secure their claim to specific parcels of land.<sup>167</sup> However, the elder's statement specifically referred to building houses and structures to rebuild a town. I failed to press him to explain if his approval of development-based encroachment also extended to farmland. Ultimately this logic has been more broadly appropriated to encompass both farm and settlement lands, leading to an illicit 'land rush' that has produced many of the land *confusions* that were reported.

Development-based claims can be used both in conjunction with or in opposition to attempts to reclaim land historically, as discussed earlier. These bases of claim easily converge when the current 'owner' has not 'developed' their land and left it vacant from the moment they purchased it, while alienating it from communal use. However, these sets of claims become antithetical when someone seen as having usurped land in the past 'developed' it by planting trees or erecting structures. For example, a wealthy Monrovia

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<sup>167</sup> This approach is viable when located in a small village but becomes far more problematic in larger towns when specific parcels are sites of higher commercial value.

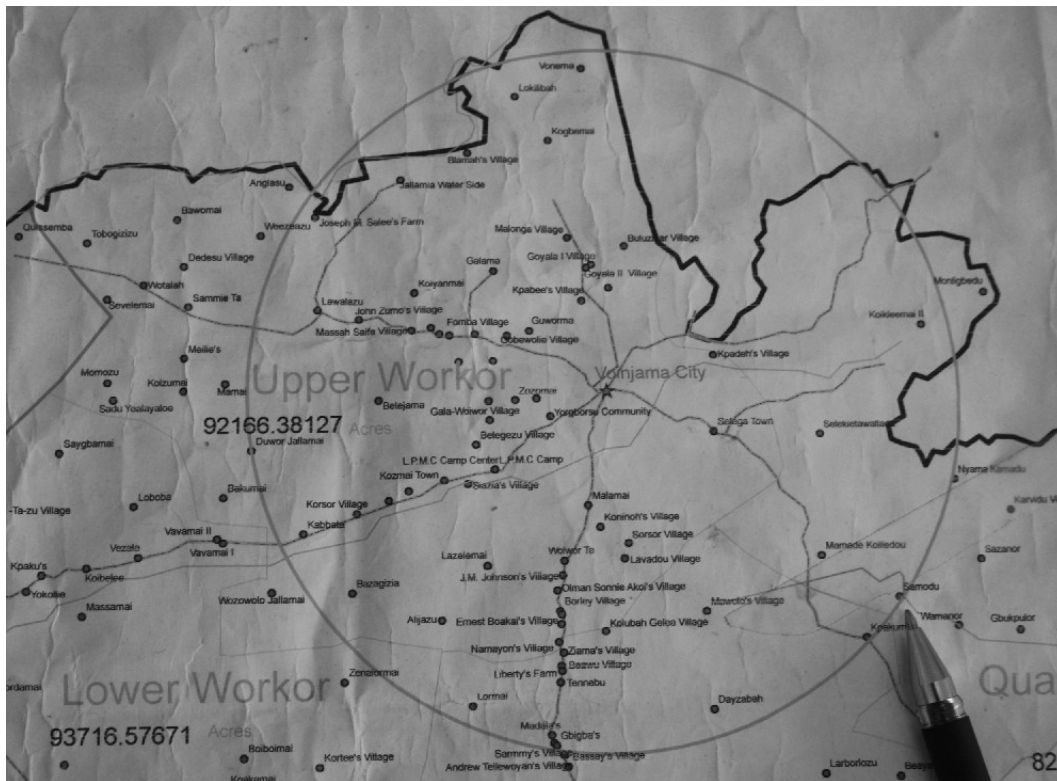
who bought land to make a rubber plantation or the Mandingo residents who have built homes, shops and farms have all, within this logic, ‘brought development,’ yet they are often portrayed as having no rights to the land in the first place. In this case, destroying their development-based markers of tenure based on ‘historical’ claims almost inevitably brings *palava*.

### 7.2.1 Expanding the rural ‘city’

However, there is another, distinct, appropriation of the term development. Individual formal titling was described to me by several government officials in Monrovia as an inevitability of “*civilised* modernity.” As mentioned earlier, customary systems were often described as *uncivilised* and as a hindrance to the economic development of the interior. The development model promoted by these officials views land as an asset whose economic potential can be unlocked through titling, creating a land market and using land as collateral through which landowners can access bank credit. The objective of this model is to promote commercial-scale agricultural production, which these officials saw as necessary for job-creation and providing much-needed revenue to the state. However, this approach neglects the fact that customarily administered land systems require internal fluidity to function, as the same parcels cannot be used intensively for several years in a row under a swidden system of agriculture. Farmers must shift between plots over time, using their social ties to access lands which are suitable for fresh planting cycles. Private titling, as a costly undertaking, limits the amount of land that can be titled at once by individuals and facilitates its generational subdivision or its alienation by external interests. As individual access reduces through subdivision, parcels become too small to sustain swidden systems of agriculture, forcing more intensive use which, unless properly managed, depletes the soil. The apparent disjuncture in the management priorities of the customary and formal systems of agricultural lands has resulted in a decree that expands the jurisdictional purview of rural cities from their various current (albeit ambiguous) boundaries to an eight-mile radius from the city centre, encompassing an area exceeding 200 sq miles (518 sq km).

Local city authorities in Voinjama explained that they expected this decree to “remove barriers to future development, so that the city could grow unimpeded.” To provide perspective to this claim, there are less than a dozen buildings more than one

story in height in Voinjama, which serves as Lofa County's capital. The city's maximum current radius would be about one mile. According to the 2008 National Census, the population of the entire district, including the City, is just under 43,000 people. Expanding the city officially removes jurisdictional control over a significant part of Voinjama and Quardu Gboni Districts from customary systems (See Figure 7.1).



**Figure 7.1: Map of Extended Voinjama Boundary to the Eight-Mile Radius Standard**

(Source: Voinjama City Corporation, 2009)

Salala City is similarly sized with a population of 43,600. Most of the buildings in 'City' line the highway which runs through the District. Of my three field sites, Foya City is probably the most 'developed' with a paved road running through town and street lights. The district also has the largest population with over 73,000 people counted. As such, these administrative units are hardly the urban spaces that their official designation suggests. A 6,000 per cent increase in the city's area (in the case of Voinjama) grossly overstates the city's current growth needs. Although I was unable to confirm the specific intent behind this policy, its consequence is that it undercuts customary authority in these spaces.



According to a law cited by city officials, customary and district officials have no official authority in cities.<sup>168</sup> All the responsibilities of chiefs, elders and district commissioners fall under the auspices of the city mayor. This includes the issuance of local land certificates, which are called City Certificates in this jurisdictional space. Instead of having a dozen signatures required for a Tribal land Certificate only three are required by the city document,<sup>169</sup> none of which belong to customary authorities (refer to Appendix II & III). According to the framework defined by my respondents, expanding the ‘city’ beyond its current limits would eliminate customary jurisdiction, often in spaces where documents have not been previously issued. However, the issue of whether these rules are in fact ‘law’ remains unclear. Unruh (2009a) notes that there are, in fact, no legal working definitions of how land and property issues must be dealt with by ‘cities’ or other administrative sub-divisions like ‘towns,’ ‘clans,’ or ‘chiefdoms.’ Since the information I received was corroborated by officials in all the cities I visited, the framework my respondents are referring to may therefore be an operational directive within the Ministry of Internal Affairs.

This policy also implies a 23,900 per cent increase the official price of an acre of land in these areas from 50 cents to 120 dollars.<sup>170</sup> The additional cost does not even account for surveys and *tokens*, making the titling of large portions of land for capital-poor individuals or groups even more difficult.

In theory, this policy means that chiefs and elders would no longer have any say in the allocation of lands as they would not be a state-recognised authority within the city jurisdiction. However, the reality for now is far less severe than this scenario suggests. As it is, city officials lack the equipment, administrative apparatus, personnel and even perhaps the legal mandate to fully control the pre-expansion spaces. Many of the ‘rural’ cities established throughout the country were created as patronage positions without necessarily creating or empowering a structure to administer their jurisdictions. I observed that district commissioners and customary authorities openly operate in pre-expansion city spaces in each of my field sites. However, the overlap in jurisdictions and

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<sup>168</sup> I was unable to find the law itself.

<sup>169</sup> The signatures required on the City Certificate are from the mayor, the county land commissioner and the county superintendent.

<sup>170</sup> Four city plots at 30 dollars apiece equal one acre at 120 dollars.

responsibilities has the distinct impact of availing alternative channels through which land claims can be made and social disputes mediated, allowing individuals to seek alternative tenure arrangements within the system that best suits their current needs.

As discussed in Chapter Six, the ill-defined boundaries of authority in these spaces further contributes to the erosion of customary authority in communities (towns and villages) near the city and creates new opportunities for physical encroachment through formal titles. Therefore, the expansion of the city jurisdiction would only increase the spaces where no single system of authority is dominant. From the perspective of customary authorities, the policy of expanding the rural city is seen as a form of jurisdictional encroachment, an attempt to marginalise customary interested through the introduction of new land management systems.

### **7.3 Hostile Possession**

One of the more common features of low tenure security and the weak rule-of-law is the increased reliance on violence (Plunkett, 2005). In Liberia, the most destabilising form of encroachment is hostile possession, or the occupation of lands through violent means. While this approach can invoke narratives of ‘legitimate’ claims (*e.g.* bringing ‘development,’ reclaiming lands from which one has been historically dispossessed) to justify their actions, this strategy is based primarily on the overt use or threat of physical violence to stake a claim on land. Such a strategy can rarely be accomplished individually and depends on the ability of encroachers to mobilise people to enforce the claim (by providing financial support or invoking narratives of dispossession), access to small arms<sup>171</sup> and a confidence in the inability of dominant systems of authority to intervene.

Hostile possession is certainly not a new tactic for making claims in Liberia as many community origins myths glorify the violent conquest of lands from previous owners as the basis for their claims. During the settler-dominated period of Liberia’s history, this tactic was used by settlers and emigrant allies to expand their holdings, particularly along the coast (Akpan, 1973). Whereas the control of the means of violence

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<sup>171</sup> Although the government and international community attempted an extensive disarmament campaign both in 1997 and after the accord in 2003, guns from the war time period are still widely available throughout the country.

resides primarily in the hands of political and financial elites, the de-concentration of the means of violence through participation in armed groups and warlordism during the war opened the door for historically marginalised actors to use violence to assert their claims.

During the war, armed groups sought to capture extractable resources to finance their operations and to increase their own or their patron's personal wealth (Bøås, 2001; Reno, 1998). Lands containing diamonds, timber, gold and rubber were particularly valued for their easy extractability and transportability. Armed groups would often occupy these resources and establish systems to administer their use by both military and non-military actors. Once the second war ended, many of these informal occupants remained on their new claims (Murray, 2009; Unruh, 2009a). UN and government attempts to dislodge occupants have been met with armed resistance.

In addition, the large number of disgruntled former combatants and unemployed youth has created a pool of individuals who can be hired by landed interests to protect or expand their land claims (ICG, 2009). Those seen to be squatters or occupying contested lands are often removed by more powerful actors through violent means. Those who have the ability to mobilise force may also use it to assert their claims over new lands, at the expense of a weaker actor. In Salala District, the leaders of one community (a Family Reserve<sup>172</sup>) complained that their neighbour, who was a wealthy landowner, had hired “*rogues*”<sup>173</sup> to cut down their *soap*, palm and rubber trees and plant some on the neighbours' behalf. The leaders claimed that any attempt to confront these youths was being met by verbal threats of violence. At the time of the interview, the leaders of this community were openly debating whether to use force to expel those they perceive to be encroachers.

These kinds of tensions have already erupted in violence in other parts of the country (ICG, 2009) when both actors in a dispute have the ability to mobilise force. For example, in 2008, a land dispute in Sanoyea District, Bong County, produced violence. According to newspaper accounts (Malayea, 2008; Inquirer, 2008), a wealthy individual

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<sup>172</sup> The Family Reserve is a formal title granted on the behalf of the members of a particular family, rather than in an individual's name. It is generally managed by the eldest son of the lineage, though the war has reduced many of these land management systems into free-for-alls, whereby any individual claiming to be part of the family can settle, plant trees and serve as a *stranger-father* to individuals who are not part of the lineage. While it was quite common in Salala District, I did not find any evidence of the same strategy being used in Lofa County.

<sup>173</sup> Rogue is a Liberian English term for undisciplined, even aggressive, youths.

had purchased land from a nearby town in the 1960s and 70s. Following the end of the war, he attempted to develop the land, which caught the attention of the town leadership who now rejected his claims to the parcel. Tensions escalated to the point where armed workers from the man's plantation and members of the community clashed, producing several casualties, displacing hundreds and resulting in the extensive destruction of homes and property. The Liberian government, UNMIL and the Norwegian Refugee Council (NRC) were forced to intervene to resolve the dispute and prevent further bloodshed. When combined with ethno-nationalist narratives, politicians and local authorities are able to quickly mobilise armed groups to expel those viewed to be *strangers*, transforming local disputes into national conflicts (Keneah, 2008; ICG, 2009). These conflicts are particularly dangerous as they could serve as a catalyst for another war.

In addition, the strong sense of entitlement to lands discussed earlier, combined with wartime habits of pillage, (Ellis, 1999) and a lack of faith in institutions (Richards *et al.*, 2005), has led some former combatants to simply seize what they think is, or should be, theirs. They often go unchallenged because local authorities are afraid of them (J. Moore, 2010). A middle-aged man in Salala District explained:

It can be possible for negotiation but they don't want to negotiate at all. [ACB: Why don't they want to negotiate?] because they take land with power! [They say] that is for them. [ACB: What is their source of power?] The soldier power, [and] money!

However, the hostile occupation of lands does not exclusively require access to *soldier power* such as guns and *cutlasses* (machetes) or even to make open threats of physical violence. Violence can be invoked in much more subtle ways, especially in tight knit communities (social ostracism or the denial of access to community resources as discussed in Chapter Six). In another example from Salala District, it became known that a large landowner, who had ties to a prominent settler family, had lost his land documents during the war. The local authorities told me that they had begun to pressure the man to give up part of his claim, "for community development" purposes, in exchange for their recognition of his claim to any of his previous land. At the time of my fieldwork, the man was resisting their approaches, attempting to get the National Archives in Monrovia to find a copy of his wayward deed. Considering the highly decayed and disorganised state of the archives, finding the deed in the near future is

highly unlikely and he will most likely be forced to negotiate with these local authorities to re-establish any form of secure land claim. Even though the threat of physical harm was not present in this exchange, local authorities implicitly threatened to ignore all of the man's land claims. It is for this reason that respondents tended to be wary about revealing their titular status during interviews. The knowledge that a neighbour has lost their deed or that their formal title is incomplete can be used as ammunition for encroachment.

Again, this analysis is not designed to pass judgement on the legitimacy of the either set of claims, but to bring attention to the consequences of this course of action. The de-concentration and abuse of the means of violence is undermining the security of tenure throughout the country. Many of the institutions which are supposed to protect claims have lost the capacity to enforce the rule-of-law, further undermining the legitimacy of their positions. The diminished enforcement capacity of dominant pre-war institutions therefore compels individuals and groups to find alternative means to defend their claims, which brings further instability to the situation. In light of this uncertainty, unexpected linkages are being made between different actors in order to gain the upper hand in ongoing and future disputes.

#### **7.4 Strategic Compatibilities**

In Chapter Six, I discussed how several customarily administered communities have rejected formal titling, or document-based titles on the basis they strengthen individual claims while symbolically removing the space from the community systems of production and social relations. However, further discussions with residents of these communities revealed an interesting twist: many of the communities who openly rejected the state's legitimacy to sell their land (to them) and resisted individual title deeds had begun to apply for formal titles. The deed they were acquiring would not be in the name of an individual or a particular family, but in the name of the citizens of the town. While attempting to reconcile this discrepancy between what was said in preliminary interviews and these new revelations, I realised that my initial line of questioning had not accounted for relations affected by scale; my questions had been focused on intra-community relations. The reasoning behind this effort to title the entirety of the community's lands was as a strategic response to a sense of insecurity with regards to the boundaries they

shared with neighbouring towns or in their dealings with the state (for granting concessions for natural resource exploitation).<sup>174</sup> Boundary markers such as trees, oral tradition and agreements were no longer perceived to be sufficient guarantors of community tenure in an environment of significant inter-community distrust.

Although inter-community boundary disputes are not a recent phenomenon, towns with sufficient financial and political support<sup>175</sup> are attempting to get the “upper hand” in ongoing and future disputes by being able to fall back on a more powerful authority (the state) at that scale to intervene on their behalf. In addition, many leaders lamented that their power to enforce who is included or excluded from accessing their territory was diminished, saying that they did not have the “right to eject anyone [*strangers*] from there,” which caused *palava* between the communities. Without formal documentation, the police or judiciary could not intervene on behalf of either claimant, passing the responsibility for the adjudication or arbitration of the dispute to the Paramount Chief and the District Commissioner. Recognising the dominance of the formal title, these communities were willing to *de facto* accept the legitimacy of the state’s land titling project in order to strengthen their ability to make claims over lands that are disputed with neighbours.

Obtaining formal documentation would therefore add a tool to the customary arsenal, strengthening their ability to exert territorial control. The power to legitimately define the terms of access or exclusion from land is a strong indicator of the strength of a system of authority thus, the appropriation of a state-recognised symbol of territorial right would ideally strengthen their hand.

This practice was also seen as helping to consolidate customary control over the internal processes of land access, guarding against potential future alienation or defection from community production systems. One town in Foya District was in the midst of a debate as to whether they should title their only communal rice lands, to prevent future subdivision and as a future guarantor of food security. The expansion of the ‘official

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<sup>174</sup> Before the war, rural communities could apply for aboriginal land grants (also known as an Aborigines Deed), a formal titular status that recognised customary claims. It was unique in that it recognised collective ownership but was restrictive in that the community could not choose to sell any of their land in the future. This titular option was not found in any of my field sites. According to government officials, Aboriginal Deeds are no longer offered.

<sup>175</sup> Resources for undertaking this endeavour tended to come from the communities ties with political patrons or from family/kin who were working in Monrovia or abroad.

city,’ also appears to be a significant motivator for collective titling projects. The expansion is seen by many authorities as a removal of land from their jurisdiction as their signatures will no longer be needed for the land certificate, meaning their capacity to regulate who gets a formal title in their communities will be gone. In a discussion with chiefs and elders from a town that falls within the new expanded city limits, they expressed hope that a formal title would strengthen their claim to timber resources which fall within their community, but belong to the state. They complained that in the past, the government had taken timber from their community without sufficient compensation for resources the community perceived to be theirs. Their hope is that a title deed will help them assert their rights *vis-a-vis* the government.

In spite of these perceived benefits in terms of local rights, the surveys to deed these communities are rarely done with consideration for existing boundary disputes. Just as the formal title deed has been shown to be a tool for encroachment at the intra-community scale, the practice of community titling is equally sowing the seeds of future conflict between neighbouring towns. Already, there are tensions emerging over the fact that some communities who have the *upper hand* through better finances and political connections are using the practice to extend their ‘traditionally’ defined boundaries into the customary jurisdiction of their neighbours. While mechanisms are in place to resolve intra-community disputes, the use of formal titles by one party significantly alters the dynamics of the dispute as it introduces another forum to resolve the disputes. This increases the possibility for a zero-sum outcome to the dispute, a quality that perpetuates conflict rather than diminishes it.<sup>176</sup>

## **7.5 (For sake of) ‘Peace & Development’**

When it comes to actually resolving these rapidly multiplying disputes over land, there are no institutions in Liberia that have the capacity, legitimacy or the jurisdiction to resolve all of them in a consistent manner. For example, the formal judicial system is widely perceived as being a vehicle for elite power, used to perpetuate a culture of impunity while disenfranchising the majority (Isser *et al.*, 2009). There is an overwhelming perception that only those who have the *upper hand* (money to hire

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<sup>176</sup> Liberian’s views of zero-sum outcomes will be addressed in greater depth in Section 7.5.

lawyers and extensive political connections to secure a favourable verdict) are able to get ‘justice’ from the courts. Parties who wish to avoid trial often simply do not appear at the court-appointed date, manipulating the system in order to force the plaintiff to return to the court and hire lawyers again and again. For rural Liberians, this can mean incurring additional costs through expensive and frequent trips to the county capitals where the courts are located, combined with the lost opportunity cost of their labour. A recurrent refrain from respondents was “there is no justice for the poor man here in Liberia.”

According to government officials and respondents who had used the courts, when a dispute over land arose between two holders of formal titles, they were required to present not only their deeds, but also receipts to prove that they have paid all of their property taxes to date; otherwise, they are compelled to produce the missing funds before the case is heard. As property taxes were not collected during the wars and have been unevenly collected since the end of the war, going to court over land issues often means that disputants have significant arrears to pay, dissuading those who would be inclined to use the courts.

The zero-sum outcome of court cases in which one party loses everything while the other gains, is also seen as unfavourable in Liberia as the result can produce significant resentment among the parties (Isser *et al.*, 2009).<sup>177</sup> In an interview in Salala District, a respondent explained that, “we try to avoid this court business. Once you bring someone to court, you build up some animosity.” In addition, the formal system has no jurisdiction when it comes to resolving disputes between customarily or informally-held claims. As mentioned in Chapter Five, the law does not recognise any form of evidence-of-claims other than title deeds, meaning that the courts are often irrelevant in the management of these cases. The World Bank (2008) estimates that less than half of the country is held under formal titles. The absence of formal titles is particularly pronounced in northern Lofa County, as opposed to southern Bong County (Salala District), meaning that formal courts are even less of an option in the former to resolve disputes.

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<sup>177</sup> Ferme (1998) observed the same resistance to the zero-sum outcome of court settlements in Sierra Leone.



The combination of these factors has resulted in the majority of land cases in rural Liberia being processed through informal and customary mechanisms (Isser *et al.*, 2009).<sup>178</sup> Gibbs (1963) and Ferme (1998) note that there is a distinction between customary and informal dispute resolution. In their writings, the informal mechanisms are referred to as ‘moots.’ The customary involves chiefs as arbiters of the dispute, who can call on a range of witnesses and experts who can testify for non-formal claims to title. The outcome can be end up being zero-sum, which makes it less desirable than informal mediation. Mediators of moots can be any one of a number of authorities in the community, as long as they are perceived to be legitimate both parties. These individuals can include religious leaders, lineage heads, former military leaders, teachers, chiefs, elders, market managers, chairpersons of youth and women groups and even powerful government officials operating in an informal capacity. This means that a chief or government official may be a mediator, with their official position commanding the respect of the parties, even though they are acting outside of their official capacity.

Social norms dictate that grievances between individuals first need to be relayed to elders from one’s own lineage who can establish channels of communication with elders of the lineage of the opposing party in order to set up an informal mediation. This approach is based on the assumption that the elders have the gravitas to mediate and ensure a peaceful outcome between the parties. Should they need an external party to mediate the dispute, they can call upon one of the mutually-respected authority listed above. Once discussions begin, the mediator or the disputants try to appeal to the common social bonds between the parties as grounds to diffuse tension, with the assumption that the maintenance of social ties is more valuable than the dispute itself (Interviews in Bong and Lofa Counties, 2009). This process is a negotiation in itself, as the parties attempt to position themselves within the *stranger-father/uncle-nephew* hierarchy of that particular social relationship in order to gain the *upper hand* in the mediations. The one who is ultimately the *nephew* of the relationship will have to show sufficient deference to the *uncle* over the course of the mediation. The negotiation of

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<sup>178</sup> Isser *et al.* (2009) refer to the customary and informal systems as informal only. In spite of the general inaccessibility of formal courts, the court system is overwhelmed with land disputes (Unruh, 2009). According to a World Bank (2008) study, ninety per cent of civil cases in the formal court system relate to land.

status is a constant feature of not only dispute mediations but is the central idiom of social interaction in this region (Bellman, 1984; Leopold 1991; McGovern, 2004).<sup>179</sup> These informal systems of dispute resolution, seek to identify a resolution which does not necessarily assign blame, but instead find a solution in which all parties are ‘satisfied’ with the outcome, for the sake of ‘peace’ and social stability. This process is often slow as disputants are dependent on the authorities’ ability and willingness to act and the perceived encroacher’s willingness to enter negotiations.

If the disputants are unable to agree on the outcome of informal mediation or customary arbitration, they are able to seek out alternatives, generally moving up in the hierarchy of authorities until a satisfactory outcome can be identified. Due to the multiplicity of authorities, actors in a dispute often engage in forum shopping, seeking out a system that will guarantee the best outcome. This is particularly necessary for disputants who have weak social ties with elders and chiefs in their communities and fear they will not get a fair hearing. An appeal to an alternative authority is generally acceptable; however, this process comes with its own costs as different authorities generally require *kola* as compensation for hearing the case. These *tokens* tend to be substantially less than the costs of formal judicial processes. Shopping fora also involves the tricky process of finding an authority that both parties identify as legitimate. Should the disputants have no or weak social ties, or be from different politically-polarised clans, families or ethnicities, finding a mutually-acceptable authority is difficult. This process in itself can cause further conflict if one side perceives that those holding positions of authority do not have the legitimacy to “speak for them.”

Isser *et al.* (2009) noted that the motivation to resolve disputes was higher if the disputants were from a similar religious or ethnic background. I argue that this is primarily because of social pressure. If disputants are from closely-related groups, the members of these groups have a vested interest in maintaining stability between them, even if the disputants are not satisfied with the outcome. Ferme (1998) notes that in informal court cases in Sierra Leone, authorities often attempted to achieve a negotiated consensus, even to the marginalisation of individual interests. In the cases I examined,

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<sup>179</sup> Bellman (1984) notes that the next time the parties meet, they will re-enter this negotiation of status, even if they meet on friendly terms.

some respondents admitted that they felt compelled by the mediation process (for the sake of ‘peace’ and ‘development’) to sell their land to the encroacher, even if they would have liked to keep it for future development or to use as inheritance for their children. One respondent in particular added that he received the money from the settlement in instalments, as to not “embarrass” the other party who did not have all the funds at once. He explained that:

In that first instalment, in that 5000, he bring 250-300 dollars. The second one, another 300 dollars per month until six, seven months went by before you can get that money for that area.

And which you receive only money with that little one so that you can put in your mouth.

Ultimately, he complained that because the money came in slowly, he was unable to save it for reinvestment in a new parcel of land. Instead he had to “put it in [his] mouth,” meaning that it was used to buy food, clothes and pay his children’s school fees but did not contribute to his long-term wealth as owning a parcel of land would have.

As with the formal system, informal dispute resolution mechanisms can also be subject to similar manipulations. Actors in the disputes can constantly appeal or delay decisions in order to increase the cost on other parties or can influence outcomes through political and social networks. Giving a more generous *token* to an arbiter or a mediator than your rival can also be used to secure a more favourable outcome. For example, the mediator may exert more pressure on one party to make concessions if the mediator has a strong relationship with the other party. However, due to their existence within a bounded set of norms and rules that are recognised by both parties, there is pressure to achieve some form of ‘consensus’ which will leave both parties ‘satisfied.’ In spite of the abuses that occur within this system the process is generally seen as “the most relevant justice institution for the vast majority of the country’s population” (Isser *et al.*, 2009: 23) as compared to the formal justice system.

The need to secure a ‘satisfactory outcome’ (the ‘peace’ imperative) for both parties in a dispute is born from the convergence of several factors. First, there is an overwhelming sense of conflict fatigue in Liberia as the country attempts to emerge from the devastation of the civil war. The violence of the civil war is only too present in the collective memories of Liberians. Even to the present day, retributive violence is reportedly prevalent, particularly in the form of poisoning or curses, often referred to as *jungle justice* by rural Liberians. And while this is based on speculation and rumour,

whether it is true is immaterial as the belief that it occurs plays a large role in the ordering of society. There is also a significant fear of retribution through direct physical violence in the post-war environment. A youth in Salala explained that direct confrontation with a perceived encroacher could be dangerous: “Well it is also risky, if you just left your house and came out on the ground and say ‘why is you encroaching on my land? Stop! Move from here now.’ They might jump on you and might hurt you.” Therefore, bringing others from one’s social network into the dispute is strategic, as to bolster the strength of one’s challenge and to deter direct violence.

In addition, the Poro and Sande societies enforce a system of social ordering that suppresses the public airings of dispute or “the making of open palava.” A Sande zo explained that:

As long as you stand outside and [exchange] abusive languages, and people around heard it, all they do, they [the Sande people] bring the woman, come do whatever they're supposed to do here and the men on their side. [...] For them the women it is because of the abusive language that was said in the open air that they will bring the woman in and give her some penalty or whatever so when they go back, whether they become friendly or not, it is not in the hands of the zo. [Translated from Loma by V. Koigblee]

Therefore, should public displays of verbal or physical violence occur, both parties will be subjected to some form of punishment for having disrupted social stability, regardless of their guilt in the matter of the dispute. However, the societies cannot act to enforce these norms if the disputants are not initiates, diminishing their effectiveness in a religiously plural context.

The suppression of open conflict is combined with the precariousness of the UNMIL-enforced stability, which could be easily disrupted by opportunistic political actors and the lack of a monopoly over the use of force by a single system of authority in many spaces. International organisations and NGOs are playing a big role in encouraging informal dispute arbitration, holding training workshops, launching awareness campaigns, and occasionally acting as mediators (Inquirer, 2008).

However, negotiated resolutions are not always seen as an option. In situations where no acceptable solution can be found, violence becomes the arbiter of social grievance. In the case of the family reserve in Salala District discussed earlier (Section 7.3), the leaders of the family warned that the window for peaceful settlement was

closing quickly in their dispute with their neighbour, who they believed was encroaching on their lands. They maintained that they had sent several emissaries to their neighbour with requests to meet and discuss the ongoing *confusion*, yet the neighbour had ignored all of their overtures. They even indicated that they had attempted to bring the case to court in Gbarnga, but were thwarted by the neighbour's absence. Without the other owner's deed, it was impossible to determine whose claim was first established, should the parcel demarcations overlap. Frustrated with the perceived encroachers continuing movement into disputed land and the formal, informal and customary system's inability to make any headway on the issue, some of the more militant members of the family reserve's leadership began to court the idea of violent confrontation.

In most cases, it is those with the *upper hand* in a dispute who are able to encroach in the first place as they naturally have the financial and social capital to engage in such activities. However, in my interviews I came across a rather surprising trend in which encroachment was often used to take land from land-wealthy individuals (although this same tactic was also used to dispossess poor claimants). I was interviewing a secondary-school educated man who worked for an NGO. He explained to me that he and his neighbours had recently been involved in a *confusion* with the family of a large landowner in Foya City. Further investigation revealed that the NGO-worker and his neighbours had purchased land from one of the landowner's sons, who represented himself as the manager of the family's formally titled estate. Each of the purchasers has given the man 600 USD per lot in one of Lofa County's cities and received only receipts as proof of the transaction. In the absence of an official transfer deed the transaction had limited legal protection in the formal realm. As soon as all of the purchasing families had built a house, they were approached by another individual who claimed to be a representative of the original family, who claimed that they were illegally squatting on the land and were to be summarily evicted. The now-squatters quickly appealed to a local chief<sup>180</sup> to intervene on their behalf.

As the land-owning family was locally based, they recognised the authority of the chief and agreed to informal arbitration. As the parties convened, the original landowners

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<sup>180</sup> In this case, the chief had no official role as the dispute fell within the boundaries of the city, where all disputes are to be handled by the mayor.

demanding that the ‘squatters’ vacate the premises voluntarily and to take their possessions with them. The chief appealed to the landowners that such actions could lead to “bad feeling in the community” and create “palava” if the squatters were evicted without recompense for their “development” (the buildings they constructed). The squatters countered that it was not their fault, that they had been “confused,” thinking that the son was a legitimate representative of the land. The landowning family insisted it had no interest in these structures and had no desire to reimburse the squatters for their ‘investment.’ As an alternative, the chief proposed that the squatters formally re-purchase the land from the landowning family and be provided with transfer deed. The squatter group argued that they had already spent all of their money on the original payment for the land did not have the finances to pay again. The landowning family used the potential of going to formal court as leverage against the squatters, which would most likely leave the squatters with nothing since the only proof of title they held were receipts of sale, in order to secure an outcome. In the end, the actors agreed that the squatters would re-buy the lands at full price (another 600 USD per lot). It was agreed that the amount would be paid in instalments over a designated period of time and would receive formal transfer deeds in exchange.

When I asked the ‘squatters’-now owners if they were frustrated that they had to pay for the land a second time, they unanimously responded that they were satisfied with the outcome as they now had land and there was no *palava*. One of the disputants added that they preferred this outcome to risk the potential conflict (and loss) of going to court saying, “for me, I don’t love going to court. [...] I would rather pay a small amount than cause trouble. If you go to court, you get disrupted from your job.” At first, I interpreted this entire process merely as a positive outcome for a situation that clearly could have ended more poorly for the squatters who had occupied the land assuming they had gone through the proper channels of access. But a question kept bothering me, why did they never ask for a survey or transfer deed in the initial transaction? The frequent recourse to “ignorance” utilised by some government, UN and NGO respondents to describe this behaviour of ‘involuntary encroachment’ was unsatisfying, especially since some of the

original purchasers were formally educated and highly likely to have known about land-transfer procedures,<sup>181</sup> such as the need for a deed rather than a mere receipt.

As my research progressed, I noticed that the case I had originally examined was a recurring motif in several of the *confusions* that I was encountering. In each of the scenarios, the term ‘confusion’ reappeared in several forms. Not only was the dispute itself a ‘confusion’ between different systems of claims-making, but perceived encroachers would often profess during negotiations that they were “confused” about the boundary of their lands, the terms of the agreement that dictated their original occupation, or the identity of representative who facilitated the encroachment. In each of these cases, the specific fault for a dispute is externalised from the actors themselves and framed in ambiguous terms, as the absence of knowledge or a miscommunication, rather than on specific, deliberate intent to encroach. According to Bellman (1984), to accuse another party of lying was a serious allegation that, without ‘proof,’ would be seen as cause for even greater conflict. Since intent of encroachment is nearly impossible to prove in this context without a confession, a dispute is blamed on *confusion*, which facilitates the achievement of ‘peaceful consensus’ since ‘bad feelings’ cannot be openly held against someone who ‘did not intend’ to cause the dispute in the first place. As such, the social structures which prioritise collective ‘stability’ help to obfuscate the actual nature of the dispute by creating a ‘sanitised’ account in which blame cannot be attributed to any party.

This reading of *confusion* fits within the frameworks provided by a significant body of literature on the role of ambiguity and secrecy in structuring of West African societies (W.B. Murphy; 1980; Bellman, 1975; 1981; 1984; Piot, 1993; Ferme, 1998; 2001). Limitations in what can and cannot be said (and the contexts in which they are allowed to be expressed), extend even beyond the spiritual realm of the Poro and Sande societies into everyday secular events including land disputes (Bellman 1975; 1984). Even if all the parties present are aware of the ‘facts,’ the issue is always approached indirectly; one is prohibited by norms that promote social stability from fully revealing them. Inappropriate revelation would be cause for further conflict. As Piot (1993) notes,

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<sup>181</sup> In Chapter Five, I mentioned that even respondents who did not formally own land were aware of the basics of formal tenure, such as the need for a deed and survey for their land.

even though individuals may strategically use ambiguity for personal advantage, it is done in way that is culturally prescribed. However, Ferme (1998) observes that through the construction ‘sanitised’ accounts and the inability to clearly assign blame has a significant role in the building up of social tensions. In her 2001 book, Ferme further argues that the very institutions which claim to prevent physical violence through the production of social cohesion are in fact the sites where it most frequently erupts.

The appropriation of ‘development’ as a basis for land claims takes advantage of the ‘peaceful’ outcome of negotiated settlements. In each of these cases of perceived encroachment, those seen to be encroachers would build structures as fast as they could to “window” (or) “roof level,” (which suggests the near-completion of ‘development) or plant trees to stake their claim, by claiming that they had “brought development.” This approach takes advantage of the slow process of informal mediation. As mentioned earlier, since people are discouraged from directly confronting perceived encroachers, the encroachers have a window of time in which they can rapidly build their ‘claim’ to the disputed property. Once the mediation begins, the perceived encroacher has the *upper hand*, in that they can appeal to the fact that they “brought development” to the previously vacant lot. As one woman in Foya District explained, “you have to give them something because they can’t just leave their labour there.” This ensured that plaintiffs in an informal arbitration would now be faced with the dilemma of either refunding the ‘development,’ or agree to sell the disputed land to the encroacher for the sake of “peace and development.” Failure to reimburse the labour and materials spent on development would result in the harbouring of “bad-feelings.” Once the land is cleared and planted with permanent crops or a structure is built to a certain height, it is considered to be ‘development’ a feature which is contextually framed as permanent and positive, regardless of the manner in which ‘development’ was brought. The contested parcels of land were often ‘vacant’ in the first place because the original ‘owner’ often had their assets destroyed during the war or did not have the capital to immediately develop their parcel.<sup>182</sup> Many of those respondents who claimed they were encroached upon in this way were elderly whose children either died in the war or were living in Monrovia. They

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<sup>182</sup> Encroachment can also occur on the lands of a land-hoarder, a powerful individual who had once accumulated a great deal of land but never ‘developed’ it. If the land’s ‘owner’ remains powerful to this day, the chances increase that the encroacher will be evicted, adding to the risk of the act of encroachment.



lacked the capital and labour to make their land productive once again. This meant that the original ‘owner’ would often not have sufficient capital to reimburse the perceived encroacher for their labour and materials and would therefore be compelled by the negotiation process to sell.

With an understanding of the dynamics of these mechanics of land occupation, it is now possible to revisit the question I asked earlier and to formulate a plausible hypothesis for explaining why, if not for ignorance, did those purchasing land never ask for formal transfer documents from the seller? This regularly recurring pattern of ‘blitz-development’ following a land purchase without acquiring formal transfer documents suggests that the transaction was implicitly understood by both parties as being informal, and perhaps understood that it was at the expense of the former ‘owner.’ One can only assume that the transactions were conducted within a shroud of ambiguity which would allow the ‘encroacher’ to claim that they were *confused* about the legitimacy of the initial sale. As mentioned before, by externalising the culpability of the cause of the dispute and establishing a development-based claim, the ‘encroacher’ increases their chances that pressures for ‘peaceful’ resolution will legitimise their claim or reimburse their risk. This pattern therefore suggests that the mechanisms for the ‘peaceful’ resolution of disputes shift power to the perceived encroacher.

An additional feature of such informal dispute resolutions was that the facilitators of encroachment<sup>183</sup> or the perceived encroachers are rarely punished.<sup>184</sup> The government officials who facilitate encroachment often retain their posts. It is exceedingly rare for them or others (those who sell the same parcel of land over and over again) to face criminal charges or fines. However, it should be noted that informal negotiations are based on an approach of restorative justice and not punitive justice. As such, doling out punishments is not part of their intended function. According to Plunkett (2005), replacing the culture of violence through mediation mechanisms is an integral part of restoring the rule-of-law in a post-war environment. Informal mediation mechanisms

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<sup>183</sup> A common dispute arises from the sale of land by the original owner of the ‘mother deed,’ who resells the same parcel to different actors. Since the ‘mother deed’ goes unchanged even after a transfer sale, the original owner can use their ‘mother deed’ as ‘proof’ of their legitimacy to sell land.

<sup>184</sup> There were occasional reports that perceived encroachers were subject to social sanctions; however, during my research I did not come across a specific case in which the perceived encroacher or facilitator of encroachment were held to account.

have been generally successful in that sense and deserve recognition for this accomplishment. However, in the absence of sanctions or accountability measures for violators of rules, such as those that guarantee tenure claims, the other side of the equation for restoring the rule-of-law is lacking (*Ibid.*). There are no consistent mechanisms that exist throughout central and north-western Liberia that can prevent or deter future encroachment, perpetuating the culture of impunity. The breakdown of actual enforcement mechanisms in rural Liberia has produced a scenario where there are few disincentives to encroachment. Encroachment will continue as long as the culture of impunity is not stemmed. There is a risk that the continued erosion of social trust between neighbours and the increased frustrations and grievances by those dispossessed will undermine the gains to eliminating the culture of violence.

## 7.6 Conclusion

In spite of the constant refrain from respondents that prioritises ‘peace and stability’ over individual gains, the seemingly constant quest to achieve the *upper hand* with regards to one’s neighbours suggests an unstable and unsustainable competition which values short term outcomes at the cost of durable institutions and the (re)building of social trust. This decidedly personal approach appropriates pre-war institutions and norms designed to strengthen collective social bonds, while at the same time undermining the very foundations of the tenure regimes to which these institutions and symbols are tied. Instead of securing land claims and building social trust, informal mediations are proving to be a platform through which encroachment on (usually) weaker actors is legitimised. Even though the motivations for encroachment may be seen as legitimate, for example re-claiming lands from which one has been dispossessed, the outcome of these tactics is destabilising. Under the current environment the only truly ‘secure’ claims are made through the physical occupation of land and the ability to mobilise personalised force to defend that claim, creating a ‘land-race’ in which more powerful actors are taking advantage of a culture of impunity to increase their holdings. Since institutions for the mediation and arbitration of disputes at all levels (formal, customary and informal) tend to favour more powerful actors, frustration is building among those marginalised by the process. In addition, individuals and groups are becoming increasingly suspicious of their neighbours and jealous of the resources to which they feel entitled by right of

*citizenship*. Hostility towards those perceived to be *strangers*, combined with grievances from the war and opportunistic political actors, risks transforming localised issues of insecure tenure into national crises. As such, if a system of land tenure is a system of rights and obligations that binds society together, this situation raises the question: with all of these *confusions* and *palavas* over land, how do Liberians re-establish the bonds of interpersonal, inter-group and institutional trust required for a society to stably function?

## **Chapter Eight: Conclusions and Recommendations**

Conflicts over land in central and north-western Liberia are not simply the manifestations of war-time displacement and territorial seizure. Their roots lie in an extensive history of state marginalisation of rural peoples, boundary disputes between neighbouring communities and the abuse of power by local authorities. The civil wars that raged during the 1990s and early 2000s were catalysts that accelerated the transformation of rural power relations and, by association, the relations that regulated access to land and land-based resources. Pre-war systems of authority lost their monopoly over legal force and widespread, extended displacement afforded individuals the opportunity to establish new social networks and institutions. Within these new systems, local actors created and accessed alternative tools to contest power that afforded new opportunities for social mobility and individual empowerment. The symbols upon which pre-war systems of authority derived their legitimacy have diminished in their perceived value (oral histories, and norms of age and gender-based domination) or have been appropriated to assert new norms of social belonging, exclusion and resource access.

As a result of this de-concentration of social, cultural and financial capitals from pre-war systems of authority, the institutions that secured tenure claims prior to the war have a significantly diminished capacity and legitimacy to enforce norms and rules. After the war, people sought to access land to rebuild their homes and livelihoods. Accomplishing these goals has been difficult in a devastated rural economy with limited infrastructure and an environment of widespread land tenure insecurity.

The wars' violence and extensive social dislocation left a vacuum of dominant, consistent mechanisms to maintain the rule-of-law. Amidst this uncertainty, individuals and groups are using whatever means available to secure or expand their land-based interests, even if their actions may further undermine inter-personal, inter-community and institutional trust. Rather than rebuilding the bonds of social trust that are necessary in a post-war society, the unbridled competition for land rewards those who can most effectively mobilise their resources (social, cultural and economic capitals) to gain advantage over their neighbours

The informal conflict resolution mechanisms that are in place to resolve land disputes have been relatively successful in deterring the short-term outbreak of violence,

through the prioritisation of mediated, peaceful outcomes over individual interests. In this aspect, these systems are helping to diminish the wartime culture of violence. For the rule-of-law to exist, negotiated outcomes to disputes must also be counter-balanced by strong enforcement mechanisms to deter rule-breaking (Plunkett, 2005). In the absence of consistent, equitable enforcement mechanisms, these conflict resolution mechanisms have, at the same time as they have preserved peace, also perpetuated the culture of impunity, hindering the reconstruction of trust between individuals, communities and trust in the institutions of governance, which are necessary for land tenure systems to stably function. Since land tenure systems are the cornerstone of livelihoods and social systems in central and north-western Liberia, stabilising and harmonising these different systems is imperative for the construction of a durable peace.

It is far easier to destroy social trust, institutions of governance and the rule-of-law than it is to rebuild them. As such, rebuilding systems of tenure to address Liberia's protracted, endemic land crisis will not be a simple matter. In the case of central and north-western Liberia, it will not be sufficient to simply rebuild the institutions of governance and social ties that existed before the war. The inequities of the pre-war system contributed heavily to the grievances that fuelled the wars in the first place. To neglect this fact would be to contribute to the reproduction of these destabilising qualities. Even though the civil wars were traumatising in their violence and social dislocation, they have created an opportunity for Liberians to renegotiate their problematic relations with pre-war authorities. However, these changes are far from being consolidated and are not all necessarily constructive to post-war stability. For example, tribally-articulated notions of entitlement to land-based resources have only served to fuel inter-community tensions throughout the country. In addition, while human rights ideologies and discourses have provided new tools for historically marginalised groups to assert themselves in highly patriarchal and gerontocratic environments, the potential over-valuation of individual rights has also contributed to the erosion of collective social obligations and a rejection of pre-war symbols of authority, which further undermines the rule-of-law. These divergent and divisive trends must somehow be reconciled.

In spite of these challenges, the post-war environment opened the door to reform the ways in which land tenure systems relate with their constituents and interact with each other. Fitzpatrick (2005) notes that only by targeting the causes of tenure insecurity can the seeds of effective intervention be found. In Liberia, the causes of tenure insecurity stem from three basic, but interrelated points: the erosion of customary rights in formal law, unsolved intra-community boundary disputes and the deterioration of the legitimacy and enforcement capacity of authority structures that are supposed to provide secure tenure. Therefore, a concerted, inclusive effort to change land relations at all scales would go a long way to building the much-needed legitimacy of the state and local authorities and eventually stabilising tenure relations.

### **8.1 Harmonising the Discordant Plurality of Land Tenure Systems**

One of the biggest obstacles to stabilising land tenure relations in Liberia is the continued marginality of customary land rights in state law, mainly with regards to the assumption that all lands not officially registered within the formal land titling system belongs to the state (identified as public lands). This provision renders customary claims insecure with regards to their relations to the state and with titling neighbours who may use formal titling to encroach on customary claims.

This ‘official’ view of public land fails to reflect local understandings. The current formal legal framework has historically benefitted a narrow class of elites while disenfranchising the majority of the Liberian population, undermining the perceived legitimacy of the state tenure system. In order to remedy this perception, Bruce (2007: 57) suggests that “both individual and community rights under custom should be entitled to the same status and protection as the rights of those holding fee simple” regardless of whether the claims are formally surveyed or deeded. Within the existing framework, there are several different laws that currently undermine customary rights. Luckily, these laws are not part of 1986 Constitution, meaning that small, surgical changes could be made to strengthen customary rights. Unruh (2003; 2009a) notes that specifically targeted changes to law are much easier and less time-consuming to pass than an-all encompassing ‘land law,’ which can take a much longer time to draft and debate in a legislative body.

According to Alden Wily (2007), precise changes to statutory law would be relatively simple to implement.<sup>185</sup> In particular, she advocates for the restoration of the state's position regarding customary land rights (to title rather than simply use and possession) which prevailed until the passing of the Aborigines Law in 1956-1958. Alden Wily also identifies Section 70 of the Public Lands Law as being problematic. This law allows the sitting president to alienate public lands for use by foreigners as concessions for natural resource extraction or leases for establishing plantations. Legal reforms within the formal system to strengthen customary land rights would most likely bolster the government's credibility with regards to land issues among rural populations who are understandably wary of formal land laws.

#### 8.1.1 Devolving the Management of Rural Land Resources

Strengthening customary land rights logically implies bolstering the ability for local authorities to manage tenure systems, officially devolving the management of rural land resources to counties, districts and most importantly, to individual towns and villages. By recognising the local authorities control over land processes, it also strengthens their ability to deter external sources of encroachment (Fitzpatrick, 2005). This thesis has established that customary systems vary tremendously in their integration and interaction with the formal tenure regime. Local access, use and ownership rights also vary according to local economic, political and social conditions. In order to be able to protect and recognise customary land rights, there needs to be a far better understanding of local structures and how they are changing in individual communities than is currently available.

Due to the high levels of local variability, harmonisation with the formal does not suggest a 'one-size fits all', state-centric, approach to customary land tenure systems. The state does not have the administrative capacity at this time to attempt to effectively manage land throughout the country (Unruh, 2009a). Even at its zenith during the Tubman presidency (1944-1971), formal law only played a small role in the deployment of state power. The administration of a diffuse and disparate population and territory was distributed widely through informal and customary channels, reducing the pressure on

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<sup>185</sup> The observation that these would be easy to change refers only to legal content, not the political negotiation that these changes will require.

the formal system to manage the entire territory. There is no historically relevant institutional framework through which state control over Liberian land tenure processes could be folded into the formal realm. To apply a single ‘customary tenure law’ to these spaces would be irrelevant to local realities. Instead, communities should be granted the jurisdiction and the freedom to establish frameworks that suit their needs and realities.

The value and strength of Liberia’s local tenure systems lies in their fluidity – their ability to adapt to present challenges and opportunities. Attempts to harmonise local tenure into a cohesive state system must therefore be careful to not “unduly restrict or freeze changes in customary tenure systems themselves” (Fitzpatrick, 2005: 455). For instance, communities should have the flexibility to consolidate individual claims into a single, community holding or to partition collective holdings into family parcels or to have hybrid approaches that allow individualised and collective holdings to simultaneously operate. While some communities may see it to their benefit to make their land available to external actors, others may restrict ownership to *citizens* of the towns who currently reside there.

Some form of institution will be required to manage this variability, mainly to interpret interactions between the systems so that they work with each other instead of in opposition, as has been the case thus far in Liberia (Unruh, 2009a). This institution would require intimate familiarity with all the tenure regimes whose actions they mediate. In order to avoid the vulnerability of a narrowly-controlled gatekeeping mechanism that concentrates knowledge on those who enact policy and allocate resources, this institution would have to be a force for the decentralisation of knowledge.

#### 8.1.2 Strengthening the Local

The desire to build the capacity of local governance structures exists, as I learned in my discussions with government officials and international development workers; however, this has not yet sufficiently been translated into practice. In fact, local authorities tended to view state and international outreach as limiting their ability to effectively govern their communities according to ‘local custom.’ Chiefs and elders spoke of having been invited to workshops to learn state policies regarding women’s rights to land, children’s rights, labour rights, the need to phase out corporal punishments and trial-by-ordeal in civil and criminal cases and state policies towards land rights. These leaders often complained that



these workshops did not help to strengthen their ability rule. Instead, many viewed these sessions as challenges to local norms and structures.<sup>186</sup> External efforts to strengthen informal conflict resolution were well received by local leadership, since the outreach reflected existing institutions and understandings.

In Chapter Seven, I argued that half of Plunkett's (2005) equation for the successful restoration of the rule-of-law is missing from Liberia's post-war environment. While informal conflict resolution mechanisms have been relatively successful in stemming the use of violence to resolve disputes, impunity reigns. Rule-breaking through land encroachment has become a low-risk, high-reward endeavour and threatens to undermine the successes of peaceful conflict resolution. At this juncture, there are no consistent enforcement mechanisms that exist throughout central and north-western Liberia. While certain, more remote, communities have been able to restore predictability to tenure relations within the community due to few challenges from alternative systems, this stability is not shared throughout the counties. Even in these sites, locally-deployed sanctions may not be sufficient to deter encroachment by neighbours or state actors.

For local tenure security to be restored, it is necessary to strengthen local authorities' capacity to enforce rules, not only to negotiate peace. However, in Chapter Three I established that the coercive means of power could only produce durable stability if the authority and their use of power were viewed as legitimate and beneficial. The use of force without legitimacy would inevitably produce resistance or defection to alternative systems. In central and north-western Liberia, customary authorities generally remain the most relevant source of political authority, even after the devastations of the war. What is lacking or weak, in the eyes of many Liberians, is the legitimacy of the capitals (symbols, norms and rules) they represent and control. The pre-war systems that controlled access to land resources were based on the concentration of these resources of power (coercion and 'idealised' symbols of legitimate authority such as lineage, gender or age). These narrow concentrations of capitals (economic, social and cultural/human)

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<sup>186</sup> Leaders in Voinjama City and Quardu Gboni district spoke positively about development agencies and government efforts to facilitate intra-community dialogue to lessen tensions between Mandingo and Loma communities. Further clashes in this region between Loma and Mandingo elements demonstrates in 2010 that intra-community trust-building needs to be pursued, ideally targeting the more youth elements who tend to be more easily mobilised by divisive narratives.

were abused by leaders for their individual benefit or for the gain of their allies, while marginalising a significant segment of the population.

While these contested norms, rules and symbols are constantly being negotiated through every day activities and interaction, I found that there remained a significant disconnect between authorities at multiple scales (at town, district, chiefdom, clan, district, county and national levels) and the people who are subject to these laws. This has resulted in continuing frustration and a sense of social alienation by those who expected changes in the balance of power and opportunities following the war. If peace is to durably consolidate in central and north-western Liberia, the expectations of these groups will have to be reconciled with existing structures of authority. New social contracts and relations of trust must be built between individuals and the institutions that govern them, starting with the rules and norms that dictate access, ownership and use rights to land-based resources. Rules will have to be created to fit changing understandings of *citizenship* and *strangerhood* as well as the rights, benefits and obligations that come with group membership. Plunkett (2005:80) aptly states that “there is no law without sanction.” As such, new tools for the effective, consistent and therefore legitimate enforcement of law must also be devised. In order for these systems to stably persist, they will also have to accommodate the expectations of youth and women for greater representation in decision-making processes and the control over labour and land-based resources.

Due to persisting norms in many rural communities in which women and youth are discouraged from openly challenging ‘traditional’ authorities, even in a respectful manner (without being dismissed as being *frisky* or *rogues*), there is a limited space in which these negotiations can be openly held. This poses significant structural barriers to endogenous changes in local power structures. However, external intervention, especially when the state has a limited capacity to impose social change, is a problematic alternative that has already resulted in the entrenchment of asymmetrical power structures in many rural Liberian communities.

External development action organisations (NGOs, governments and international organisations) have also struggled with the problem of engendering ‘inclusive’ social change all over the world. Development projects or resources are often

specifically tied to conditions to ensure ‘women’s’ or ‘youth’ participation in implementation and decision-making processes. While this approach can be successful in incorporating marginalised groups in decision-making processes, my observations of such projects<sup>187</sup> have led me to understand that these changes can also be solely of an aesthetic quality. Oftentimes local leaders will select women or youth who are loyal to their authority to be members of the decision-making body, to utilise the perception of inclusion to benefit from development resources while maintaining the status quo in local power relations. Alternatively, in post-war East Timor, efforts to include formerly marginalised perspectives resulted in the imposition of external structures called ‘village development councils’ (Hohe, 2005). These democratically-elected bodies were designed to deliberately exclude ‘traditional’ power structures. According to Hohe, these externally-imposed systems proved irrelevant to local realities and alienated existing, valuable, sources of local knowledge. While I cannot pretend to have an answer to this dilemma I am certain that the answer lies within the communities themselves. The persisting relevance of the customary realm following over three decades of political unrest and civil wars, and the massive political, economic and demographic changes that occurred in their twentieth century interactions with the coastal settler state is a testament to the adaptability and resilience of rural Liberians.

As such, enduring change to rural Liberian tenure systems will only come from local understandings, needs and realities. Inevitably such discussions will not satisfy all actors; luckily, the structures for the creation and internalisation of mediated outcomes already exist in rural Liberian society. The results of such negotiations may (re)produce unequal power relations, but may yet be viewed as legitimate if the structures that emerge are consistently applied through all levels of the hierarchy (French, Morrison & Levinger, 1960). Since local structures are not necessarily going to be effective or can be corrupted (as has been already proven by many of their past and current iterations in rural Liberia) the strengthening of local tenure systems must be accompanied by mechanisms through which rural populations can hold local authorities to account (Fitzpatrick, 2005; Bruce, 2007). External actors such as government or civil society may

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<sup>187</sup>These observations were made in Liberia and in past experiences working and studying this domain in Kenya, Uganda and Tanzania.

find a role as guarantors of these social contracts, although solutions may also emerge from within.

## 8.2 Respondent Recommendations

During interviews, respondents were eager to share their own insights as to how to deal with specific land and agricultural livelihood issues that affected them or their communities. Respondents tended to direct recommendations or requests for intervention potential to government and international policy-makers rather than identifying local solutions to local problems. Since the question I asked to elicit these recommendations was open-ended and was not directed at one set of actors or scale of interaction (local versus national), this trend in the responses probably reflects the way in which respondents saw me, as a medium through which they could communicate with policy makers. While acknowledging their contributions, I recognise that these recommendations reflect what the respondents hope to get out of the system and not necessarily what is best for the system as a whole. I therefore problematise these recommendations by considering potential challenges to their implementation and possible consequences based on other cases.<sup>188</sup>

- *Government Expropriation of 'Under-used' Private Lands and Concessions.* The issue of government expropriation of land for redistribution inevitably arises in situations where pre-war land relations in a country that has high levels of inequality and private corporations and individuals control significant portions of valued land. Land hoarding in Liberia has occurred on a large scale in the past and has been a source of significant resentment towards the state by affected communities, especially since a considerable portion of the land acquired has not been put to use (Bruce, 2007).<sup>189</sup> If the Liberian government chooses to excise under-developed lands from existing claims, it will have to tread carefully as attempts (or even proposals) to take back land from elites can be

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<sup>188</sup> The order in which I list these recommendations does not necessarily reflect the priority assigned to each by respondents. In addition, they do not necessarily represent a unified perspective.

<sup>189</sup> Bruce (2007) cites an unconfirmed figure that less than twenty per cent of lands granted for rubber concessions since 1926 have been developed. These figures have been difficult to establish due to the destruction of land documents, antiquated systems and low technical capacity. Until reliable data can be gathered on land distribution, redistribution policies are inadvisable.

extremely destabilising.<sup>190</sup> The government must also carefully manage expectations regarding who will be benefitting from this effort as unfulfilled expectations (whether the expectations were realistic or not) can be the source of significant disillusionment and grievance amongst those whose expectations were not met. In addition, expropriation initiatives are highly susceptible to elite capture as has been seen in Zimbabwe and Cambodia where lands that were taken over by the government are allocated as rewards to political allies rather than to landless and land-poor farmers (African Confidential, 2003; Unruh & Corriveau-Bourque, 2010).

- *Reduce Access Costs of Formal Titling.* The financial, temporal and social costs of formally titling land remains one of the primary barriers of accessing state-recognised titles. Among the highest of these costs in rural areas is for a survey. This is mostly due to the high demand for surveyors' skills and the small number of individuals who are officially accredited to perform the task. This could be remedied relatively quickly by training a new generation of surveyors and providing them with the equipment to begin their work.<sup>191</sup> In addition, surveyors, because of their highly valued skills, have also become politically powerful and often abuse of their positions with impunity by demanding exorbitant fees for conducting their tasks or even extorting land from their clients. As such, better enforcement mechanisms will be necessary to punish and deter abuse. However, in my interviews with surveyors in Bong and Lofa counties, they explained that their high costs were often due to the transportation and lodgings difficulties they encountered while getting to more remote areas. As this is true to an extent (although they also charged high prices to survey more accessible lands), attempts by the government to reduce this burden on their public servants could potentially lead to a decline in the cost for the individual petitioning for access to land. Ultimately, the true cost (in time, financial and social resources) of formal titling lies in requirement for the permission from multiple gatekeepers along the way, each of who require a *token*. Simplifying the bureaucratic process and removing it from patronage networks would be critical for building confidence in the state as a guarantor of title rights to all citizens

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<sup>190</sup> Attempts to address land inequalities in El Salvador and Guatemala have led to spoilage of the peace process and efforts to topple the government, respectively.

<sup>191</sup> In recent correspondence (2010) with an international organisation working on land issues in Liberia, I was told that a project was soon going to be launched to train new surveyors.

rather than just the elite. I echo Bruce (2007) in my assessment that the fact that title deeds must be signed and approved by the president also makes the process more susceptible to political manipulation. Bruce aptly suggests that presidential discretion should only be used to oversee large-scale land acquisitions or concessions, in order to prevent abuse.

- *Increase Public Awareness of Statutory Law and Formal Land Acquisition Procedures.* Any attempts to simplify and reduce the cost of formal titling must be accompanied by an ongoing educational process, so that those who are not intimately involved in the reform process or its administration may also equally access the benefits of the formal system. Poorly-publicised changes in the system would create a new knowledge gap that would unfairly favour those who were part of the reform process. In Chapter Five I mentioned that government actors communicate land policy to rural communities primarily through the chiefs, privileging their access to vital information and while failing to ensure that the information is accurately disseminated, if at all. Government could begin by using schools, which tend to be closer to roads and government offices, to teach younger generations about government policy and procedures for formally securing land.<sup>192</sup> Pupils could be encouraged to relay the information to their parents and their broader communities. Although school access in Liberia remains constrained by poverty, this approach would help de-concentrate information from the institutions that enforce law and allocate resources.

- *Property Tax Amnesties.* In Chapter Seven, I mentioned that the formal courts require proof of complete property tax payments before cases are heard. As a result, respondents with deeds often indicated they were often discouraged from using the courts due to the potential additional cost of accessing court services due to their arrears. If the government were to grant a tax amnesty on unpaid property taxes, it could build confidence and usage of formal institutions. However, Unruh (2009a) notes that the formal courts are already overwhelmed with land cases. As such, further investigation is

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<sup>192</sup> Public access to schools remains limited by poverty; however, this second approach could be a start

required to identify whether tax arrears are actually a significant deterrent from using courts.<sup>193</sup>

- *Restoring Coffee and Cocoa Industries*: One of issued regularly mentioned by respondents as being a major hindrance to Voinjama and Foya Cities' economic revitalisation was the absence of markets for coffee and cocoa. As mentioned in Chapter Five, coffee and cocoa trees dominate the agricultural landscape in Lofa and are central to localised claims of tenure. The Lofan economy is inextricably tied to these industries without which residents of the county will remain trapped in poverty. Also, when Currens (1976) conducted a study on labour practices in Voinjama District in the 1970s, he noted that these livelihoods were a major source of employment for migrant labour. While the industries have inevitably changed since that time, revitalising the coffee and cocoa industries could potentially help to reduce rural unemployment and even perhaps attract jobless youth from the cities. In my discussions with young men in Monrovia, they often cited the lack of economic opportunities in the rural areas as a reason why they did not want to return to their pre-war homes.
- *Agricultural Implements and Training*: In order to be competitive in domestic and international markets, farmers also mentioned the need for support, including the provision of fertilisers, farming implements and seeds. They claimed that many of their tools were destroyed during the war and that their farms need significant physical labour to make them productive once again. While the government has launched some initiatives to provide some seed-rice, respondents complained that if they got the benefits at all, the seeds often arrived too late in the season to plant. As a result, they often had no food of their own, so they ate the rice that was intended for seeds, perpetuating the cycle of food insecurity and agricultural stagnation. In addition to better implements, respondents mentioned the need for training initiatives to learn how to use their land more efficiently and sustainably, especially as farmers must increasingly intensify their land-use. As a significant part of the population grew up in conditions of displacement, many have not learned effective strategies for local agriculture, leading to the destructive tapping of rubber trees or the improperly planting of crops.

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<sup>193</sup> Bruce (2007) the World Bank (2007) and Unurh (2009) have previously and extensively advocated for efforts to rebuild the capacity of the formal court system.

- *More and Better Roads*: Central to the restoration of rural agricultural livelihoods is the ability to bring goods to markets. In Salala District, respondents explained that although there was a great deal of land available for cultivation a few miles from the main highway, it was undesirable because hiring labour to bring any production to the road would undercut any of the profits they would receive from developing those lands, especially with low rubber prices. While there were apparently some villages out in those more isolated areas with ample land, respondents said those sites did not have schools for their children or clinics, making them less desirable destinations. In addition, respondents emphasised the need for a better road network from Liberia's more remote districts not only to Monrovia but also to Guinea and Sierra Leone, where they conducted much of their trade. Increased road access would also facilitate the diversification of household livelihood strategies. A study conducted in post-war El Salvador found that families who lived closer to roads were more likely to have a family member engaged in non-farm employment, allowing households to more broadly diversify their incomes (Lanjouw, 2001). This study correlated access to non-agricultural alternatives to lower rates of poverty. In the Liberian context, building a more extensive road network may be unfeasible in the short term, but ensuring that existing roads between Gbargna, Zor Zor, Voinjama, Foya cities and Bakedu town (in Quardu Gboni) are passable even in the rainy season could be an achievable goal in the short term which would help revive local economies. Competition for land along these major arteries is already very high, so restoring these roads would have to coincide with reconstruction of local tenure systems in order to avoid even more unstable competition within roadside communities or to deter predatory land speculation by non-community members.

### **8.3 Areas for Future Research**

- As government and international policy makers move forward in their assessments regarding how to stabilise and harmonise Liberia's multiple tenure systems, further participatory research will be required to construct effective, localised interventions that suit local needs, practices and realities.
- In focusing on the factors which are undermining the legitimacy of both local and state authorities, I acknowledge that this study may have neglected potential institutions that worked. In particular, future research is needed on the ways in which customary and



formal authorities that operate in the same space and at the same scale (in rural cities) negotiate jurisdictional responsibilities over legal enforcement and resource allocation.

- In Chapters Six and Seven, I mentioned that there is a crisis of labour relations in rural Liberia; however, the way in which individuals and groups are adjusting their labour mobilisation strategies to current realities remains significantly under-studied. A more in-depth understanding of this issue would give a more complete picture of post-war rural livelihoods and could help better target interventions to help rural farmers.

- In Chapter Seven, I warned of the potential impact on land tenure of expanding the jurisdiction of ‘cities’ over customarily administered spaces; however, in all three cities I researched (Salala, Voinjama and Foya), customary and formal authorities are already operating in the same spaces. This relationship is not yet fully understood and would provide useful insights prior to instituting a policy which more clearly defines jurisdictions as has been recommended above.

- Investigations into the changing role and significance of the Liberian ‘secret’ societies (Poro, Sande, UBF, Freemasons) would likely provide fascinating insights onto a realm of generally poorly-understood systems that still play a significant role in shaping Liberian political culture and, by association, resource-access relations.

- Finally, even though my research briefly examines the gendered and generational dimensions of land conflict, these issues were not the central unit of analysis and admittedly require significant additional refinement and study. In particular, further research is needed on how the groups are accessing and using land resources and managing conflict within the different tenure systems.

#### **8.4 Conclusions**

Rebuilding land tenure systems following wars is a critical step that is often overlooked, mismanaged or deliberately avoided by governmental and international actors (De Waal, 2009). Because of the highly political and emotive ties to particular territories, post-war development actors have tended to shy away from committing sufficient intellectual, financial and temporal resources to effectively engage with post-war land tenure issues. However, a failure to act is to condemn a country to persisting instability and poverty. As such, Liberia’s future stability and prosperity is heavily dependent on actions taken to address its endemic land crisis. Liberians must overcome broken institutions,

infrastructure and trust on multiple scales. It will have to move beyond a history of significant power imbalances and abuses of authority. No matter what path future reforms will take, they will have to take into consideration local structures, needs and realities to establish a truly durable peace.

## APPENDICES

## Appendix I: Sample Formal Title Deed &amp; Survey

REPUBLIC OF LIBERIA

## SALE OF PUBLIC LANDS

Know all men by these presents, That, H. Francis M. Johnson.....Commissioner of Public Lands for the County of.....Fata.....in the Republic of Liberia having, in conformity to an Act entitled "An Act Regulating the sale of Public Lands," approved January 5th, 1850 exposed to sale by Public auction a certain piece or parcel of land hereinafter named and described which piece of land was Purchased by.....having paid into the Treasury of the Republic the sum of Thirty..... (\$30.00.....) DOLLARS, being the whole amount of the purchase money as per certificate of said Land Commissioner. Therefore, I, William R. Tolbert.....President of the Republic of Liberia, for and in consideration of the sum paid as aforesaid (the receipt whereof is hereby acknowledged), have given, granted, sold and conformed and by these presents do give, grant, sell and conform unto the said.....his.....heirs, executors, administrators and assigns forever all that lot or parcel of land situated, lying and being in the Koinjama City.....in.....Fata.....County and bearing in the authentic Records of said City of Koinjama.....the number N/A.....and bounded and described as follows: Commencing at the.....North Eastern.....  
Corner of Richard Henries Street and 40' Street running  
N 43° 30' E 82.5' to point "A"  
Thence running N 43° 30' E 82.5' parallel with the 40' Street  
Thence running N 46° 30' W 132.0'  
Thence running S 43° 30' W 82.5'  
Thence running S 46° 30' E 132.0' parallel with Fata Tollah's  
lot to the place of Commencement.  
 and containing.....1.40.....acres of land and no more

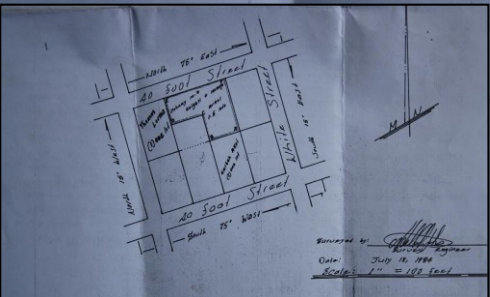
TO HAVE AND TO HOLD the above granted premises together with all and singular, the buildings improvements and appurtenances thereto belonging to the said,.....his.....heirs, executors, administrators, or assigns.

And I the said William R. Tolbert Jr......President, of Liberia, for myself and my successors in office, do covenant to and with the said.....by virtue of my office, and authority given me by the Act above mentioned and right and lawful authority to convey the aforesaid premises in fee simple, and I the said William R. Tolbert Jr......President of Liberia and my successors in office will forever WARRANT AND DEFEND the said.....his.....heirs, executors, administrators and assigns against any person or persons claiming any part of the above granted premises.

Revenue Receipt No. 8K/  
1609784


IN WITNESS WHEREOF I the said William R. Tolbert Jr......President of Liberia have hereunto set my hand and caused the seal of the Republic to be fixed this 5th day of Jan.....(A.D. 19 79.....) and of the Republic the.....1317..... year.

William R. Tolbert Jr.  
 PRESIDENT



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## Appendix II: Sample Tribal Certificate


**Ministry of Internal Affairs**  
**Margibi County Land Commission**  
 Kakata City, Republic of Liberia

Office of the Land Commissioner

TRIBAL LAND SALE CERTIFICATE

This is to certify that Mr./ Mrs. [REDACTED] has selected  
6 Sq. acres of public land within Korquelleh Clan,  
Kakata Chiefdom, Margibi County, Republic  
of Liberia. Commencing from the Kakata - Sabala  
motor road adjoining with the Thomas Kema parcel of  
land on the right also old man Sensee Koyeh on the left  
hand side, ending at the Aladula Church close  
to the graveyard.


NOTE: This land was purchased in the year 1943  
 and the parcel of land is unencumbered and the Tribal Authority join in asking the President of Liberia to  
 grant Her permission to retain and operate thereof; the necessary  
 requirement in keeping with Tribal Customs and  
 Interior Regulations having been complied with;

This document shall be incomplete without the complete signatories of the below personalities.

By Tribal Authorities: Issued in the office of the Clan Chief this 17th  
 Date of Nov A.D. 2006

1. <u>[Signature]</u> Sectional Chief 2. <u>[Signature]</u> Chief of Clan 3. <u>[Signature]</u> Chief of Clan 4. <u>[Signature]</u> Paramount Chief 5. <u>[Signature]</u> District/Township Commissioner	6. <u>BOINIA Pasaway</u> Elder 7. <u>oldman Zuannah Yammah</u> Elder 8. <u>Poland Beyelih</u> Elder 9. <u>[Signature]</u> Town Chief 10. <u>[Signature]</u> Commissioner 1. <u>[Signature]</u> Margibi County/ R.L. RUBBER BELT
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HON. TARK N. SACKIE  
 CELL 05521902  
 PS 23:7-5  
 RL

ND COMMISSIONER  


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## Appendix III: Sample City Certificate

REPUBLIC OF LIBERIA  
OFFICE OF THE CITY MAYOR  
VOINJAMA CITY, LOFA COUNTY

LAND CERTIFICATE

THIS IS TO CERTIFY THAT MR./MRS. MISS [REDACTED]  
HAS SELECTED 1 acre of land  
ACRE(S) OF LAND SITUATED WITHIN Voinjama City  
Lofa County BETWEEN [REDACTED] AND [REDACTED]  
Lawalazu Road STREET NO. - BLOCK NO. -

THIS SAID PARCEL OF LAND IS UNENCUMBERED AND  
DOES NOT FORM ANY PART OF TRIBAL RESERVE NOR DOES IT ENCROACH ON  
PRIVATE PROPERTIES. THE NECESSARY REQUIREMENT HAVING BEEN COMPLIED  
WITH IN KEEPING WITH THE LAW.

MR./MRS./MISS [REDACTED] IS THEREFORE GRANTED THE  
PURCHASE OF THIS PARCEL OF LAND WITHIN THE REPUBLIC OF LIBERIA

GIVEN UNDER MY HANDS THIS 17th DAY OF September A.D. 2005

SIGNED: \_\_\_\_\_  
CITY MAYOR

ATTESTED: \_\_\_\_\_  
LAND COMMISSIONER

APPROVED: \_\_\_\_\_  
COUNTY SUPERINTENDENT

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