



**“We who live here
own the land”**

**Customary Land Tenure in Grand
Cape Mount, and Community
Recommendations for Reform of
Liberia’s Land Policy & Law**

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Green Advocates

Forest Peoples Programme (FPP)

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Introduction & Background

Purpose:

This document, and the consultations on which it is based, is intended to enable communities in Sime Darby affected areas in Grand Cape Mount to have their voice heard at the national level, so that government law and policy (in particular that relating to land and natural resources) can in future fit with community customary practices and community self-determined development priorities, and prevent future conflict of the kind experienced in relation to the Sime Darby concession in Grand Cape Mount. The message from the communities can be seen as a positive one – yes, there have been grave problems and conflict, but there are lessons to learn, and in particular there are clear recommendations for the reform of Liberia’s land policy and laws.

Structure:

Part 1 of this document summarizes the community perspective on their land and resources, including what is most precious to them about their customary system and why this should be valued and protected in the national legal framework. This perspective and the lessons to be learned are illustrated by the problems that communities have experienced from concessions on their land, first from BF Goodrich, and now from Sime Darby. **Part 2** gives a number of recommendations to government, other communities, and the company.

Part 3 of the document summarises the findings of the validation meetings in which communities were able to study, reflect on, alter, reject or add to the findings. The findings of this report and proposed steps forward are summarised in **Part 4**. The report is intended to ensure that the voice of these Grand Cape Mount communities will inform both national and local level law, policy and practices, including the practices of Sime Darby and future relations between the government, the private sector and customary communities.

Outline of the Process:

1. Community consultations:

Part 1 of this document was drafted on the basis of fieldwork with communities in and around the Sime Darby concession. Fieldwork was carried out by the Forest Peoples Programme (*FPP*), Green Advocates and Vai community members in Grand Cape Mount in September 2012 in four communities already impacted by Sime Darby palm oil plantations, and in three not yet impacted by Sime Darby. This process identified and recorded existing customary land and natural resource management practices, rules, and processes, and the ways they have proven to be environmentally and socially sustainable.

2. Informing communities:

The fieldwork also involved outlining to communities the vulnerability of their land and natural resources under existing national law and government practices (as exemplified by the conflict associated with Sime Darby's acquisition of community land without their free, prior and informed consent), and informing them of the current law reform processes going on at the national level, particularly in respect to the development of the national land policy.

3. Identifying community recommendations:

The fieldwork also involved identifying and recording the recommendations the communities would like to make known to the government, including to the Land Commission which is the arm of government tasked with preparing proposals for land reform, and recommendations to the company and other communities. These are set out in Part 2 of this document. The intention being to ensure that such reform fits with their vision of their own rights to land and resources and their vision for their development, and ensures that policies do not undermine the environmentally and socially sustainable customary rules and practices which the community wish to preserve and continue to control.

4. Validation:

On the basis of a draft analysis and recommendations, Green Advocates returned to the communities where the consultations were carried out to verify the findings. Green Advocates and participants in this study from the communities presented the analysis of (A) communities current vulnerable position in law from previous and current experiences, and of (B) customary practices and experience recorded in the draft analysis and recommendations, to seek and validate their (C) recommendations for changes in the law and recommendations to the company and communities. These consisted of three meetings: a meeting at Madina II and another at Kaylia with communities already affected by Sime Darby, and a meeting at Ghon Town with communities not yet affected, including Falie and Kanga. These validation workshops enabled communities to accept, reject or alter the findings, analysis and recommendations, and included representatives from a total of sixteen communities, including the seven where the principal community consultations were undertaken.

5. Shaping National Land Policy:

Subsequently, community representatives will present the findings and recommendations in this report to the Land Commission's land cluster group that is responsible for finalizing the draft National Land Policy, in order that their perspectives can powerfully shape the future legal framework within which state, private and community actors operate.

Background:

Communities in Grand Cape Mount who contributed to this document are from the Vai people. The communities also include some people from other parts of Liberia and from other tribes. The communities who participated in the first part of this study come from four whose land has been affected by Sime Darby's operations to date (Kon Town, Ghonda-ji, Madina II and Kaylia), and three where Sime Darby hope to expand in the future (Ghon Town, Fali and Kanga).

Communities have previously been impacted by the development of the BF Goodrich rubber plantation in 1954, and now the expansion of that plantation by Sime Darby for oil palm. The largest settlements are the towns. The towns also have their own villages where people make their farms in the bush.

The land surrounding the towns and villages is used by the community for many things. As well as farms for food (cassava, rice, okra, bitter ball, peppers, maize etc.) families will grow crops to sell (sugar cane, cocoa, rubber, oranges, mango, avocado, kola nut, native oil palm etc.). Planting crops to sell will help provide a future income – as a pension when community members grow old and are unable to do the heavy work of growing cassava, and to pass on to the next generations, so that they can pay for hospitals, schools and to buy other goods that they need like clothes.

Communities also find food, building materials and fuel by hunting and gathering what they need. The swamps, creeks and rivers are useful for fishing, crayfish, for gathering rattan and roofing materials, and also for seasonal cultivation of rice and maize. The communities also hunt for bush-meat from the forested areas. The forests also provide round poles for building houses and wood for fuel and charcoal (which they can sell or use) and for fruits, nuts and edible tubers and traditional medicines.

Much of the land is undeeded customary land, but some of the three towns in this study which are not yet impacted by Sime Darby are from a clan which does claim to have tribal certificates. However, it was reported that the tribal certificates are for only 20,000 acres, whereas they believe that their true customary land area is more than ten times this amount and is used by at least ten thousand people.



Part 1: Consultations - The Community Voice

1. “We who live here own the land”

Communities are the owners of the customary land and resources. The legitimacy of their ownership comes from long-standing historic ownership, use and possession of this land and the resources on the land. It is the communities’ only source of food, housing, culture and livelihood. The Land Commission has told communities that it agrees that the land belongs to the communities.

“Before the king, we were living here, our great grandfathers were here, we know no other land than this. National land Commission came to Palava house and told us the Government had turned the land over to us. But from before the pioneers came we know the land is for us. If the Government come and say move from here we will move because other have soldiers. But only because of fear. In my mind I will be very clear people are forcing us to move from here but I know it’s not right.” (Ghon Town)

Land for the BF Goodrich plantation was taken from communities without any recognition of the community ownership of the land. Farmland was taken by BF Goodrich. The document signed by BF Goodrich and the Government was not explained to anyone in the communities and no information was given. In Madina II the Town Chief was from a family who had always lived here, and he deeply regretted what had happened to it, first when BF Goodrich’s rubber plantation had surrounded the town, and now as Sime Darby takes away everything that BF Goodrich left.

“[Before] we are having our bush, our sacred sites, our graveyards. When BF Goodrich came in 1972 they destroyed all of this. They polluted the water source. No more Poro society. The Government is powerful. They have no right to, but they have taken the land. Even the little piece that BF Goodrich left Sime Darby took away... there is nowhere to go to hunt. If you go in the rubber they will accuse of illegal tapping and arrest you. . . . There is nowhere we can make farm. Those are the clear points. Nowhere was left for us”

Communities describe how they stood helpless and in tears as they watched Sime Darby’s

bulldozers destroy their lands: including their crops, their trees, and their creeks. Although they knew this was their land they at first felt powerless to stop the bulldozers and the company. This destruction of their farmlands right up to the very edges of Kon Town, Gondeji Town and Kaylia Town was devastating, and was not based on any appropriate negotiation or legitimate ownership but was simply possible because the Company was powerful and was seen as having the backing of the Government.

2. “There is no free land”

All communities are clear about where their town’s land ends and another town’s land begins, and are clear that there is no vacant land between their territories. All land belongs to the different neighbouring towns.

For example, the Chair Lady at Ghonda-ji said: “Boundary is Lywin Creek between Kon Town and Ghonda-ji Town. There is no free land”. At Ghon Town, the community were very clear that “there is no free land” – no free land between Ghon and Fali and no free land between Ghon and Sinji.

Acknowledging that such land is under customary ownership does not mean companies are not welcome, just that they need to negotiate in good faith with communities, as required under international law to which Liberia is a signatory, and as is required under international voluntary processes such as the Roundtable on Sustainable Palm Oil.

3. “Outsiders can use community land, but only with the community’s permission and only under certain conditions”

The fact that there is no free land does not mean that outsiders (individuals, families and even companies) cannot come and make use of land but they must have the communities’ permission to do so. A stranger can come and use land if they have been through the appropriate process and have secured the permission of the community – but the land still belongs to the community and the community has the fundamental right to say yes or no. When agreeing to the BF Goodrich and Sime Darby concessions, the companies and the government did not respect the customary rules for when a newcomer wants to use community land.

The communities have clear customary rules by which ‘strangers’ (those coming from outside the town) can seek to use land belonging to a community. If a stranger comes to the communities and says that they want to make a farm, he will be asked “who is your stranger-father?”. The stranger must therefore first find someone in the town who will agree to be their ‘stranger-father’ who is willing to speak for them, to make their case for them, but also to ensure that they manage the land and their presence according to the communities’ rules. The stranger-father will take the stranger to meet the town council or the Town chief who will then invite community members to a meeting to discuss the proposal. The communities will hold meetings every month to discuss community issues – in front of the town chief and chair lady. The community will decide whether to let the stranger use community land, and will decide on the rules and conditions which will be explained to the stranger.

Normally, the community will only agree if only annual food crops are grown like cassava

and rice, but not more permanent trees and cash crops like rubber, orange trees etc. This condition can last for more than a generation, and serves as a guarantee that protects the community and their land until they know for sure that the relationship works, and that the newcomers will respect the existing community and their rules and norms. They may also say that the stranger must pay a financial contribution to the community at the end of the season. The stranger must respect the community's rules while they are using community land. However if the relationship does not work, the stranger will be asked to leave.

There are many laws which the stranger must respect. If the stranger wants to build a house, the community may say, "ok, build where those mango trees are". The community would then help to fell the mango trees, and if the stranger does not then build his house, then he must pay a fine for the mango trees. But if he does build a house, the building will be his. However if the stranger leaves, the building must remain, and will belong to the town.

Other rules apply to strangers who want to hunt, fish or gather. A community member can hunt anywhere, but a stranger must ask the community – for example the community's hunting group – who will tell the stranger when and where they can hunt, and may say that at the end of the month the stranger must make a financial contribution to the community, whether or not they have hunted anything. Similarly, a community member can go anywhere and pick herbs, but a stranger must first ask. "For fishing I can lay the fishing basket anywhere if I am a citizen [of the community]. If you're not a citizen then your stranger father will tell you where."

In contrast to these clearly defined ways by which strangers can gain legitimate access to the land through stranger-father relationship (or through marriage), communities see Sime Darby as having gained access through the power of Government and the force of bulldozers and therefore they do not have right to the land they have taken over. In Ghonda-ji the Chair Lady spoke very powerfully about this, and she repeated her points to the Sime Darby management at the policy dialogue held in Kon Town. Her complaint was about the way Sime Darby's behaviour is outside acceptable social norms. She illustrated this by pointing out that Sime Darby is employing community members as just contractors, and as they are not employees there is no security, there is much less pay, and there is no medical and other help for relatives. She therefore highlights the fact that Sime Darby, as strangers or newcomers, have not respected the rules that it is for the community to decide the conditions in return for which the company can use their land. She added:

"When we have to go to hospital you [Sime Darby] say: "we are not responsible for your going to the hospital". How about my child, how about mother who suffered for me, who carried me 9 months? You say "we are not responsible for your ma to go to the hospital, only yourself" But I say "my mother carried me 9 months and now she's at the point of death. If she can't go to hospital what did she labour for me for? What did she bring me here for?"

4. "There is a clear decision-making structure for managing the land and ensuring long-term sustainability"

Communities have clear land and resource management systems, made up of established customary processes, procedures, rules, byelaws, and management practices. They also have customary systems for decision-making about land and resources. In addition, the system of Zoes and sacred training forests enable boys and girls to learn about the land and associated livelihood practices, Vai culture and the social rules and values, and thereby cement cultural identity and community membership.

Having been developed over centuries for and by the communities who know the land best, these customary systems and processes have many qualities that are sustainable over the long-term, in social, environmental and cultural terms. For example the forested, swamp and wetland areas set aside for hunting and gathering or sacred sites are in effect community ‘protected areas’. In addition, low impact swidden farming and fallow practices are good for the land and forest regeneration. In addition, the customary systems provide effective systems for managing growing communities, movements of families within the community land area, managing and preventing conflict, and managing relations between community members, and between the community and outsiders.

Decision-making is conducted by key roles within the community as well as the community members themselves. Community meetings are held regularly (e.g. monthly) to address any community problems and issues, and are held in front of the Town Chief and Chair Lady. Community meetings will also involve elders, Zoes, women, youths, hunters, healers and farmers. At the town level the main community members involved in this decision making are selected by the community members themselves. These include the Chair Lady, the Town Chief (which can also be a woman), and a Youth Chairman. Individuals come to occupy these positions over time following a process that involves their selection and acceptance by the community. For example, if you want to become a town’s Chair Lady:

“You put the conflict down, you talk to them nice, if people go to you with their problems, your effort makes you Chair Lady. If people don’t want you be Chair Lady, you can’t be. The Town Chief is selected on the same effort - people have great respect for the Town Chief.”

The community land areas included in this study are composed of land owned collectively by the respective town, even though particular areas may be used by only certain individuals or families. Other areas are both owned and used collectively, such as forest land and in some cases swamps and wet-lands. All the Towns described being very clear about not only who belongs to their community but who belongs to which subsection of the community.

There are clear procedures for seeking permission to use land belonging to a different ‘quarter’ of the same community’s lands. The communities describe the town as being divided into four quarters, established by the grand parents. Community members work in the quarter where their grandfather worked. If a community member wanted to make a farm in another quarter, they would have to ask and if accepted, would be shown where they could work. There would be no charge for this if they are community citizens.

There are also rules for the circumstances when a community member wants to seek permission to use land that is being used by a family member or another family, even if they are working in the same quarter. The communities operate a fallow system, which means that land that has been used and is tired (an ‘old farm spot’) will be left for seven years to recover. Even where one community member has left their land fallow for seven years, another community member (even one from the same quarter) would need permission to use that old farm spot, even though seven years has passed.

Similar rules apply to laying baskets to catch fish and crayfish or laying traps for bush-meat. Even within the same quarter, permission would be needed to lay baskets or traps on someone’s farm spot (old or new), but if there’s no farm spot in a particular area of your own quarter, then you can go there and lay baskets or traps without anyone’s permission. If someone from one quarter wants to lay a basket or trap in another quarter, they will need to

ask and get permission whether there is an old or new farm spot there or not.

Importance of sacred forest sites – “to learn all about here”

Fundamental to effective managing of the land and the maintaining of social relations and culture are the men’s and women’s sacred forest sites. Certain forest areas are set-aside as sacred forests, for ritual and training use by secret male or female societies.

“The secret society for the boys in the forest - the Poro – is where you learn Vai script, country knowledge, social rules. These Secret sites are used in the dry season when you can have more than 5,000 entering them.”

“The training is the way of disciplining the tribe and so the way of maintaining law and order”

One of the functions of the sacred women’s forest area was having a place where women in labour could go with the Zoe to give birth. Men are forbidden from entering a women’s sacred forest areas and vice versa. Such sacred areas are also used as training grounds where girls or boys can learn the practical and social skills, including knowledge of the land and country and the Vai script, to sustain the livelihoods and culture of the Vai people.

“They learn how to hunt, how to fish, how to farm, how to take care of their children, how to breast feed, when to come back to the same place, how to make sure there is food over the year.”

“The sacred sites, the training schools showed them how to find the ropes to climb the palm trees, how to plant . . . we would also learn respect for elders”

The destruction of sacred forest areas in Ghonda-Ji, Kon, Kaylia, Mandina II by BF Goodrich and now by Sime Darby has been devastating for the affected communities. The only forest reserve left to use as sacred forest is far away at the boundary between the Gola Konneh and Garusala districts. It is 4,418 acres and is the only remaining reserve that can be used for farming, secret ceremonies, etc. However this is more than 75km from Kon and the other Towns, and – as the Town Chief of Madina II put it - it is:

“disrespect to take children somewhere else, they need to learn all about here.”

When asked what the consequence was of having nowhere to train the children, the answer was that it would destroy customary governance and law because the training is central to enabling people to organise and work together:

“The town is a collective so it helps with organising, with working together (e.g. to clean up the drinking water) so it makes sure you are disciplined to help the town have food security and to protect the town. The rules and laws and traditions come from those sacred places, they are like the archives so you can know what the town used to be like.”

“It’s like you have a football but you have no practice ground. If you are really hard headed they won’t discipline you in the town they will take you to the bush. But if you don’t have bush where will you do this.”

Standing on the sacred women's ground just outside Kaylia, men described how they would "absolutely not" have come here before Sime Darby had cleared and devastated the land. There was some discussion as to whether – if Sime Darby cleared the palm and let the trees grow back – it could become women's ground again: "No, the sacred site is destroyed. They have destroyed our land and our culture, there is no way back" was one reaction. But others said: "Yes, it would grow back in a few years, and the women could have their ground again".

The consequences of the destruction of the sacred sites was described by the Town Chief at Madina II in the following ways:

"it's ugly. . . the children now have no rules. The disobedience is too much. There is no learning about how to go plant crops etc. . . . If he see palm tree how will he know how to climb up. There is no more culture. We set a meeting with Ghon town and told them that if you let Sime Darby clear the place it will be just like here. . . . If Sime Darby can give us some part of the rubber plantation. And in ten to 15 years it will turn to bush. I have suffered not to have my forest."

When asked "how much bush do you need to have and to let grow back into forest for farming for hunting for basket for secret society?" the Town Chief answered: "The Zoe can answer such questions about how much land is needed for sacred society I can't answer". It was then explained that this is an example of the power and discipline of the secret society: "the Town Chief's father [the Zoe] can answer your question but he can't even though he knows the answer"

The importance and effectiveness of customary community rules

Having managed their land very effectively over the centuries, communities can clearly be trusted to make sensible long-term decisions about their land. They not only have clear customary rights to their land but clear ways of determining on what basis people can use the land, and determining that such land use is sustainable and equitable. Such systems are crucial to ensuring food security and social well-being and communities recommend that they are recognised in law and supported in policy.

As well as the ways in which this report has outlined how customary decision-making is carried out, the importance of training to these social structures, and the rules around incorporating outsiders and using the land sustainably, the communities also point out that there are clear structures within communities to ensure appropriate decision-making around land use and land ownership. This report has outlined how strangers are supposed to approach seeking land in communities, and this is an approach that should guide how companies such as Sime Darby approach communities. The basis of which is that they need to acknowledge the communities prior ownership and seek their free, prior and informed consent, as a way of finding out whether and (if so) how to negotiate agreements with communities.

5. “Under customary systems communities do not permanently lose the land”

Community ownership requires equal protection to private ownership, but it is different in that by custom, communities keep their land, and protecting their land means that they are looking after the rights of future generations to the custom and land of their community. Fundamental to owning land by custom is the fact that the land can be used by the community, or left fallow, or the community may allow a stranger to use some land, but it must not be taken away permanently and alienated from the community, or it then ceases to be customary land and taken away from future generations. Although some areas of the community land are used by particular families, sacred sites belong to the whole community, in the same way as the forests and wetlands. These are areas of land that a community would not want to lose or allow a stranger to use. These areas do not belong to any one person and would not be used by only one person – they are for the community and for future generations to come.

Kromah, the Chairman of the land Commission Ghon Town, said that the compensation Sime Darby were offering for crops they would destroy in planting oil palm “is just short time something. We are concerned about our grandchildren. Our main question is how will we protect our land. For the crops some people will drink and some will buy a motorbike. This is the only community where we want them more than 4km away. When Sime Darby came we said there was land for them but the land was too important for us to let them get closer. Kanga asked them to come to within 500 feet! I want to ask a question: we’ve been here 500 years. Will we be considered the real owners of our land?”

People clearly want the jobs and other benefits they see Sime Darby as potentially bringing, but have a very different awareness of what their rights are and what they will receive in return for letting Sime Darby use community land. One Community activist described to people in the three Towns that have *not* yet been impacted, what had happened in Kon Town and the other Towns who had been impacted by palm oil plantations. He pointed out that losing most of your land means you are at the mercy of whatever wages and conditions the company chooses to offer, and that at the very minimum retaining enough farming and forest land gives a basis for negotiation.

Although the previous arrival of the BF Goodrich rubber plantations had not destroyed all the communities’ lands since it was often at some distance from them and therefore its destructive impacts were mitigated as well as being somewhat offset by bringing some jobs without destroying the subsistence base, nevertheless it was also seen as having happened without any recognition of the community ownership of the land.

One woman said that she was keen for her community to benefit from Sime Darby’s presence. She said that Sime Darby “are going to come tomorrow to start cutting the rubber down. . . . [there] will be opportunity for jobs with the Company and chance to burn charcoal from felled trees.” However she also said that the problem was Sime Darby “taking our farm land”. An elderly man from an affected Town said:

“There is now no graveyard. Right now when someone die they have to be buried in the rubber [plantation]. So there are no farmers, no hunters here, just workers. No secret society, no secret place, all places have been damaged.”

Community members from affected Towns advise other towns to think carefully, before welcoming Sime Darby, as it was hard to see what was coming until it was too late. In terms

of getting jobs, “[Sime Darby] don’t employ everybody, but only choose some”. In addition, they suggested that the Towns did not let Sime Darby clear everywhere, and to keep a big area around the Town: “don’t clear everywhere - it is alright to have company but if they clear everything you are finished”. One elderly man said that now they had to buy cassava (whereas they used to grow it) and the price has gone up. “The farming thing is more than just planting, farming it make you live long.” The communities also suggested that the company needed to provide water and sanitation.

When asked if it would benefit the community if some of the forest was allowed to grow back, one community member said “I would not benefit but my grandchildren would. I would feel good. We will have the means of somewhere to make traps, to make baskets...” And asked if they had a choice to work for Sime Darby or farm in the forest, which would they choose, the same community member said: “I’d choose both – work for Sime Darby and in the forest”.



Part 2:

Recommendations – To Government, Communities & Companies

Community recommendations

To government:

1. Customary rights to land and resources must be as strong and as protected by national law and the government as private land rights, whether communities have a deed or certificate or not.
2. Customary land rights must cover all their land, including the forest, sacred sites, swamps, creeks and other wetlands, and not just fields and houses.
3. Any proposed impacts, projects or developments affecting customary lands and resources must only be allowed to proceed if the communities' right to free, prior and informed consent is respected and protected.
4. Land is owned by the community according to custom, and fundamental to that custom is the fact that the land can be used, left fallow, and lent to a stranger, but it must not be alienated or it ceases to be customary land.
5. If communities want to formalise their customary ownership to get a collective community deed, it should be their choice to do so and not an obligation
6. If communities do decide that they want to formalise their ownership, there should be affordable and accessible procedures to do this – which are low in cost and low in bureaucracy, and the government should give communities the help and support they need to complete this process.
7. Government land and development policy, including policies and laws aimed at managing and improving governance of customary lands should not ignore or try to replace or undermine existing customary institutions and systems but should support communities only through their existing governance structures and only in accordance with the communities own priorities, by (i) recognising existing structures, and (ii) supporting them to be transparent, inclusive and democratic, e.g. by giving space for communities to discuss and codify their own customary systems, institutions, rules and laws.
8. The community recognises that the concession contract between the government and the company is not consistent with the communities' human rights, and needs to be renegotiated. The renegotiated contract needs to respect and protect the

fundamental rights of the community to decide what happens to their lands and resources, and give the community access to redress and grievance procedures for breaches of rights that have happened or may happen in the future.

To communities:

1. If you are going to welcome the company, keep enough land and forest for yourselves. Losing your land means you are at the mercy of whatever wages and conditions the company chooses to offer, and you will have to buy food at high prices. At the very minimum, you should keep enough farming land, swamps, wetlands and forest land so that at the worst, you can still be a farmer, and at the best, you can be farmer and have a job with the company.
2. Sometimes you don't know what you've got until you've lost it, so be careful, so keep some land. You can always give more away later, but when it is given and cleared, it will take a long time to grow back.
3. If you are going to welcome the company, make sure the land continues to belong to the community, and only let the company use the land for a time, but not to keep forever.
4. Children need to learn all about here; about the culture and the land and how to work together as a community; to maintain discipline and responsibilities – so you need to keep your sacred women's and boy's forest areas for future generations.
5. Also Towns should have legal counsel when they sit down with the company, rather than thinking they can just do this themselves or rely on having their legislators there to ensure they got a fair deal.
6. They must also get any agreement between the Town and the company in writing and keep copies for the community, so that they can make sure the promises are kept now and in the future.

To Sime Darby:

1. The company needs to prioritise restoration of the land that has been cleared, instead of clearing new land. For example, the company promised to restore swamps, but there were not enough bull-dozer to do this as they were being used to clear land in the rubber plantation.
2. The company needs to restore sacred men and women's forest sites by agreeing those areas with the communities, and restoring them to sacred forest to be used by future generations for training.
3. The community are not against the jobs and benefits that Sime Darby will agree to give in return for using some of the community's land, but there must be recognition that this land belongs to the community, and will be returned to the community, and that in the meantime, the community needs to have enough land, swamps, wetlands and forests returned to them and restored, so that they can continue their farming, hunting and fishing, gathering, and their culture and for future generations to do so. This land may come from the land cleared by Sime Darby, or from land in the BF Goodrich plantation, as agreed by the community.
4. Sime Darby is employing one person per household in the affected areas, but only as contractors, whereas the company needs to employ them as permanent employees as agreed, so that there is security and proper pay and conditions.
5. In return for use of community lands, the company needs to provide medical, educational, water, sanitation and other services to all the community, not just the employees.

A photograph of two elderly men standing outdoors in a grassy field. The man on the left has a long white beard and is wearing a red and white patterned headwrap and a red patterned shirt. The man on the right is wearing a white headwrap with a yellow band and a blue and white patterned shirt. They are both looking towards the camera.

Part 3:

Validation of the Findings and Recommendations

[This part is drawn directly from Green Advocates' account of the validation process in their document entitled: Validation Comments and Recommendations. FPP-Green Advocates.]

Overview

Green Advocates, represented by Atty. Alfred L. Brownell and several staff members and the Sime Darby Project Affected Communities (PAC), represented by Elder Mustapha Foboi and other staff, conducted a chain of validation exercises in three communities, in Grand Cape Mount County, from 23-25 November 2012.

The Validation workshops brought together sixteen towns and sixty representatives from adjoining towns. The representation at each event was as follows: A) Madina II (brought together representatives from Ballah Town, Nimba Point, Gbah Foboi, Gondeji, Kon and Madina II); B) Kaylia (brought together representatives from Damah, Senii, Johnson, Segamah, Kaylia, Lain and Dendeweah); and, C) Ghon (brought together representatives from Ghon, Falie and Kanga).

Atty. Alfred Brownell provided the overview of the report. First, he reminded the participants about the visit by Justin Kenrick (FPP), in September 2012, the draft report from his visit and the need to verify the findings and the recommendations in his report.

He noted that Green Advocates and her international partners such as FPP are interested in protecting the rights of local communities. However, he stressed that some of the campaign issues (such as the call for the scrupulous respect for customary practices and tenure) are informal, unrecognized and outside the official structures or laws governing property rights in Liberia. "Advocating with you means having laws on the book to protect you", he advised. Accordingly, Atty. Brownell emphasized the need for policy reform to include laws that protect the rights of the poor and vulnerable groups such as indigenous communities in Liberia. As a necessary first step, he supported the approach, adopted in this study, for a policy research to inform the nature and quality of recommendations for policy reform with the clear support of indigenous communities. "This body of indigenous knowledge and practices should inform

the ongoing drafting of the national law on land and property rights in Liberia”, he added.

He hailed the resilience of the project affected communities, at Sime Darby, including Madina II. “Madina II is an example of community resistance to encroachment from statutory law and practices by refusing to leave and abandon their ancestral land despite the seizure of all farmlands, hunting and fishing grounds, cultural sites, sources of safe drinking water, collection points for medicinal plants, etc”, Atty. Brownell noted.

At each workshop, Atty. Brownell presented and explained the draft report. He highlighted the rational/purpose of the study; the structure of the consultations; the overall contents of the report and the recommendations. He revealed that this study is to look at common trends and patterns in community-based resource allocation, control and management, local decision-making processes and implementation and the lessons to share in practicing and sustaining such customary practices amidst statutory laws.

He reminded the communities about arguments widely held by some policy makers (in Liberia) about “free land” and “open spaces” across Liberia and these are the areas often given out by Government for large-scale agricultural concessions, etc.

At the end of each workshop, community members agreed to come to Monrovia to officially present the report and recommendations for inclusion in the drafting of the land policy by the Land Commission of Liberia.

Methodology

The validation workshops were conducted as follows:

1. Mapping communities (in the form of a cluster) for validation exercises and mobilizing community members (including women, youth, elders and chiefs) to attend;
2. Presenting and explaining every line of the draft report;
3. Entertaining questions/comments; and
4. Ensuring floor discussion of the report including:
 - a.) Verifying statements and quotes
 - b.) Sharing information on next steps (such as the trip to Monrovia to present report)

Key outcomes

The following were the key findings and special conclusions during the validations exercises in Grand Cape Mount County:

1. Every key finding and special conclusion was endorsed and accepted as true reflections of the consultations and discussions held during the data collection;
2. Community ownership of land, in case study communities, is older than the establishment of the Liberian state or before the arrival of the settlers in Liberia older;
3. The Government’s lack of recognition for customary systems is responsible for the multiple challenges faced by community members in exercising their rights including the right to practice their unique way of life handed down by their ancestors;
4. The customary systems are the same and remain intact with common trends and challenges across the case study communities. This is despite the enormous pressure and weight exerted by statutory laws and practices exercised by BF Goodrich and

Sime Darby. In these communities, it's about resilience;

5. Policy research by Green Advocates and FPP was considered appropriate and only equivalent to the role expected of parliamentarians elected in Liberia. Participants noted that their parliamentarians have not only failed to propose new laws on land and property rights but, in places where they've attempted, they have failed to truly consult them on the relevance, contents and ownership of said law. In Ghon, the participants saw role of NGOs as that which should be played by law makers;
6. Some community boundaries may be disputed and yet to be resolved but, amidst this challenge, there is absolutely no "free land". The workshop was informed that the boundary between Madina II and Gondeji is disputed and the exact boundary is yet to be determined but there's no free land between the two communities or towns;
7. The sample map produced at the end of the validation workshops show no "free land" or "open spaces" between the towns mapped. Only common boundaries were identified. In places where boundary lines required some clarity or consensus, no "free land" was recorded. The boundary line is expected to either extend inward or outward—loss to neighbor or gain of land from neighbor—but no un-claimed parcel of land was identified along any boundary line;
8. Community members confirmed that the draft report perfectly coincides with the established traditions and common challenges in exercising their rights to practice the culture and traditions of their ancestors;
9. Some indigenous conservations methods were highlighted by community members. In Madina II, local conservation methods in fishing included seasonal fishing (allowed from December to March) and the laws against digging (in the water) or tracing fish to their breeding places. Fines were lived for violations of the law;
10. Respect for the elderly and parents were noted as disappearing influences. "Just one look from a child's father into the eyes of the child in the past was sufficient to discipline that child. Today children do not show much respect to the elderly because the sacred society that taught them how to become discipline, loyal and patriotic members of the society have been destroyed by the big companies taking away our traditional land and forest. We have nowhere to train our children the culture and way of the tribe." For example if a child is attempting to walk away from home or trying to hide and idle around, just one look from the father was enough to compel him to immediately return home or cancel his plans", Mohammed L. Konneh, Madina II.
11. Community members were also gender-sensitive and assigned roles based on gender considerations. Decisions were gender-specific—women decided issues about women while men discussed men-related issues. For instance, decisions about fishing were led by women while hunting-related discussions were led by men;
12. Community members were very sensitive to the issues about strangers and the transgression of community rights. *"An intermarriage involving a stranger and citizen of a town is a big, big difference. Such stranger can live like any of us. He will be allowed to grow cash crops, etc. because he needs to acquire property to support his new family. The property including cash crops will remain with family even after his death"*, Mohammed Jaliba, Kaylia Town. In Kaylia, there was a very interesting debate about the fate of the siblings of a stranger. Atty. Brownell asked "What becomes of them? Are they citizens or not?"
13. Community members took ownership of the report and agreed to submit their findings and recommendations to the Land Commission, in Monrovia, as their contributions to reforming land and property rights; and

14. Community members were thankful for the report and project on their indigenous knowledge and practices.

Summary of comments and recommendations per community

A.) Madina II: Ballah Town, Nimba Point, Gbah Foboi, Gondeji, Kon and Madina II were towns represented at the workshop.

Findings/ conclusions	Community Response(s)		Comments
	Accepted	Rejected	
Introductory activities	✓	-	
Part 1: Community Voice			
1.) "We who live here own the land"	✓	-	
2.) "There is no free land"	✓	-	
3.) "Outsiders can use community land but only with the community's permission and only under certain conditions?"	✓	-	In response to violations of established tradition in accepting "strangers", Joe Nelson, Madina II, stated as follows: <i>"Sime Darby came and took our land by force. We saw them checking crops but they never asked us. Sime Darby only brought sheets to sign on. Our grandfather instructed us not to sign. We were later encouraged to sign and them pray to God that if the process is characterized by cheating, God would punish Sime Darby or bless us with someone who will speak for us on these violations";</i>

4.) “There is a clear decision-making structure for managing the land and ensuring long-term sustainability”	✓	-	<p>Town chief, Ballah Town: “If you brush a spot (irrespective of being a citizen or stranger) without making use of the allocated or cleared land, you will be fined. This is proper because compromises are made including destroying cash crops of the original owner to allow you clear the land for investment.”</p> <p>“Our fishing season was set from December to March. No fishing activities were allowed after this time.”</p> <p>Town Chief, Ballah Town</p> <p>“No one was allowed to dig deep into the river to catch fish. It was not proper to trace them to their breeding places. Anyone caught violating this law was fined.” Varney S. Gole, Kon Town</p> <p>“It was forbidden to use chemicals to catch fish. In this way, you kill more fish than required. The young fish got destroyed and were never utilized”, Madina II</p> <p>“The reason for the fallow system is to protect shifting cultivation. The fallow period allows for soil recovery or to restore soil nutrients ahead of the next farming season”, Elder Madina II.</p>
5.) “Under customary systems communities do not permanently lose the land”	✓	-	<p>Elder from Madina II: “When BF Goodrich left, instead of turning the farm over to us as owners of the land, the Government voted to turn the farm over to Sime Darby without consulting us”.</p> <p>Atty. Alfred L. Brownell, Green Advocates: “You can sell the crops on your land but you’ve not sold your land. When the money paid for the crop is finished, you will have something to live on”.</p>
Part 2: Recommendations			
To Government	✓	-	

To communities	✓	-	
To Sime Darby	✓	-	<p>a) Introduce a form of pension scheme for the elderly population in project affected communities. According to community members, there were promises to give land back to some elderly community members who worked at BF Goodrich. This has not happened yet;</p> <p>b) On restoration: Sime Darby should build hand pumps in places where there are difficulties in restoring creeks or rivers.</p>
Development priorities	✓	-	Accepted as captured in the relevant lines of the case study

B.) Kaylia: Damah, Senii, Johnson, Segamah, Kaylia, Lain and Dendeweah were towns represented at the workshop.

Findings/ conclusions	Community Response(s)		Comments
	Accepted	Rejected	
Introductory activities	✓	-	
Part 1: Community Voice			
1.) "We who live here own the land"	✓	-	
2.) "There is no free land"	✓	-	
3.) "Outsiders can use community land but only with the community's permission and only under certain conditions?"	✓	-	<p>Mohammed Jaliba, Youth Leader, Kaylia:</p> <p><i>"An intermarriage involving a stranger and citizen of a town is a big, big difference. Such stranger can live like any of us. He will be allowed to grow cash crops, etc. because he needs to acquire property to support his new family. The property including cash crops will remain with family even after his death".</i></p>
4.) "There is a clear decision-making structure for managing the land and ensuring long-term sustainability"	✓	-	

5.) “Under customary systems communities do not permanently lose the land”	✓	-	
Part 2: Recommendations			
To Government	✓	-	
To communities	✓	-	
To Sime Darby	✓	-	
Development priorities			<p>a.) Community members need hospital, a high school, roads, electricity and safe drinking water.</p> <p>b.) In terms of who benefits from development assistance from Sime Darby, the community agreed that all benefits should be evenly shared with every community member.</p>

C.) Ghon: Ghon, Falie and Kanga were towns represented at the workshop.

Findings/ conclusions	Community R-response(s)		Comments
	Accepted	Rejected	
Introductory activities	✓	-	
Part 1: Community Voice			
1.) “We who live here own the land”	✓	-	
2.) “There is no free land”	✓	-	Elder Boakai Zodua, Ghon Town: “It is laughable if you ask about “free land” between us and our neighbors. We have no “free land”. Government is only claiming our land because we are powerless. We don’t have the power to stand up to the security sent to grab our lands”.
3.) “Outsiders can use community land but only with the community’s permission and only under certain conditions?”	✓	-	
4.) “There is a clear decision-making structure for managing the land and ensuring long-term sustainability”	✓	-	“The NGOs are doing what our legislators [parliamentarians] should be doing. Before proposing laws they check, like what the NGOs are doing now, to that laws will work for us”. Boakai Zodua, Ghon Town.

5.) "Under customary systems communities do not permanently lose the land"	✓	-	
Part 2: Recommendations			
To Government	✓	-	
To communities	✓	-	
To Sime Darby	✓	-	

Part 4: Conclusion and Next Steps

In summary, communities have made clear that they have always owned their land, that there is no free land that is not owned by communities, and that they have clear decision-making structures for managing the land and ensuring long-term sustainability. On the other hand, they are also clear that they are happy with outsiders coming and using the land productively, but only with the community's permission, only under certain conditions, and not in a way that leads to their land being permanently alienated from them.

Community representatives intend to present these findings and recommendations to the Land Commission's land cluster group that is responsible for finalizing the draft National Land Policy, in order that communities' perspectives can powerfully shape the future legal framework within which state, private and community actors operate, and frame it in a way which recognizes communities customary ownership and sustainable practices.



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