

Acknowledgements

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Acronyms

CNDRA	Center for National Deeds and Records/Archives
DLSC	Department of Lands, Survey and Cartography
MCC	Millennium Challenge Corporation
MLME	Ministry of Lands, Mines and Energy

EXECUTIVE SUMMARY

The individual ownership of land in Liberia has long been recognized and all such ownership stems from grants of land made to individuals and purchases from local people. Dealings in private lands are regulated by law and are recorded in a Deeds Registry. By the 1960s the status of information in the registries was so uncertain that in 1971 the government asked UNDP to provide assistance to undertake a pilot Cadastral Survey in Monrovia with the hopes to establishing an Office of Land Register to cure the defects of the existing system of deeds registration. Following the enactment of the land registration law in 1974 (Chapter 8 of the Property Law) the government of Liberia began to implement a pilot systematic land title registration program. This activity ceased shortly after the coup in 1980.

The current situation in the deeds registry has not improved from the late 1970's and in fact has probably gotten much worse to the point that there is currently a total lack of trust with the system. Many records were destroyed during the years of turmoil. Many transactions have occurred with little reference to existing documents or previous transactions, leading to a situation of parcels being subdivided and sold with no accompanying adjustment to the mother deed. Many fraudulent documents have entered the system with little ability to correct the information prior to its being entered in the register. The overall result of this situation is that there exist seemingly valid yet conflicting documents, as well as many fraudulent documents registered with land-related Government institutions. As people are dissatisfied with the existing deed registration system, there is growing pressure to replace the existing system with an alternative title registration system.

However, prior to making a commitment to a title registration program, the Land Commission has rightly taken the position that there needs to be a clear understanding of the previous pilot experience. The Commission is interested in the lessons that can be learned from this exercise and how such lessons can then be applied to the current situation. There is also recognition that even if there was a commitment to moving towards a title registration system for land records in Liberia, the reality of the situation is that both systems are going to have to co-exist for the foreseeable future as the current records systems are absorbed into the title registry. The focus of this consultancy is to do just that.

Ten areas of concern were raised in the terms of reference which were addressed in the study prior utilizing these findings to make recommendations on how to move forward to address the situation;

- 1) **Examination of the land title registration law and whether it is implementable today:** The land title registration law has a number of constraints to implementation today. The law requires an unnecessary involvement of the Supreme Court and Probate Courts. The process of first registration described in the law is cumbersome, redundant, and fails to achieve the critical understanding of the system by members of the public.

Recommendation: Repeal the 1970s law and draft a new law to streamline the demarcation and adjudication process and reduce the judiciary's role to that of an appellate role related to adjudication.

- 2) **The experience with the systematic pilots in the 1970s to understand the disappointing results and determine whether and how a stronger performance could be achieved in new piloting:** The study found a near complete lack of understanding of the program, its purpose and objectives as implemented, combined with a high level of suspicion of government activities. This lack of understanding led to the recipients of titles reverting back to the deeds registry for future transactions.

Recommendation: Any new registration effort must include a substantial public education component not only to explain what the government's objective are, but also to demonstrate the benefits of the new records system, and the obligations of the property owners to use and maintain the system.

- 3) **The status of titles registered in those pilots, and their current relationship to the deed registry system:** No titles or registry books were found in the MLME. However, there was a fairly complete set of files on records of land in the pilot area. Index maps were also located and comparisons were made between the two. A number of possible explanations were put forward to account for missing files.

Recommendation: A continuing effort needs to be undertaken to continue to catalogue records within the system. These records need to be incorporated into any future adjudication process.

- 4) **Attitudes towards the system on the part of those aware of the earlier piloting and the implications of these for the conduct of future piloting:** The study found that many people did not understand the program and were suspicion of government objectives. This affected their willingness to participate in the program.

Recommendation: Preparation for a new titling program must include an investment in public information.

- 5) **Potential economic and other benefits that could result from title registration:** The study delineated a number of potential benefits to be derived from a title registration program and assessed the likely benefits to accrue in those settings. Different benefits may be associated with different site selections and the government needs to have a clear justification for making an investment in a titling exercise in a given area based on the expected benefits.

Recommendation: The government needs to justify to itself and to the public the costs and benefits of a title registration program. While the government may initially finance the program, the public must be able to see a substantial benefit to ensure future utilization of the system.

- 6) **Possible issues arising from customary tenure rights present in the 1970 pilot areas:** No evidence was found of any customary tenure rights in the project area and, given the location; there was probably little likelihood of their being there. However, customary tenure issues will come up in other areas if the government moves toward systematic titling.

Recommendation: Any new land title registration law and accompanying regulations for implementation and adjudication must address customary tenure issues.

- 7) **Potential winners and losers in the process:** The study was unable to undertake a thorough social assessment of the pilot area. However, a non-statistical questionnaire was designed and utilized in interviews with participants to try to identify disadvantaged groups.

Recommendation: Any new land title registration law and accompanying regulations for implementation and adjudication must develop mechanisms to ensure participation of all land rights holdings groups in the registration exercise. Systematic titling programs should be nearly costless to participants to ensure everyone can and will participate. Dissemination of information about the program is a critical factor in this effort.

- 8) **The capacity of MLME to do a small registration pilot and the capacity-building that would be required:** It is quite clear from the study and from observations in county offices that MLME will need a significant investment in physical and human resources before any titling exercise can realistically begin. Current resources are very limited and consideration has to be given not only to the creation of the records but also to the management of the records once they have been created and brought into the system. This has implications for both MLME as well as CNDRA.

Recommendation: A substantial investment needs to be made in human and physical resources prior to any implementation of title registration. While it may be possible to undertake inventories of land and related records, serious consideration needs to be given to not prematurely raising expectations with the public.

- 9) **Factors potentially affecting the sustainability of the system:** The land registry is only as good as the quality of information in the registry. If the public understanding of the benefits of the system has not been successfully absorbed, and if there are no mechanisms to ensure that updating of information occurs with each transaction, there is little justification in making the investment in the first place.

Recommendation: A significant investment needs to be made in public education to ensure a complete understanding of the benefits of a title registration system prior to beginning first registration. The potential benefits of the system come at an initial cost to establishing the system, but also as a result of the public acceptance of the obligation to maintain the system. There are some passive mechanisms that also force an updating of the records which would involve the probate courts (finalization of inheritances and closure of probate procedures), courts in general (reporting of decisions affecting land rights), and financial institutions (requirements to investigate the registry prior to entering into any mortgage agreement). All of these avenues need to be explored in addition to the broader, continuing public education programs.

General recommendations

Capacity building:

Investment needs to be made in capacity building of both land records related institutions. This relates to the creation of land records as well and the management of those records once they are created. How are the records created? How are they managed within the system? How are the records updated as transactions occur? How are the records made accessible to the public? The appropriate staffing, facilities, and procedures need to be developed to address all of these issues.

Institutional Reform:

As decisions are made on the government's vision for land records and related institutions, there needs to be a clear delineation of institutional mandates. What is the relationship between MLME and the Deeds Registry, between the Deeds Registry and a proposed Title Registry, and finally between central and local government as decentralization proceeds?

Land Records Roundtable/Workshop

It is strongly recommended that a land records roundtable/workshop be held to discuss and begin to develop a long term vision of the government's objectives related to land records. While there are efforts underway to rehabilitate the Deeds Registry and begin consideration of a new titling program and related re-establishment of a title registry, there has been little discussion on the modalities of actually making this happen. There should be opportunity for an open and frank discussion of all of the issues raised by this consultancy. Participants for that workshop should include all stakeholders. One possible outcome of the workshop could be the establishment of a task force within the Land Commission to develop an action plan for moving forward.

Law Reform:

It is recommended that serious consideration be given to the following law reform initiatives:

- 1) Amendments to legislation pertaining to the Deeds Registry that would focus on management of deeds documents.
- 2) Repeal of the current land registration law and the drafting of new legislation for land title registration.
- 3) Development of detailed land adjudication regulations that would provide the mechanism for completion of a land title registration exercise.

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I. BACKGROUND

The individual ownership of land in Liberia has long been recognized and all such ownership stems from grants of land made to individuals and purchases from local people. Dealings in private lands are regulated by law and are recorded in the Deeds Registry. By the 1960s the status of information in these registries was so uncertain that it prompted the then Attorney General to propose that a new law be enacted to provide greater assurance to the citizens of Liberia about their land records. There were both uncertainties about the validity of many of the deeds in the system as well as the location of the boundaries described on the deeds. In the Deeds Registry every deed probated was duly recorded, written out in long hand, including the metes and bounds description of the subject property, but no copy was made of the parcel map attached to the deed. Copies of deeds were provided for subsequent transactions with no ability to reference earlier transactions on the same property or subdivisions that may have taken place.

In 1971 the government asked UNDP to provide assistance to undertake a pilot Cadastral Survey in Monrovia with the intent of establishing an “Office of Land Register” to address the defects of the existing system of deeds registration. Following the enactment of the land registration law in 1974 (Chapter 8 of the Property Law) the government of Liberia began to implement a pilot systematic land title registration program. The first phase of this exercise took place in Monrovia, with plans to extend the registration area to four other surrounding locations in the city. While some preliminary work was done in 1978-79, the system collapsed in 1980 due to the lack of resources and the uncertainty following the coup.¹

Current Situation

The current situation in the deeds registry has not improved. In fact, it has probably gotten much worse to the point that there is a total lack of trust with the system. Many records were destroyed during the years of turmoil. Many transactions have occurred with little reference to existing documents or previous transactions, leading to a situation of parcels being subdivided and sold with no accompanying adjustment to the mother deed. Many fraudulent documents have entered the system with little ability to correct the information prior to it being entered in the register. The overall result of this situation is that there exist seemingly valid yet conflicting documents, as well as many fraudulent documents registered with land-related Government institutions. As people are totally dissatisfied with the deed registration system, there is a growing pressure to replace the existing system with an alternative title registration system.

Concerns

However, prior to making a commitment to a title registration program the Land Commission has rightly taken the position that there needs to be a clear understanding of the previous pilot experience. The Commission is interested in the lessons that can be learned from this exercise and how such lessons can then be applied to the current situation. There is also recognition that even if there was a commitment to moving towards a title registration system for land records in Liberia, the reality of the situation is that both systems are going to have to

¹ The information in this section is derived from “The Introduction of Land Registration in Liberia” a paper prepared by J. R. G. Harrop, United Nations Survey Adviser, August 1972.

co-exist for the foreseeable future as the current records systems are absorbed into the title registry.

II. STUDY OBJECTIVE

The focus of this consultancy is to do just that. What happened to the pilot survey – why did it stop? What lessons can be learned from the earlier land titling exercise? How was that exercise planned and implemented? What problems arose during implementation? How were the problems addressed? How were members of the public involved in the exercise? What happened to the records created at that time, both in terms of storage as well as utilization for subsequent transactions? What is the state of those records at present?

Additionally, if there is a move toward the development of a systematic titling exercise, what is the current legal setting that would support the implementation of that exercise? Is the current land registration law appropriate for this work or does it need to be amended or rewritten? In either case, can some work proceed while this is happening, i.e. what can take place within the limitation of the existing law or must any piloting await new or revised legislation?

Similarly, is there an institutional capacity to undertake such an exercise? This raises questions of staff and facilities capacities.

And finally, and most importantly, what steps need to be taken to ensure that the public understands the new system and is willing to provide the necessary information to keep the records current? What needs to be done to encourage participation and ownership? How can the sustainability of such a system be ensured?

The Terms of Reference for the consultancy are attached as Annex 1

An inception report was prepared during the first three weeks of this consultancy (Annex 2). That report provided some insight from initial findings of the time period as well as presented a strategy to respond to the issues raised in the Terms of Reference. A questionnaire was designed (Annex 3) to gather information from people who had had their properties surveyed, adjudicated, and titled in the pilot exercise. A review of all files in Department of Land Survey and Cartography (DLSC) pertaining to the pilot was undertaken and an inventory of information contained in those files was prepared. This data set contains records from approximately 1000 files. Annex 4.0 presents a map of the pilot registration area and a sample of DLSC data set is contained in Annex 4.1. A second listing of information was compiled from the claims registry books. This is presented in Annex 4.2. A portion of the index map for pilot Area 1 is presented in Annex 4.3. Annex 4.4 combines these data sets to demonstrate the amount of missing information. Annex 4.5 presents a subset of information contained in the claims registry. A limited inventory of records of transactions pertaining to parcels within the pilot registration area was compiled from documents found in the Deeds Registry (Annex 4.6). Interviews were conducted with people who were directly involved in the pilot exercise. These included surveyors, adjudication officers, ministry officials, and other informed individuals. A list of these people is included as Annex 5. The final annex (Annex 6) presents the report from a trip made to the Buchanan County Lands and Deeds Registry Offices.

This report presents the findings of this effort. It is structured to address each of the areas of investigation raised in the Terms of Reference. This discussion is followed by a set of recommendations of the appropriate way forward.

A. Examination of the land title registration law and whether it is implementable today in post-conflict Liberia given that the law has prescribed roles for the court systems in terms of adjudication role, MLME etc. To what extent is this implementable and are the involved institutions running or does the law require simplification to fit to today's Liberia. What are the capacity requirements for the involved institutions.

The 1974 law has a number of provisions that need to be addressed prior to the introduction of a new titling exercise. Discussions with government officials who participated in the pilot titling program raised issues related to the provisions of the law and its impact on the relative success of that program. These issues are highlighted as three broad areas of further analysis:

- 1) The relationship of the titling exercise and the role of the Chief Justice and the Supreme Court.

There is a major role for the Chief Justice and the Supreme Court in the titling exercise which is very unusual. Once the MLME declares an adjudication area, the entire procedure falls under the control of the Chief Justice and the Probate Court System. The Chief Justice appoints the Referee (the senior adjudication officer) as an officer of the Probate Court in the area of the adjudication exercise to serve only for the period of that exercise. The Chief Justice also appoints the demarcation officer and the recording officer, who are supervised by the referee. (Only the survey officers are appointed by the Ministry of Lands Mines and Energy (MLME)).

Normally the adjudication process is carried out at a much lower level of judicial involvement. The adjudication officer has some limited dispute resolution capacity, but appeals to his decision enter into the formal court structure at a much lower level--a circuit court, magistrate's court, or equivalent. We were informed that such an option was not possible here given the relative low level of expertise within the entire judiciary; only at the Supreme Court level were there individuals perceived to be capable of handling land dispute cases.

However, respondents raised two very basic issues with this structure that appears to have had a direct impact on the relative success (or failure) of the titling exercise to move forward and become institutionalized:

- a) While the referee was charged with the finalization of the adjudication process in the field, because of his appointment level at that of an officer of the Probate Court, any appeals to a decision made by the referee in that process were filed directly to the Supreme Court. We were initially told that this process of appeal overwhelmed the court with land cases (or the thought of potential cases) leading to a disincentive to continue the exercise.

However, an investigation done for the Land Commission looking at all cases pertaining to land coming before the Supreme Court found no cases related to land associated with the adjudication exercise.

- b) A second explanation provided (on which we had no time to follow up) was that when appeals to a decision by the Referee were lodged in the court system, they came into the offices of the Associate Justices of the Supreme Court. We were told that there was a turf battle ongoing between the Referee and these individuals (the Referee being thought to be too junior to have the authority that he had) and that appeals so lodged simply sat in the these offices and were not acted upon.

It would be difficult to follow up on this line of thought given the change in personnel over the years and the likelihood of finding people willing to admit to this obstruction of the process. However, this seems to have possibilities, given that there is considerable anecdotal evidence that there were appeals to the Referee's decisions and that there are no records of these case reaching the Supreme Court.

2) The objectives and procedures for adjudication of property rights.

The objective of the adjudication exercise is to review claims over land holdings and ultimately determine ownership of that land. The process should be one of mediation and arbitration rather than one of litigation if at all possible. The structure of the law does not encourage this process to take place. Much of the lack of success of the pilot rests on the failure of the public to understand the program (see discussion in Section D below). Because there was a lack of clarity of the process, there was in all likelihood a lack of understanding of what documents were necessary for the exercise to take place.

Informants told us of people who had no documents (or unclear documents) of not being willing to participate in the program despite clarity in the law that ownership could be conferred on land with a demonstration of long term occupancy. Given the location of the pilot exercise in central Monrovia there should have been few land holders who were recent occupiers of their land.

The adjudication process by its high level of court involvement probably encouraged the development of a litigious mindset amongst the participants, thus eliminating the possibility of taking advantage of a more conciliatory approach associated with mediation and arbitration of property rights that is characteristic of most adjudication exercises.

3) The detailed procedures spelled out to be followed in undertaking the exercise.

The law delineates detailed procedures to be followed during the registration exercise. Much of this detail is more appropriate for subsidiary regulations and procedures manuals rather than being a component of the law. This is of particular concern as title registration programs move into different base tenure regimes. Their being contained within the law rather than as regulations does not permit the flexibility of addressing a wide range of local conditions. For example, titling in an urban environment with existing deeds documents and long standing investments will be a significantly different experience from titling in a rural environment with customary tenure rights and less historic settlement, though a relatively homogenous population, and yet again different from a peri-urban environment with more recent settlement, a mixed population group, a mixture of documentation, etc.

The procedures spelled out in the law are problematic.

- a) In some cases there are redundant activities. The parcel has to be measured, demarcated, and ‘surveyed’ three separate times; first by the parcel holders in negotiation with his/her neighbors, secondly, by the demarcation officer to verify what the parcel holder and neighbors have agreed to, and then finally by the survey officer, who formally surveys and records the boundary information. In at least one instance, the parcel holder had hired a surveyor to do the initial survey, followed by two completely redundant surveys. The role of the second survey is questionable and the entire process should be reconsidered, for example combining steps one and two, or simply eliminating step two.
 - b) In other cases the detailed requirements of the law did not produce the desired results. The law spells out a detailed procedure for public education of the pending registration activity. This public information campaign with its detailed reporting requirements to verify that these activities were indeed undertaken (newspaper advertisements, radio and TV announcements, posters placed in conspicuous locations throughout the adjudication area, etc.) proved to be grossly ineffective. Alternative options for a public education need to be explored. The process of public education should begin with the development and introduction of any new registration legislation, which would be well in advance of any registration work on the ground. This is discussed at length in the next section.
- 4) The lack of public awareness of the pilot despite the stipulated requirements of the law.

Most people interviewed and many of those who implemented the program repeatedly indicated that there was a systematic failure to inform the public of what was taking place. People did not know what the objective of the program was, what was expected of them, and what was going to happen to their land records. They did not trust the government in its explanation of the program and many feared to participate in anticipation of some ulterior motive of government. Part of this negative impact of the public awareness can be attributed to the fact that this program was just getting underway when the program collapsed. However, that would pertain more to the utilization of the title registry once the records had been created and entered into it. It appears quite certain that there was no effort to inform the public of how the system was supposed to work once it was up and running

A thorough review of the law and the implementation handbook associated with the law needs to be undertaken by the land records task force (see discussion below).

Within the context of the law review process is the need to clarify the relationship of the deeds registry and deeds registry documents to a title registry program. Ultimately the title registry will replace the deeds registry, but the question remains how that process will take place. How are existing deed documents to be utilized to validate claims during the title registration program? How are the deed documents themselves to be vetted to ensure their authenticity? What happens to these documents once the title registry program is finished in a given area?

B. The experience with the systematic pilots in the 1970s under the World Bank project, to understand the disappointing results and determine whether and how a stronger performance could be achieved in new piloting;

1) Preliminary Findings – interviews in adjudicated Area 1

The initial plan for this investigation was to select 10 of the 74 adjudicated blocks in Area 1 and interview all residents. The interview team consisted of Matthew Pearce and Paul Tolbert from the Liberia National Land Commission, Solomon David from the Ministry of Lands, Mines and Energy, and MacArthur Pay-Bayee, Liberia National Consultant/Counterpart to the World Bank International Consultant.

After the first two blocks, it was obvious that the information from those who actually participated in the 1977/78 pilot title registry was similar, as was that from those who did not. Hence, a revisit of the plan was necessary, resulting in the selection of three persons from each block and cutting a diagonal through Monrovia from block 11 to Water Street and back to Benson Street. This proved a little bit difficult as the adjudication map and other map information were not in synchrony with the actual streets of Monrovia. When the entire ten blocks were surveyed and interviews conducted, there were still areas located far from the diagonal. To do a full coverage, two additional blocks from central Monrovia were added and interviewed.

In discussions with people that were involved with the pilot it was evident there were several problems with the planning and execution of the registration exercise. A summary of their observations indicates that some of the problems included: 1) information dissemination, 2) funding, 3) political interference from higher levels of the Liberian government, and 4) composition of the adjudication team. These problems are briefly discussed below:

Information dissemination – Many of the potential beneficiaries of the pilot exercise were very poorly informed, thus resulting in misinterpretation and general apprehension. For instance, one participant informed the interviewing team that his documents were taken from him at “gun-point.” Another informed us that several people did not turn in their documents until well into program implementation.

Political interference – At least three persons told the team that some high government officials did not have deeds or other documents for their parcels of land. When the Title Registry Manager insisted on reviewing their/officials’ land documents, they instigated the early departure of the project manager.

Donor’s funds and other extenuating circumstance – While donor funding ran out sometime during the implementation, the military coup d’état of 1980 added fuel to the fire that ended the program.

Composition of the adjudication team – At least three persons indicated that the head of the adjudication team (Referee) was appointed on the level of the Supreme Court judge, thus making it necessary for cases of appeal to a decision of the Referee to be taken only to that court and no lower courts. There were also reported cases of institutional conflict between the referee and the Supreme Court structure and the cases that came into the court were never acted upon. A review of Supreme Court cases that was undertaken by the Land Commission turned up no cases related to the pilot registration exercises. This substantiates a claim that

the cases went to the associate justices and were put on the backburner or effectively filed with no action taken.

2) Interview respondents:

Only a few of the interviewees heard the radio announcements concerning this exercise and were willing to provide information. Others were willing to provide information once it was clear the benefits they stood to gain from the exercise. Of the interviewees, actual participants gave surprisingly accurate information. Other surprises came from the number of government structures scattered around Monrovia, and the likelihood that the City Government may not be aware of their locations. One such structure is the old Executive Mansion Guard building located on Ashmun Street behind the Parker's Estate, which/estate covers most of the block between Mechlin, Ashmun, Newport and Broad streets. The building is still a home to some retired soldiers of the AFL. In a recent bid to improve sanitation, the Monrovia City Council tried at one time to evict the residents, believing that the building was someone's private property.

Most of the persons interviewed by the team are renters, leasers and/or heirs of former owners. Almost all the names on the adjudicated parcels were identified with their respective parcels where we interviewed occupants. From this finding, it is clear that most parcels of land have not exchanged hands since the 1970s. Where the original owner is now deceased as for example with the Geegbae, Barnes, Richards, Massaquoi, Hayes, Coopers, etc. families, the parcels passed on to their heirs and practically all the heirs chose not to divide the parcels. In selected cases, one of the inheritors was selected as the administrator and supported by the rest of the beneficiaries.

Some of the interviewees and inheritors reported they had instituted a resurvey, primarily because they lost their deeds and title certificates during the years of civil conflict, and that the Ministry of Lands, Mines and Energy had provided surveyors to conduct such exercise and re-issued deeds (not title certificates).

A number of interviewees indicated that they had used both deeds and title certificates whenever there were disputes over their parcels. One interviewee said that both documents were very useful in at least three cases where individuals tried to encroach on his family land, located in Block 11. He said that in each of these cases, MLME was very responsive and was able to resolve the matter quickly, based on the documents provided.

It was not clear the extent to which inheritors informed the concerned agencies (MLME, MoFA, CNDRA, etc.) about ownership changes. Some heirs indicated that they were not aware of the need for such an action when they inherited the parcels. Others argued that, as far as they were concerned, the action would be necessary only if they had sub-divided the parcel/s or sold some to non-members of their clans.

3) The Deeds System:

All the interviewees overwhelmingly agreed that the deeds system has been corrupted and is seriously flawed. Several of them suggested that the problems come from MLME, especially the surveyors. They argued that even if surveyors are licensed, there needs to be some follow-up mechanism put in place to ensure transparency. One such mechanism they suggested was periodic monitoring, arguing that surveyors are not doing their job of double

checking that the parcel to be surveyed is unencumbered. One person suggested that this creates difficulties for the Probate Court, which does not have the background-checking responsibility, as well as the Archives which cannot challenge a deed once it has been probated even if it is clear the deed is dubious.

All of the interviewees would like to see the system changed for the better. After our explanation of the implication of a title registry, all agreed that this would be the best alternative to the deeds system. However, there is need for an extensive education program before the actual implementation of title registry.

What we learned is that the public was reluctant to participate in the pilot of the 1970s because there were misconceptions of its aim and objectives. While some landowners thought the Government was trying to take away their land, others considered it as a way to identify landowners for taxation and other purposes. The benefits of the program were not made abundantly clear. Additionally, the process involved was not unambiguous – people were told to take their claims to the adjudication commission and neighbors were asked to send in protests if they also have claims on the said parcel. After a given length of time, if there was no new claim on the parcel, the owner would contact the adjudication commission for certification. In so doing, several land owners refused to participate in the program until well into implementation and just before funds ran out and the situation was overtaken by events. Land holders reported that several of the cases remained unresolved at the Supreme Court.

One respondent told us that appointment of the chairman of the adjudication commission at the level of the Supreme Court created a situation where appeals could not be taken to lower courts. Thus, the Supreme Court became unnecessarily bogged down with land adjudication cases, including his own. He did not say whether it was finally resolved. However, as noted above, there appears to be little evidence of these cases actually reaching the Supreme Court. Hence the perception that Supreme Court was overwhelmed with cases may have been a convenient excuse for inaction at that time.

4) Certificates issued after adjudication:

There is no conclusive evidence that all of the adjudicated parcels were certificated. However, from discussions with some of the participants, it is likely that several hundred title certificates were prepared and that some of these are still with the participants. This may be double-checked when the actual adjudication program is implemented, but several landowners have used both their deeds and title certificates to resolve encroachment cases since the pilot.

5) Challenges:

- a) One big drawback to the interview exercise was the unavailability of parcel inheritors, leasers, and owners. Most landowners in central Monrovia have either relocated to the outskirts of the city, to other parts of Liberia, or are out of the country. In cases where landowners still live on the parcel, visits to their workplaces took a major part of the interview team's time. This often required several call-backs, some of which were fruitful and others unsuccessful.

- b) Additionally, while the Land Commission endeavored to inform Monrovia residents ahead of our visits, only a few people heard the announcements.
- c) As a result of point 2 above, some people misconstrued our visit to be linked with the demolition exercises currently on-going in the city and would not provide us information.
- d) There is also the fear that this program will result in the government grabbing land from people, especially squatters, in the center of Monrovia.

All of these challenges need to be revisited and adequately addressed before the inception of the title registry program. For instance, some interviewees suggested the use of skits, jingles and radio dramas in educating the public prior to initiating the program. Another person suggested talk shows and visits to all the concerned communities by representatives of the implementing agencies. Still another suggested contacting heads and leaders of the communities and adequately informing them to inform their residents.

C. The status of titles registered in those pilots, and their current relationship to the deed registry system;

Records of the pilot titling program have been kept at the DLSC. Index maps of pilot registration Areas 1 and 4 were completed during the pilot. We were not able to find those of Areas 2, 3, and 5, which were presumed to be in the planning stages. Annex 4.0 presents a map of the pilot registration area prepared by combining the individual area maps that we were able to find. An inventory of the parcel files was made of all of the records found in the DLSC. These were organized by registration area, registration block, and then the individual parcel files within each block. All of these files were reviewed, a list of names completed, and the records were then refilled in the department's filing cabinets in a systematic fashion. A summary of this information is presented in Annex 4.1.

It was clear from this exercise that a number of records from entire blocks were missing as well as records of individual parcels within registration blocks. There are several possible explanations for this:

- 1) With few exceptions (<10 out of 1000+ files examined) the files contained no information on subsequent activities related to the parcel. The only information contained in the files was related directly to the titling exercise (claims forms, copies of deeds documents, some transactions records to substantiate claims, etc.). This could mean that those files that are missing are ones that had been removed to deal with a subsequent transaction with the land (sales, lease, inheritance, etc.). What happened to these files is presently unknown.
- 2) Parcel files that were missing could be those where documents supporting the registration were unavailable and these were filed separately pending resolution of the claims. Alternatively, people who did not have supporting documents were afraid to participate in the exercise for fear of losing their land holdings.
- 3) Parcel files that were missing could also be those where an ongoing dispute had not been resolved and they were filed separately pending resolution of the dispute.

- 4) Parcel files that were missing may have been files that had never been created in the first place. While names had been recorded on the index map, these people may have not come forward and submitted a claim for the land, had not participated in the exercise for whatever reason, or had outright refused to participate in the exercise. The index maps themselves also have parcels identified for which no parcel identification number has been assigned.
- 5) The files may have disappeared as a result of some subsequent fraudulent transaction relating to that land.

A second inventory was made directly from the index maps. A sample of the index map prepared for Area One is included in Annex 4.2. The inventory from Area One was completed, while that from Area Four is still underway. The completion of the inventory for area four has been complicated by the inability to make a photocopy of the index map. A selection of the inventory from the index map of Area One is presented in Annex 4.3

The two inventories have been compared to determine the correlation between the information on the index map and that of the parcel files in the department filing cabinets. This is presented in Annex 4.4. For the most part the names and parcel numbers matched. We were also able to determine the names of those people missing from the parcel files. An attempt was made to meet with some of these people to determine what may have happened to their files.

A visit was made to two registration blocks in an attempt to find the owners that had been identified on the index map and for whom there were no parcel files in the DSLC. While the properties of all of the owners that were able to be identified on the ground had changed hands since the pilot exercise, these transaction all involved inheritances rather than sales.

A third activity was undertaken to try to identify any records at CNDRA that related to properties within the pilot registration area. Given the nearly complete lack of any documentation pertaining to subsequent transactions in the DSLC files, and evidence from the field interviews that indicated that people, not having understood the title registration system introduced, had reverted back to the deeds registry system, it was expected that the missing files may have been those having subsequent transactions and had been removed from the DLSC files during the process of recording those transaction at the deeds registry.

A search was made of all Deeds Registry documents to try to find any records of recorded transactions involving parcels within the pilot titling area. While there is little or no spatial records kept for parcels there is some location reference contained in the Deed document. The registry search looked for all transactions that made reference to the pilot registration area. Only 44 such transfers were found for the periods 1980-1987 and 2000-2003 (the period of the search). These records were then sorted by name and tried to be matched to the information contained in the table presented in Annex 4.4. Only 6 names (and locations) from the Deeds Registry information were able to be tentatively matched with that information in Annex 4.4. In 4 of the 6 cases these matches corresponded to those parcels having names on the index map, but having no corresponding file in the DSLC documents collection. This may give some credence to the argument that parcels having subsequent transactions were abstracted from the files during the transaction and may be anywhere in the system. Five of the six were agreements of sale, and the sixth was a transfer deed.

The initial sorting of files occurred during the first visit of the consultancy. Upon return two months later and visiting the DLSC offices we were encouraged to find the files cabinets labeled and where possible locked. However, on closer inspection of the files within the file cabinets we found that it would appear that many of the files had been removed at some time from the cabinets and returned to the cabinets with no attempt to maintain any filing system, and no attempt to even have the files facing in the same direction. Further investigation showed that the labels that had been placed on the filing cabinets themselves bore no relationship to the information contained within the file cabinet.

D. Attitudes towards the system on the part of those aware of the earlier piloting and the implications of these for the conduct of future piloting:

In the inception report, the study intended to conduct a series of interviews in all the five areas –adjudicated, as well as demarcated areas. This would include an adjudication area interview, an individual interview and a parcel interview. The plan was as follows:

- 1) Interview pilot area: The pilot area itself would be visited with the purpose of discussing the pilot with current residents. A sample of blocks within the pilot area would be selected and interviews (individually or collectively) will be undertaken to solicit information on current knowledge of the title registration program, participation in the program, impact of the program, and current status of the land in the pilot area.
- 2) Interview land holder/descendant in pilot area: A second survey would be undertaken with individuals who were known to have participated in the pilot program based on records that have been found of the pilot exercise. Ideally, participating individuals (some individuals who participated in the pilot) or their descendants would be found, where specific information can be gathered on the pilot registration experience. How was the pilot conducted; what did the individual parcel holder have to do for the exercise; how well did the participants understand what was going on; what have they done with their land since that time; what have they done with their land records since that time.
- 3) Interview parcel: Based on information gathered from the Department of Land Survey and Cartography, MLME identify specific parcels registered in the pilot program and ascertain what has happened to those parcels since the pilot was completed. Are these lands still intact or have they been subdivided (or consolidated). What development has taken place? Who is the current owner? Is that the same owner who was there when the parcel was mapped? Have any of these changes been recorded in the lands registry/deeds registry?

The interaction from the field indicated that not all of the surveys were necessary, primarily because while the physical outlook of Monrovia may not have drastically changed, a lot of changes brought on by the years of instability have resulted in the loss of much historical information and knowledge base. For instance, there are streets named and drawn in the adjudication map that do not NOW exist in Monrovia. Additionally, several of the locations named in the adjudication no longer exist, as a result of development and related instances. Many Monrovia residents have either relocated to other parts of the city or have left the country. Some are deceased, leaving their parcels to their heirs. Consequently, many

people currently residing on the parcels have little or no knowledge of the 1970s pilot and could not provide much useful information regarding the history.

The team resolved this information gap by first using the pilot area interview, which established some institutional memory of the pilot, as well as addressed the awareness issue. In another case, the team thought to identify key “knowledgeable people and pick their brains” on their knowledge of the pilot, as well as their suggestions regarding the way forward. In a way, the latter proved to be a better way of obtaining information. While some people suggested keeping the questionnaire forms and answering them during their leisure, very few forms were returned to the team. Where appointments were set up with key persons, more useful information was obtained.

It is therefore recommended that instead of structured questionnaires, data collection should be designed to meet in person interviewees, even if it is a focused-group method of data gathering. The other relevant issue is the length of the interview because people don’t have a lot of patience with interviewers and if you insist on continuous attention, the result may be abysmal. One may be fed information on the pretext of providing him the “kind of information he wants” and not necessarily a true picture.

There appears to be a significant lack of understanding of the pilot titling exercise in the late 1970’s, both on the part of the parcel holders as well as on the part of those implementing the project. This is understandable given that the project collapsed shortly after beginning and there was no opportunity for the public to get familiar with and use the new land records system. Similarly there is no evidence that any institutional structures were put in place to manage the records being created, to make those records available to the public, or to develop the procedures for updating those records as transactions involving those parcels occurred.

One interviewee informed us that he had used both the certificate and deeds at least two times to defend his land when people tried to encroach on his property

Another one said he was “forced at gun-point” to provide his deeds

Despite extensive radio information concerning our own survey, most people did not know about it when we contacted them for information and only participated when we explained to them the intent of the survey.

While there have been transfers and other forms of land transactions, several interviewees did not think it necessary to report such transactions. One person thought such a report is necessary only if the parcel of land exchanges hands, i.e. there is a sale.

Given that the participants in the exercise did not fully understand the system and were in some cases reluctant to participate in the process, it is doubtful that there was any effort to educate the populace on the use of the system once it was established and their obligation to keep the information up to date. For example, anecdotal information gathered during the interviews indicates that people saw no need to update records when transactions (transfers of ownership) involved inheritances rather than sales.

E. Potential economic and other benefits that could result from title registration, assessing the relative feasibility and benefits of piloting in different areas (urban or rural, agricultural or residential, deeded or informal occupancy areas, the capital and/or in counties);

During one of the interviews, one knowledgeable person suggested using existing laws, which he said are an adaption of the Torrens Systems, commonly used in Australia and some

European countries. He argued that this system is effective and that it exists in the laws in Liberia, but it has not been fully implemented over the years.

The benefits of an effective land registration system are that it will:

- **Guarantee ownership and security of tenure:** The adjudication process by its nature will add finality to the question of ownership of a given parcel of land. This becomes the basis for the registry information. The insurance principle of the Torrens system is that the information in the registry is guaranteed for anyone relying on that information for making property related decisions. Security of tenure is assured because there should be no challenges to the rights of a registered owner.
- **Provide security for credit:** Because the information of property ownership and rights associated with that parcel are components of the registry, financial institutions have complete assurance that the person requesting access to credit is indeed the owner of the property. As credit is issued, notation of that mortgage is placed in the registry. As financial institutions develop trust in the system, they will be more likely to lend money for registered property rather than unregistered property.
- **Reduce land disputes:** For all practical purposes, disputes over land should be minimized. The adjudication process by its nature establishes finality of ownership of the property. Subsequent disputes may arise but these will result from controversies outside the area of responsibility of the registry and the information contained therein. These will mainly be related to inheritance disputes with respect to registered land. However, these disputes will not be associated with controversy over the information contained in the registry, but rather resolving who is the rightful heir to a piece of property before that information is brought into the registry.
- **Guarantee the result of judicial procedures relating to land rights, including rights of repossession of land:** Courts, like the financial institutions discussed above, will be able to rely on the information contained in the registry during their investigation and assist them in reaching decisions involving land. Reporting mechanisms need to be put in place so that any decision reached by the court that affects land rights (e.g. liens) is duly reported to the registry and that information is duly noted on the parcel record for any person having future interest in that parcel.
- **Develop and monitor land markets:** Guaranteed records of ownership of properties have a significant impact on the functioning of a property market. Any buyer interested in a given parcel is assured by reference to the registry records, of the nature of the interest in the property held by a prospective seller. He knows that the person selling the land is indeed the owner of that land. There is no need for exhaustive title searches and the anxiety is minimized that some deed document may later surface that questions his ownership. Statistical reporting of transactions will provide a significant amount of information on land markets, numbers of transactions, locations of dynamic markets, prices of properties changing hands, etc., all of which will be useful for government planning.
- **Be the basis for land and property taxation:** A complete listing of property owners allows for the development of a fiscal cadastre. All parcels are in the system and all owners related to those parcels are in the system. This permits the opportunity to

introduce an effective and equitable property taxation system. The transparency of this system is critical in promoting tax compliance. There can be little opportunity for discrimination in assessing tax liabilities for a given individual. And if the tax rolls are a matter of public record, everyone will know that he is paying his fair share of taxes at an established rate that applies to everyone else.

- **Protect public land:** All land is contained in the land registry. The parcels have been uniquely identified and the ownership recorded. State (public) land is registered in the same fashion as private land and enjoys the same protections related to the information in the registry. Any questions over the boundaries or rights over public land can be resolved by reference to the information in the registry. Any transactions involving public land are subject to the same reporting requirements as private land to ensure that the information in the registry reflects the current status of a particular parcel of public land.
- **Improve urban planning and infrastructure development:** The completion of a property cadastre provides a significant tool for urban planning and infrastructure development. Knowledge of property ownership, property use, and property values is an important tool for urban planning and the provision of infrastructure. It will also assist local government in the identification of property owners for negotiation in the event of need for expropriation exercises to be launched.
- **Promote improvement of land and buildings:** As with the previous paragraph, improved property records assist in the development of governmental programs related to urban renewal, infrastructure, service provision, and the development and enforcement of zoning regulations.
- **Support environmental management:** As with urban planning and infrastructure development, property records also offer a tool for environmental management. Knowledge of property ownership will assist government in the identification of owners to be contacted to address environmental concerns for enforcement of environmental regulations, and to provide incentives for participation in proposed environmental programs.
- **Produce statistical data as a base for social and economic development:** The data - base established with property records can be tied into any other governmental data-base: e.g. census data, health, education, and related social services data; data and maps related to the provision of service infrastructure (water, sewerage, electricity, etc.); and will also provide a significant amount of information to assist local and central government in terms of the development of long term developmental goals.
- **Facilitate land reform:** A functioning, up-to-date land records system provides an opportunity for government to consider options for land reform programs. However, 'land reform' has very different meanings in very different contexts and circumstances and there needs to be clarity in what is meant by the term 'land reform'.

There are four broad categories of 'land reform':

- 1) Land reform as it pertains to the transformation of land use. This might relate to the soil conservation programs, the draining of wetlands, encouragement of

different cropping patterns, conversion of agricultural land to urban/peri-urban development, intensive rather extensive developmental zoning regulations, etc.

- 2) Land reform may relate to land policy decisions that help to determine access to land for different segments of the society. This might relate to reallocation of state land to disadvantaged groups, clarification of different tenure regimes, etc.
- 3) Land reform may be related to land consolidation exercises where fragmented holdings are measured, consolidated, and redistributed to the existing land holders in such a way that all landholders retain nearly the same acreage that they originally held, but now hold that acreage as a single parcel of land, rather than multiple, non-contiguous parcels.
- 4) Land reform may also relate to a redistributive reform process where large land holdings are broken into smaller holdings and redistributed to landless persons.

Assessing the relative feasibility and benefits of undertaking a title registration program must be looked at from two perspectives: 1) site selection as it relates to carrying out the exercise and 2) the expected benefits of having land records in that area (and, more importantly, the ability to not only keep those records up to date once they are created, but to ensure they become the status quo, thus making all other historical record "*history*").

There has been some criticism of the site selection related to the 1970's pilot registration exercise. The location was too contentious, including but not limited to: (1) there were potentially too many conflicts simmering under the surface, (2) vested interests may not have wanted their historic land dealings revealed and adjudicated, etc. On the other hand one could argue for this location selection, based on an urban environment, clear property boundaries based on city streets, a potentially vibrant property market, opportunity for investment, taxation, zoning, etc.

Similar considerations have to be evaluated before undertaking a new exercise. Ideally one would look for the least problematic location. Registration staff will be new to the registration procedures and it is important to build their confidence and capacity prior to moving into more complicated settings. Thus site selection would probably be a rural community rather than urban environment (a more stable land holding situation), more residential than agricultural (historically more permanent occupancy), and deeded rather than informal property holdings (more formal property records to support an adjudication process as well as gaining experience on the use of deeds records for adjudication).

Title registration programs are costly activities and can be justified if they: 1) enhance security of tenure, 2) reduce land disputes, or 3) provide a source of revenue for government. These factors should also be part of the site selection process for a pilot exercise. What are the benefits?

There is, however, a third criterion that must be applied. What happens to the records once they are created? This is of great concern given the experience with the earlier pilot records, and given the state of the capacity of the MLME/DLSC and CNDRA to deal with records. These records have not been created for the sake of a pilot exercise to see if records can be created. They are created to validate and record property rights and thence be available for any subsequent transactions associated with those properties. Thus, there has to be an

acceptance by the property owner that they have a continuing legal obligation to keep those records up to date. If there is no assurance that this is going to occur there is little justification of undertaking the exercise.

This then argues for a site selection process that would result in a location that is more urban than rural (the need to keep records up to date to avoid conflict because of dynamic nature of urban land holdings), residential rather than agricultural (because of investments made on the land and the need for collateral and access to credit), and deeded rather than informal settlement to assist in the adjudication process (however, non-deeded lands might be easier as the adjudication process could be handled more efficiently without the need for an exhaustive title search and the residual threat that a deed document may surface sometime during or after the title exercise).

F. Possible issues arising from customary tenure rights being present in the 1970 pilot areas and how these might be addressed;

The areas included in the 1970s pilot were exclusively in Monrovia where customary tenure rights are not an issue. Practically all the parcels of land in this location are in fee simple and have been so for a long time. However, any planned title registry exercises for the entire Liberia must take into consideration customary rights, for areas outside of the municipal areas. It must include stipulation and arrangements for all lands – fee simple, customary and/or communal holdings.

G) Potential winners and losers in the process, exploring through a social assessment any possible negative on vulnerable groups, how these may differ from area to area, and potential mitigation strategies;

The survey of participants conducted by the team was not a social assessment, but a non-statistical assessment and interviews of 1970/1980s Title Registry pilot program participants in a small part of Monrovia. The information gathered in that survey was intended to provide anecdotal indication of the process involved in the 1970s pilot as a point of departure for a possible introduction of an alternative option to the existing deeds system. To gather information for a social assessment, a purposive data collection with relevant statistical inferences needs to be conducted, analyzed, and interpreted. The fact that the 1970/1980s pilot registry covered only a small portion of Monrovia and none of rural Liberia therefore presents a problem for establishing conclusive premises for winners and losers if Title Registry is introduced in Liberia.

That said, and from our knowledge of Liberia, it is not difficult to conjecture probable winners and losers in a title registry program. From an historical backdrop of large tracts of land owned by absentee landlords to a tradition of poor “land custodians,” it is fairly easy to determine potential losers and winners.

While fee simple is widely practiced in Liberian urban settings and within the original counties, obtaining deeds through public land sales has become increasingly common throughout the country. Traditional authorities and many ordinary farmers are beginning to appreciate the relevance of documentation and seeking means by which they can obtain documents for their land, either as communities or as individuals. Research currently being conducted in Rivercess County by the IDLO/SDI project indicates that the citizens have been

eager to participate in a process that would give them title to their community lands (Knight et al 2010). It is likely that people in other parts of rural Liberia would have similar interests.

Historically, it appears that chiefs and others were “given” land by the President as part of the patronage system that existed under the True Whig hegemony. The Aborigine Land Grants that date from the late nineteenth century appear to be part of this patronage system. It also appears that others, e.g. soldiers from the Liberia Frontier Force, were given grants of land in appreciation of their service to the state. Further, there were a number of paramount chiefs who in the 1950s and 1960s recognized the importance of protecting their community lands, and obtained public land deeds for their chieftancy or clan lands. Examples have been identified from Tartweh, Sinoe County, Tappita, Nimba County, and Gizima, Lofa County. When FDA issued a call in early 2007 for people to submit documentation for deeded land that might be included in forestry concession areas, a number of documents were submitted, some for substantial acreages (documentation available from FDA).

At the present time, there are no reliable statistics that establish the quantity of land that is already held under fee simple or other grants (e.g. Aborigine) throughout the country. Further research is needed but it seems reasonable to conclude that there are a substantial number of land owners around the country who would be participants in a more extensive title registration project.

A key question regarding the Aborigine grants or community-held deeds is the wording on the document: are individuals named as owners, trustees, or custodians of the land? What then are the implications for inheritance? Can the land be claimed by individual or direct heirs of the chiefs etc. who are named? Or is the land the property of a community group?. In fact, this issue has been addressed in Supreme Court cases (cite.....) This issue will need to be considered and resolved before proceeding with title registration.

In consultations around the country, people have consistently complained about the existing deeds and public land sale systems which they perceive as discriminating against “poor people.” They feel disadvantaged both with respect to education and money and lacking the knowledge and resources to be able to pursue the acquisition of deeds on their own. They also perceive that local elites often take advantage of their lack of information or resources in the process. The widely-held perception of the current system is that those administering the system are often unscrupulous, if not criminal, in their behavior and that the system is fraudulent and corrupt. The process of title registration needs to be affordable to the poor and needs to be clear and simple. The costs involved may require significant support from the government and/or the donors.

The provision that communally held land cannot be sold that on the one hand protects the communal land has the reverse effect of making it difficult for communities to more directly benefit from investments that might come from being able to sell their land. This provision needs to be reviewed to ensure that communities are not disadvantaged or further marginalized.

Over the years, some agencies in charge of implementing land certification and land policies have not demonstrated that the policy is pro-poor. The intent of the policies and their application were generally unclear to many land users, especially rural farmers, and the costs of obtaining land through these systems remain prohibitive for the majority of subsistence farmers.

In assessing “winners and losers” the issue of the name(s) that goes on the title is critical, especially with regard to the rights of women. In other countries, titles have sometimes been registered in the name of the household head only, most often a male. In such situations women are likely losers if the husband disposes of the property. Under Liberian law, including the Constitutions of 1847 and 1986, women have property rights equivalent to those of men which are supported. Real property and inheritance laws protect those rights. . Spouses are permitted to keep any property that they bring to a marriage. Women, both urban and rural, in fact hold considerable property in their own names throughout Liberia. Joint ownership of property is also recognized under Liberian law. There are no data currently available that would indicate the percentages of property held individually or jointly. Research might investigate attitudes of men and women toward individual or joint ownership of property. In a title registration system that extends to land now held under customary tenure, there is a considerable risk that women will be marginalized if there are not provisions to protect their rights when names are entered on the titles.

1) Recommendations

In conducting the survey to obtain historical information on the 1970/1980s pilot registry, several issues became obvious, among them information dissemination covering the exercise – most residents of Monrovia did not know about the pilot and its overall intents. Additionally, they did not know of the benefits of the title registry, and this resulted in lukewarm reception at best and outright refusal to participate in other cases. One participant indicated that his document was taken “at gunpoint,” while another said he was told to present his deeds without knowing the reason of the demand.

Hence, the main recommendation for undertaking a title registration is massive and thorough information dissemination prior to and during the execution of the registration program. For instance, some interviewees suggested the use of skits, jingles and radio dramas in educating the public prior to initiating the program. Another person suggested talk shows and television interviews by the Land Commission and visits to all the concerned communities by representatives of the implementing agencies. Still another suggested contacting heads and leaders of the communities and adequately informing them to *inform* their residents about the program objectives/goals and other intrinsic benefits to participants. The system to be put in place needs to be clearly defined and program objectives succinctly stated, as well as information on intended users and users’ right.

H. The capacity of MLME to do a small registration pilot and the capacity-building that would be required for piloting in terms of the human, physical and financial requirements of such a system;

There are two major concerns that need to be addressed prior to undertaking a pilot registration exercise:

1. The capacity to undertake the exercise (surveyors and rights recording staff), the design of procedures for the exercise and the management and monitoring of that process, procedures for handling and storing the records created, the necessary equipment, personnel, and office space; and

2. The capacity to manage the records post registration (how do you keep the records up to date?), basic records management, office procedures, office management, public information (required procedures and supporting documentation), transparency of process, ease of access to offices and records, efficiency and transparency of system, etc.

Observations during the consultancy help to address the first issue. These focus primarily on the issue of survey records.

Parcel identification is the basis for a title registration system. Two aspects of this component were investigated during this consultancy: the observation of actual surveys being performed in the field and interviews with county survey offices in three counties.

Notices of upcoming surveys are routinely published in the newspapers as required by law prior to any survey or resurvey of properties. An attempt was made to observe two such surveys.

While these are only two experiences they do reflect serious problems within the system that need to be addressed.

In the first instance, there appears to be a lack of concern over the level of precision observed and recorded. This lack of concern involves all parties to the activity; the surveyor, the property owner, and the neighbors. Where ambiguities were discovered, there seemed to be little incentive to make any corrections. There is great potential that at some point in the future there will be further litigation over the property boundaries by one or all of the parties involved.

Case 1: Survey of Property in Monrovia.

The owner wishes to have property surveyed because there is someone interested in developing the plot. Surveyor had visited the two neighbors and had printed an announcement in the paper of the pending survey.

Neither of the neighbors had any problems with the boundaries. However, the person currently occupying the plot has raised an issue about the legality of the survey.

History: The land had been bought by the grandfather of the present holder. He passed it and other land on to his three sons. The son having this property had three different wives, the last one being the step-mother of the person having the land surveyed. The three daughters have told the step son to go ahead with the survey and development, but the mother seems to be resisting. At some point permission was granted to someone who has been occupying the land, running a business on it and paying a nominal rent. He appears to be resisting the survey for fear that the pending development will force him to give up his repair business.

The survey exercise was observed. A corner point at the street corner was found and used as a basis to measure to the two sides of the property bordering the two streets. One street side shown on the deed to be 132' was measured to be 122'. The other side shown on the deed to be 117.52' was actually 115'. The corner point at the street corner appeared to be fixed while the corner marker at the 122' point could have been moved. Measurement was done with a cloth tape, not stretched taut so the 122' and 115' measurements are suspect. Nonetheless the property boundaries (existing fences) seemed to be acceptable to all parties. So presumably the deed will have to be adjusted to fit the new measurements. No effort was made to measure the neighbor's parcel to see if what was on the ground was larger than on that parcel document.

In the second instance there is a clear reflection of a need for greater control over what is taking place. How does the system police itself? What are the mechanisms to follow-up on these activities? What recourse does the public have when these advertisements are made with little or no local knowledge of what is taking place?

Three county lands offices were also visited: County surveyors in Tubmanburg, Kakata, and Buchanan were questioned of their activities and record

keeping systems, and the actual office setting was observed. In none of the three offices did there appear to be any serious attempt to establish and maintain a filing system for survey records. Part of this is a result of a lack of file cabinets and other related office furniture. But even records that were presented to us for review had no reference to any filing system. Records were simply kept in file folders and randomly stacked on the desks or in cupboards in the office. Tracing any record requires sorting through the entire stack until the appropriate file is found.

What was most disturbing about this situation is the seeming lack of understanding of the value of maintaining records and having them accessible to office staff and members of the public.

There are a number of possible explanations for this:

- 1) lack of resources for office furniture
- 2) lack of training of office staff
- 3) a desire not to maintain records to justify repeatedly resurveying the same parcel to generate employment and revenue
- 4) to cover up fraudulent surveys.

Both of these components illustrate a serious concern about capacity in MLME in terms of creating the records as well as in terms of records management once they are created.

MLME has the institutional mandate to undertake first registration in a title registration program. The principle component for which MLME has the technical capacity relates to survey and mapping--the identification, demarcation, and recording of spatial information concerning a given parcel of land. They do not have the expertise to deal with the second component of a title registry--the adjudication and recording of the property rights associated with each parcel.

Case Two: Follow up on Newspaper Announcement

Newspaper announcement of survey of 30 acres of property belonging to Pelham, divided into 9 lots. surveyor George Wreh to take place at 11am.

We were unable to find the survey team. No one in the neighborhood knew anything about it nor had they seen anyone. We were in the area from 1030-1200.

Possible explanations:

1. The survey was cancelled.
2. The survey took place and we were at the wrong place. There is no indication of meeting place and no accompanying map in the newspaper announcement, meaning inadequate information being made available to the public, though legal requirements may have been met.
3. The whole process is a scam. False documents will now be presented indicating that the survey had taken place and the "results" presented for registration, etc.

Once title registry records have been created they must be turned over to CNDRA, site of the land registry. Protocols will have to be established for this transfer to occur, but more important is the fact that CNDRA, as the institution ultimately responsible for the integrity of the registry information and libel for the information contained therein, has to have assurance that MLME is creating defensible records.

The second issue related to capacity for undertaking such an exercise is related to CNDRA and its ability to maintain the records once MLME has delivered them, to make the records accessible to members of the public who wish to investigate any title for any parcel, and finally to develop procedures to ensure that the records are up to date--that they reflect a true and accurate picture of what is physically on the ground.

The land registry information is only valuable if it is accessible. Thus records must be filed in a fashion that makes their retrieval efficient. This would imply establishing a filing system that permits access to the records with a limited amount of information. There are three basic components of the system that lends itself to facilitating a search of the records:

- 1) **An index map that spatially locates all parcels relative to all other parcel.** A unique parcel identification number should be assigned during the field work that creates the records in the first place. This number should appear on all first registration documents as well as any subsequent document related to a particular parcel;
- 2) **A register that records all of the property rights information related to that parcel.** The register is comprised of separate sheets for each parcel and should be completed in the order of the parcel numbers (the first sheet is parcel one, the second sheet is parcel two, etc.). In most registers these sheets are filed in a ring binder file. In others these are bound volumes. This register sheet records information about a single parcel, the owner of the parcel, and any restrictions or encumbrances over the property rights associated with that parcel (easements, servitudes, mortgages, liens, long term leases, etc.
- 3) **An index of property owners.** An index of property owners is sometimes prepared which lists all of the properties of a given individual by parcel identification number as well as reference number to the registry books. Many countries do not have such a list because it is open to abuse when punitive searches are done on selected individuals.

Proper storage facilities must be provided that ensures the security of the records, from theft, vermin, and the elements. Records must be protected and facilities must be in place to allow that to happen.

However, to be accessible there also need to be established office procedures that ensure that records are handled and filed properly. Procedures must be in place which determines how the records move around the office itself as records are accessed. Clear responsibilities must be assigned to staff indicating who has access to what records, how records are modified and who has the authority to do what with the records, etc. Further procedures must be put in place for how queries from the public and from other government agencies are handled.

If there are no procedures in place to handle the records, make them accessible to whomever needs them in an efficient and transparent process there is little likelihood that there will be any development of trust in the system on the part of the public.

I. Factors potentially affecting the sustainability of the system, which requires voluntary registration of subsequent land transfers through transactions and inheritance;

The registration system is only as good as the information contained within the system. For a registration system to remain valid and viable the information has to be a mirror of what is on the ground, i.e. what is recorded in the registry reflects the true picture of what is on the ground, both in terms of the registered owner as well as the parcel description. The first registration exercise is the process for creating this initial ‘photograph.’ However, the difficulty in terms of sustainability is that land records are not static. Land information is constantly changing as land transactions occur. Transactions include not only purchases and sales, but also mortgages, long term leases, and most importantly inheritances. All of this information needs to come into the registry in a timely fashion.

Thus, when we speak of sustainability of the system we must realize that it is dependent on three broad factors as follows:

Institutional capacity to maintain the system: An analysis of the institutional capacity to maintain the system is predicated on a clear identification of which institution is responsible for these records. It is quite clear from our discussions that there is a misconception on the part of the MLME that they have the ultimate responsibility for these records since they are the institution involved in the creation of the records. The legislation that established CNDRA clearly places the responsibility for the land registries and information contained therein under the Director-General of the CNDRA. This needs to be clarified and resolved prior to moving forward with any pilot registration program and if appropriate (and necessary) be part of the law revision discussed in section 1.

While MLME plays a significant role in the establishment of the registry documents, its role is limited to the identification and demarcation of the parcel. At that point the adjudication exercise establishes the second component of the registry--the property rights sections. All work that MLME does is to provide this service to CNDRA and all records so created should be turned over to CNDRA once the pilot exercise is completed. A unified registration system has all documentation under one roof and in one office. There should be no confusion of the public as to which office they need to go to access information about a given parcel of land. All information about that parcel, map as well as property rights, should be in the same location. This implies having both legal and surveying capacity in the registry offices and consideration will have to be made how this capacity is created.

Staffing for this system should be dependent on the numbers of records being kept in the system and the demand for access to those records. Ideally, the records should be kept as near to the property as possible to make the updating of records as convenient as possible. Thus a registry office should be located in every county in the country. This is, however, not practical as evidenced by the numbers of transactions being recorded in the deeds registry offices visited by the consultants. When records were kept as physical pieces of paper it was necessary to have them accessible in that form. However, as records are

increasingly kept in digital format there is less need for the storage and maintenance of physical records in multiple locations. All that is necessary is access to the digital data base. This can be supplied with a computer terminal and internet access.

Accessibility: Accessibility to these records is critical for sustainability. The 1974 law clearly states that registry records are public records, accessible to any person (Section 8.111) and this accessibility needs to be assured. Open records provides a significant opportunity to check any possible fraudulent transaction occurring in the record keeping system. However, saying that records are open to the public and actually making them accessible are often two very different realities. Thus, there needs to be established a clear set of procedures, fee structures, and processes of which the public is informed to ensure this access.

Within the context of accessibility is the development of appropriate office procedures and related manuals to ensure that records are in fact accessible. How are records brought into the system? Critical is not only how records are initially compiled, but more importantly how updating information is entered into the record data base. How and where are records stored? How are they filed?

Any change to information that is in the registry must have an accompanying procedure for effecting that change. These procedures will require certain supporting documentation. Clear delineations of responsibility needs to be made between different staff members, spelling out who has the authority to change records and who only has the authority to retrieve and review the records. A computerized registry system can easily provide blocks or access keys for the appropriate individuals, but the key at the first instance is determining who can do what with which records.

Public information: There needs to be an extensive public information campaign to inform the public of this institutional reality. It is also critical that there be clearly displayed in all registry offices a description of what information is available, what the charges are for gaining access to the information, and the processes for doing so. Brochures can be developed for public information, posters and fee structures should be made available. Regular customer surveys need to be undertaken to monitor that these services are being provided.

However, while the public should be informed about their access to the records, there also needs to be an extensive information campaign spelling out the public's obligation to maintain the records. Records need to be updated both in terms of ownership rights as well the parcel description itself.

Changes in parcel information will result following a subdivision of a parcel into two or more smaller parcels or the consolidation of two or more parcels into one. There is no need to either change the parcel information or draw a new parcel map if the whole parcel changes hands.

Changes in ownership information will result from the sale of land, the inheritance of land, gifting of land, etc. However, there will also be changes in ownership information resulting from mortgage agreements, long term leases over the property, or restrictions placed on the property as a result of court decisions.

Passive mechanisms can be introduced into the system to ensure that some of the updating is in effect “forced” because of other institutional procedures. For example, an estate cannot be finally settled without the transfer for property ownership from the deceased to his or her heirs. Similarly, financial institutions should not make payments of borrowed money until they are satisfied that the mortgage has been duly registered in the registry or that the property is clear of some pre-existing mortgage. A system of court reporting needs to be put in place such that any restrictions placed on a piece of land resulting from a court decision are duly reported to the registry and recorded. Similarly any court decision resulting in a change of ownership has to be reported to the registry so that the registry records can be adjusted accordingly. Conversely courts need to be required to consult the registry if decisions are being made over registered property rights.

J. The potential for a strategic integration of the deed registration and land title registration program into integrated land registration system.

Land records in Liberia, (with the exception of the residual records from the pilot titling exercise in Monrovia) are in the form of deeds registry documents. By its nature, a deeds registry is a depository of documents related to the transfer of rights to land. An entry into the registry provides evidence of the vendor’s right to sell the land. A would-be purchaser should be able to inspect the registry and determine how that person obtained the land in the first place. This, of course, provides no guarantee that the previous transaction was legitimate, hence the need to trace all past transactions back to some point in time where the purchaser feels that there is a clear chain of title. Given that many deed documents have been lost over time, that there have been a number of fraudulent documents registered, that in recording the deeds documents parcel maps have often not been recorded, there is a great deal of mistrust of the system and an inability to create a clear chain of title in most cases.

A title registration system, on the other hand, is parcel-based rather than document-based. The parcel is identified, demarcated, and recorded on a map and then the rights over that parcel are determined and registered in a registry. In addition to the rights, the name of the owner is also recorded. When a transfer occurs, all that needs to be recorded in the registry is the name of the new owner.

When title to land is brought into the register for the first time, an adjudication exercise needs to be undertaken whereby existing rights in the parcels of land are finally and authoritatively determined. Adjudication is the first stage in the registration of title to land in areas where the ownership of the land is not officially known. Under such a system of registration the ownership of land can be guaranteed and anyone entering into a land transaction only needs to determine the name of the registered owner in the registry to be assured of his/her ability to sell the land.

Once established, a title registration system contains three principles necessary for it to function properly. The *mirror* principle: what is recorded in the registry accurately reflects the situation on the ground; the *curtain* principle: there is a curtain drawn in front of all previous transactions and only knowledge of the most recent entry in the registry is necessary to enter into a transaction; and the *insurance* principle: because of the adjudication process the information recorded in the registry can be guaranteed, and anyone dispossessed of land through the functioning of the registry will be compensated for their loss. This will require the establishment of procedures to validate a claim for compensation as well as the

commitment of government to make funds available to pay compensation if required drawn directly from government accounts or from a specially established indemnity fund.

Given the state of the deeds registry records, the development of a title registry is going to be a slow, difficult, and contentious process. For this to effectively happen there are going to have to be clear procedures developed for adjudication. A number of issues will have to be addressed:

- 1) How much reliance should be placed on records found in the deeds registry (until an inventory of these records has been prepared there is no clear idea of what is there and what is missing)? There is extensive evidence of serious problems related to the accuracy of records within the deeds registry. These relate to transactions having occurred where land had been subdivided and sold with no adjustments to the ‘mother’ deed, given parcels being sold repeatedly, inaccurate measurements and recording of parcel boundaries and sizes of parcels and clear cases of false documents and fraudulent transactions.
- 2) There is a second set of records pertain to those properties associated with the pilot tiling exercise. While we have not been able to find any evidence in the DLSC files of subsequent transactions, these missing files may be related to such transactions. Nonetheless, there needs to be an opportunity for those property holders to bring forth their titles for review and integration into the new system as well.
- 3) How much reliance should be placed on people to bring forth documents in their possession to validate their claims?
- 4) How are these three “data sets” rectified? How are issues related to conflicting claims documents resolved?
- 5) How are issues related to parcels where no documents exist vs. those documents that people produce when filing their claims and how disparities between documents are resolved?
- 6) How much reliance should be placed on oral evidence? Where no documents exist oral evidence will be an important part of the adjudication process. However, given the state of records in the deeds registry at present (missing documents, fraudulent documents, the inability to do a proper title search, etc.) procedures will need to be established to permit people to question the documentary evidence that may be presented rather than allow it to be automatically accepted.

Systematic registration programs usually present an opportunity for the public to review the evidence of a claim to a property prior to the finalization of the registration process. This ‘public adjudication’ exercise fixes a period of time where counter claims can be lodged before the registration is finalized and a procedure is put in place to entertain these claims and resolve disputes that may arise.

There is a second aspect of the situation in Liberia that will have a direct impact on the long term success of the introduction of a title registration system. This is related to the *curtain* principle discussed earlier. Once the adjudication is complete there is a curtain pulled in front of all historic documents, transactions, possibilities of fraud in previous transactions, etc. The slate is effectively wiped clean and the registry only looks forward, not backward.

This is going to require an extensive education program for both members of the public, but more importantly and most critically, for members of the judiciary and legal profession.

A positive factor to assist in the integration of the deeds registry and the proposed land registry is that by law CNDRA is the depository for land records. The 1974 law also stated that the Registrar of Deeds is also the Registrar of Titles (subchapter 8.7 of the Property Law). While this is not restated in the 1977 act that establishes CNDRA there is no reason to believe that this does not remain in force. However, this should be clearly stated in any new legislation concerning deed or title registration. This is important to note as it avoids the problems faced by many countries where the deeds registry and title registry are separate entities, with different people heading those agencies that are often located in different sections of government. In these cases there is often rivalry between the two departments and a lack of cooperation in the sharing of information. Liberia has successfully avoided this by having the two offices combined in one individual in one institution.

Two planned activities at CNDRA will assist in laying the groundwork for this adjudication exercise: the scanning, inventorying, and indexing of all CNDRA deed documents, and pilot exercise to determine the ease with which deeded property can be spatially identified.

Inventory of CNDRA documents: Once the inventory of documents has been created in CNDRA that data set should improve the efficiency of undertaking a title search. What is not clear at this point is how complete the data set will be in CNDRA once the exercise is completed. Nonetheless this information will be critical in the adjudication process as one more information set to help to validate claims over a given piece of land.

Pilot demarcation of deeded properties: The second activity will try to identify deeded property based on the descriptions provided in the deeds. Many of the problems associated with the deed registry information relate to the lack of spatial information being recorded. While deeds contain a description of the property and often have a map attached, when the deed information is copied into the registry books the map is not and that information is subsequently lost. As a result there is limited ability to locate the parcel referred to and there is even less ability to link a subdivided parcel back to the mother deed.

The deed registry is not organized spatially other than registry books related to specific counties. There is no ability to go into the deeds registry and search for all of the deeds in a given area. Deeds are filed chronologically, not spatially so there is no ability to trace a parcel by location, and no ability to easily find all of the documents related to a given parcel by the location of that parcel.

III. RECOMMENDATIONS

A. Capacity building

Institutional capacity building - MLME and CNDRA: Both institutions need investment in capacity. This will be substantiated in the assessment currently being undertaken for the MCC project. Simply put, this capacity relates to how information comes into the system, how it moves around within the system, and how it is made accessible to members of the public and public institutions that need to use this information. These aspects are contained within the following components:

- a) Filing system for entering information at the outset. There are two basic components of the registry:-the parcel index map and registry book which records information about the property. A systematic filing system needs to be developed to record both pieces of information and cross reference that information so that each set is accessible from the other. The unique parcel identification number is the piece of information that provides this link and therefore should appear on any document relating any given parcel of land.
- b) Office procedures for handling the records once they are in the system. Office procedures must be put in place to determine how records are handled within the office. How are records retrieved from the files, how do records move between different officers within the office, how are records refiled such that the integrity of the filing system is maintained, who has access to the records, how are records used within the office, etc.?
- c) Processes to be established to determine how records are to be updated and how that updating actually occurs. How are records updated when changes occur to parcel or ownership information? How does the registry obtain this information? How is the request for changes to the records verified and validated? Who has the authority to make changes to the records? How are these changes monitored? Clear procedures must be established to inform the public of their obligation to update records as changes in their property rights occur. Sanctions must be put in place to ensure compliance. Passive regulation can also ensure compliance, e.g. inheritances are not finalized until changes in property rights have been entered into the registry; courts should be legally obligated to inform the registry of any court decisions affecting a piece of property; banks should not be able to enter into mortgage agreements without consulting the registry; and any mortgages issued should be recorded in the registry prior to any disbursement of funds; etc.
- d) Access to this information for anyone who wishes to see it. Registry records are public records and thus must be accessible to members of the public or other government institutions who wish to see them. What are the procedures to be followed to allow for this access? How is this information provided? How long does the process take? How much does it cost? Clear procedures must be established to inform the public how these records are to be accessed.
- e) Accountability for the records (transparency). Regular reporting of registry activities should help to ensure accountability of the registry dealing with properties. Accessibility to the records helps to ensure their integrity. Public records are records that have less opportunity to hide fraudulent transactions; the greater the transparency of the records the greater the accountability of the institution responsible for the records. Regular customer surveys can be undertaken to monitor the work of the registry. A consumer hot line can be established to anonymously report suspected fraud.
- f) Financial self-sustainability, revenue generation, and fiscal autonomy. The land registry is one of the few government institutions that generates revenue directly from the services that it provides to the public. Once the system is in place and has a history of functioning properly serious consideration should be made over time to making the registry self-sustaining. The fees charged for the registry's services should be sufficient to cover the costs of providing those services. This implies a well-established history of cost accounting, monitoring the types of services provided,

and the time it takes to provide the services (It takes less time to make a photocopy of a title or registry document than it takes to review transaction documents to record the change of ownership, and certainly less time than it takes to record a subdivision of the property which will require checking the parcel maps with on the ground information). Fee structures for these services need to be established that generate revenue, but are not so onerous that it discourages members of the public from using the service.

B. Institution reform (including decentralization)

Land records institutions are in desperate need for capacity building and upgrading as has been demonstrated in the previous discussion. However, consideration also needs to be given to the more basic question of institutional reform. This effort needs to focus on the development, concurrence, and dissemination of information about institutional mandates; the clear delineation of institutional relationships between related institutions; and finally a clear vision of the role of each institution within government and both at central and county levels, which raises issues related to decentralization programs.

As the government moves through the process of legislative review there is a need to place some emphasis with the legislation (either the law itself or subsidiary regulations) that spells out in greater details the institutional mandates, the internal workings of those institutions, and issues related to decentralization. This is particularly relevant for new legislation dealing with the Deeds Registry, the Land Title Registry, Public Lands, the Survey Profession, the Judiciary and related legal professionals, financial institutions and the banking sector, and any strengthening of the property tax regime.

For example the Governance Commission has developed a strategy for decentralization that considers both administrative as well as fiscal autonomy for lower levels of government. Fiscal autonomy is possible with the ability to generate local sources of revenue that stays in the local areas. While property taxation is indicated as one of the sources of this revenue, this assumes the local capacity to identify individual parcels of land, value that land, and then identify the owner of that parcel of land for tax collection purposes. All of these issues will have to be addressed as decentralization moves forward.

Observations made during this consultancy of three county offices raises serious questions of local capacity to perform the duties assigned to them. These capacity constraints relate to human resources (trained, motivated staff) as well as physical resources (office space, furniture, vehicles, etc.). While it may be relatively easy to conceptualize an institutional reform process in theory, ample consideration needs to be given to implementation capacity once the reform is in place.

C. Land Records round table/workshop

It is clear from discussions during this consultancy that there is a need for an extensive discussion of government's long term objectives for land records and land records systems. The discussion centers on the state of collapse of the deeds registry and its need for rehabilitation, as well as the perceived panacea that a title registration program will solve all of these problems. Indeed this consultancy is focused on the expediency of the reintroduction of a title registration program in Liberia.

There appears to be a number of misconceptions of these issues.

Firstly, it is not a question of one system or the other: Even if a systematic title registration program were to begin tomorrow, there is a long delay before that system encompasses the entirety of the country (if that in fact would be the long term objective). What happens to land records and related transaction in areas waiting for the titling program to reach?

Secondly, title registration and its associated adjudication process draw a curtain over all historic transactions related to a given parcel of land. Once adjudication has been completed, there is no need to look at any preceding documents, the slate has been wiped clean.

Thirdly, a title registry is only as good as the information contained therein. What is recorded in the registry must be what is actually on the ground. Thus, administrative mechanisms must be put in place to ensure that the records are up to date and that the land owning public is aware of their obligation to do so.

Fourthly, the information in the title registry is guaranteed to be correct for anyone wishing to enter into a land transaction, based on registry information. Where the information is found to be incorrect, and an individual who had relied on that information and engaged in a transaction and subsequently suffers a loss from that transaction through no fault of his own the government (registry) is liable to pay compensation to him to the extent of the loss incurred.

The foundation of any system of property rights is the legal basis that determines what those rights are, the administrative structure put in place to manage information concerning property rights, and the management structures put in place to make optimal use of land resources.

Legislation related to land records should be able to clearly address the following issues:

- Define legal forms of land tenure;
- Distinguish between real and personal property (immovable and movable property);
- Distinguish between ownership, possession, and use of land;
- Indicate registrable rights less than ownership (such as a mortgage);
- Establish administrative systems for land transfers and mortgage registration;
- Ensure quick and simple creation of mortgages
- Ensure that rights registered are guaranteed by the State;
- Establish, within the public sector, an independent, self-financing land registry institution with clear statutory powers;
- Ensure clarity of ministerial responsibility and authority;
- Specify the administrative role of the agencies responsible for national mapping, land valuation and land use.
- Coordinate legislation relating to urban planning, land use and the recording of information on the land register;

A way forward for developing a comprehensive land policy strategy would commence with a consultative workshop, focusing the conditions necessary that would foster clearer and better understanding of the systems. The focus of this initial workshop would be to review these points within the context of the title registry/deeds registry debate. Thus the initial discussion would focus on, among other things (1) fixing the existing system, (2) options for land title registration, (3) relationship between title registration and deeds registry (4) need for law and institutional reform (5) need for capacity building.

Participants for this initial working group would include the Land Commission, relevant ministries, select donor groups, the private sector, vested interests (old families), etc. It is further envisioned that an outcome of the first working group would be the establishment of a task force within the Land Commission to continue the work.

D. Law Reform

It is proposed that there be three separate pieces of legislation to address these issues. These proposals need to take into consideration the Land Reform Strategy Paper being developed through a companion consultancy and adjusted accordingly.

- 1) Legislation pertaining to the Deeds Registry: The existing law affecting the deeds registry is contained within the Act that established the Center for National Documents and Records (section 8.11). There are no subsidiary regulations that determine how documents are handled within the registry, how document searches are to be conducted, nor a clear statement that this information is a matter of public record and accessible to the public. These regulations need to be developed, discussed, and promulgated.
- 2) Land Title Registry Law: This law would create a land title registry, spell out the functions of that registry, and spell out the process for first registration of properties to be included in the registry. This law would make reference to a set of regulations that determine how adjudication of property rights are to occur to permit the creation of an indefeasible title to go into the registry.
- 3) Adjudication regulations: Adjudication is here meant the process through which a claim to a piece of property is reviewed and the possibility of counterclaims is entertained. The regulations related to adjudication should clarify the role of mediation in the process of finalization of registration of ownership. The adjudication process should be as informal as possible allowing for mediation of counterclaims, alternative dispute resolution mechanisms, or other options to resolve such disputes prior to moving into a formal adjudication process.

A significant component of this set of regulations will spell out how deeds registry documents are to be vetted to help make a final determination of ownership that can be guaranteed. The regulations should also clarify the procedures for determining ownership with properties having other forms of documentation or no documentation -- a hierarchy of quality of evidence to support an ownership claim with a clean good root title deed being of highest order of validity and oral evidence (the testimony of witness of long standing occupation) being the lowest order of evidence.

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Harrop, J. R. G. “The Introduction of Land Registration in Liberia” a paper prepared by United Nations Survey Adviser, August 1972.

International Development Law Organization (IDLO) and the Sustainable Development Institute (SDI), “Report to the Land Commission of Liberia: Preliminary Findings of The Community Land Titling Initiative”, Draft, November, 2010.

Terms of Reference for the Assignment of Land Title Registration Consultant

The study will assess the appropriate role for land title registration, seek to identify issues that would arise if it were to be implemented, and how it could best be coordinated with the deed registry system. It would be conducted by the Land Commission in close collaboration with the Ministry of Lands, Mines and Energy, which has the legal mandate for implementation of land title registration. The study would focus upon areas in which private land rights are well established, with substantial deeded land, in Monrovia and its environs and possibly in towns and associated rural areas in nearby counties. It will assess:

- 1) Examination of the land title registration law and whether it is implementable today in post-conflict Liberia given that the law has prescribed roles for the court systems in terms of adjudication role, MLME etc. To what extent is this implementable and are the involved institutions running or does the law require simplification to fit to today's Liberia. What are the capacity requirements for the involved institutions?
- 2) The experience with the systematic pilots in the 1970s under the World Bank project, to understand the disappointing results and determine whether and how a stronger performance could be achieved in new piloting;
- 3) The status of titles registered in those pilots, and their current relationship to the deed registry system;
- 4) Attitudes towards the system on the part of those aware of the earlier piloting and the implications of these for the conduct of future piloting;
- 5) Potential economic and other benefits that could result from title registration, assessing the relative feasibility and benefits of piloting in different areas (urban or rural, agricultural or residential, deeded or informal occupancy areas, the capital and/or in counties);
- 6) Possible issues arising from customary tenure rights being present in the 1970 pilot areas and how these might be addressed;
- 7) Potential winners and losers in the process, exploring through a social assessment any possible negative on vulnerable groups, how these may differ from area to area, and potential mitigation strategies;
- 8) The capacity of MLME to do a small registration pilot and the capacity-building that would be required for piloting in terms of the human, physical and financial requirements of such a system;
- 9) Factors potentially affecting the sustainability of the system, which requires voluntary registration of subsequent land transfers through transactions and inheritance;
- 10) The potential for a strategic integration of the deed registration and land title registration program into integrated land registration system.

Study on Assessing the Potential Role of Land Title Registration

Inception Report

Mark Marquardt/MacArthur Pay-Bayee

I. Background

The individual ownership of land in Liberia has long been recognized and all such ownership stems from grants of land made to those individuals. Dealings in private lands are regulated by law and are recorded in Deeds Registry. By the 1960 the status of information in these registries was so uncertain that it prompted the then Attorney General to propose that a new law be enacted to provide greater assurance to the citizens of Liberia over their land records. There was both uncertainty to the validity of many of the deeds in the system as well as to the location of the boundaries described on the deeds. In the Deeds Registry every deed probated was duly records, written out in long hand, including the metes and bounds description of the subject property, but no copy was made of the parcel map attached to the deed. Copies of deed were provided for subsequent transactions with no ability to reference earlier transactions on the same property or subdivisions that may have taken place.

In 1971 the government asked UNDP to provide assistance to undertake a pilot Cadastral Survey in Monrovia with the hopes to establishing an Office of Land Register to cure the defects of the existing system of deeds registration. Following the enactment of the land registration law in 1974 (Chapter 8 of the Property Law) the government of Liberia began to implement a pilot systematic land title registration program. The first phase of this exercise took place in Monrovia, with plans to extend the registration area to 4 other surrounding locations in the city. While some preliminary work was done in 1978-79, the system collapsed in 1980 due the lack of resources and the uncertainty following the coup.

Current Situation

The current situation in the deeds registry has not improved. In fact, it has probably gotten much worse to the point that there is a total lack of trust with the system. Many records were destroyed during the years of turmoil. Many transactions have occurred with little reference to existing documents or previous transactions, leading to a situation of parcels being subdivided and sold with no accompanying adjustment to the mother deed. Many fraudulent documents have entered the system with little ability. The overall result of this situation is that there exist seemingly valid yet conflicting documents, as well as many fraudulent documents registered with land-related Government institutions. It is clear that the people are totally dissatisfied with the deed registration system and there is a growing pressure to replace the existing system with an alternative title registration system.

Concerns

However, prior to leaping into a commitment to a title registration program, the Land Commission has rightly taken the position that there needs to be a clear understanding of the previous pilot experience. The Commission is interested in the lessons that can be learned

from this exercise and how such lessons can they be applied to the current situation. There is also recognition that even if there was a commitment to moving towards a title registration system for land records in Liberia, the reality of the situation is that both systems are going to have to co-exist for the foreseeable future as the current records systems are absorbed into the title registry.

II. Study objective

The focus of this consultancy is to do just that. What happened to the pilot survey – why did it stop? What lessons can be learned from the earlier land titling exercise? How was that exercise planned and implemented? What problems arose during implementation? How were the problems addressed? How were members of the public involved in the exercise? What has happened to the records created at that time, both in terms of storage as well as utilization for subsequent transactions? What is the state of those records at present?

Additionally, if there is a move toward the development of a systematic titling exercise, what is the current legal setting that would support the implementation of that exercise? Is the current land registration law appropriate for this work or does it need to be amended or rewritten? In either case, can some work proceed while this is happening, i.e. what can take place within the limitation of the existing law or must any piloting await new or revised legislation?

Similarly, is there an institutional capacity to undertake such an exercise? This raises questions of staff and facilities capacities.

And finally and most importantly, what steps need to be taken to ensure that the public understands the new system and is willing to provide the necessary information to keep the records current. What needs to be done to encourage participation and ownership? How do you ensure sustainability of such a system?

The Terms of Reference for the consultancy is attached as Annex 1

III. Methodology

A number of approaches will be used to address these study objectives:

1. First, a thorough investigation of the 1970's pilot will be conducted by interviewing as many participants of that exercise as possible. Interviews have been scheduled and undertaken with former personnel of the then Ministry of Lands and Mines who had direct participation in the pilot, either as field team members, or government officials within the Ministry. Attempts will be made through these interviews to gather information related to the design and implementation of the program. They would include an understanding of positive and negative components of the exercise, what worked and what didn't work and why, as well as perceptions of what happened to the land and property rights within the pilot area after the completion of the pilot.

Secondly, an assessment of the different data sets existing of land records in the pilot registration area will be made. Where are the records? What is the state of these records? Is there any mechanism to integrate the various data sets? Are different documents being

created and used for land administration and land management that are applicable to the development of a program for systematic titling of land?

2. A thorough search of existing records at the Ministry of Lands, Mines & Energy (MLME), Center for National Documents and Records and National Archives (CNDRA), Ministry of Foreign Affairs, etc. will also be undertaken to determine the current status of the records created by the pilot. How many of these records still exist; what maps are available, which title documents exist, is there some mechanism to trace subsequent transaction involving those parcels, etc. The objective of this activity is to provide the necessary information to undertake field survey data collection.

A second objective of this exercise is to see what has happened to these records in terms of the deeds registry. Do these records continue to play a role for land records? Is there any relation between these records and those existing in the deeds registry?

3. Survey work: Three surveys are planned to gather more detailed information about the pilot exercise. These are formulated as:

a) Interview pilot area: The pilot area itself will be visited with the purpose of discussing the pilot with current residents. A sample of blocks within the pilot area will be selected and interviews (individually or collectively) will be conducted to solicit information on current knowledge of the title registration program, participation in the program, impact of the program, and current status of the land in the pilot area.

b) Interview land holder/descendant in pilot area: A second survey will be undertaken with individuals who were known to have participated in the pilot program based on records that have been found of the pilot exercise. Ideally, participating individuals (some individuals who participated in the pilot) or their descendants will be found, where specific information can be gathered on the pilot registration experience. How was the pilot conducted; what did the individual parcel holder have to do for the exercise; how well did the participants understand what was going on; what have they done with their land since that time; what have they done with their land records since that time.

c) Interview parcel: Based on information gathered from the Department of Land Survey and Cartography, MLME identify specific parcels registered in the pilot program and ascertain what has happened to those parcels since the pilot was completed? Are these lands still intact or have they been subdivided (or consolidated)? What development has taken place? Who is the current owner? Is that the same owner who was there when the parcel was mapped? Have any of these changes been recorded in the lands registry/deeds registry?

4. Field visits will also be made to two potential pilot land inventory areas. Proposals with the MLME currently call for four different pilot inventory exercises. Further investigation of these proposals will be made by visiting county land registration offices, meeting with local officials, viewing the existing records, and observing the situation on the ground.

IV. Preliminary Observations and Critical Issues:

Annex 2: Inception Report

There are three components related to future implementation activities that may come from the development of a titling exercise: pilot selection, law reform, and relationship between the existing deeds system and the evolving title registry system.

If a pilot program is to be developed, methodology for site selection and actual implementation needs to be specified. A criteria for site selection needs to reflect logistics, complexity of likely land related issues, etc. Suggestions also need to clarify what exactly is to be accomplished by the pilot exercise. At this point it is probably premature to be thinking of adjudication and titling, but there is information and experience to be gained from a land inventory exercise that identifies land holdings and the complexities needed to be addressed in the implementation of a titling program.

The 1974 law has a number of provisions that may need revision prior to the introduction of a new titling exercise. A review of the law and the implementation handbook associated with the law will be undertaken to offer suggestions on how these modifications can be made—either through amendments to the existing law or considerations for repealing the 19774 law and replacing it with a new land registration law.

Within the context of the law review process is the need to clarify the relationship of the deeds registry and deeds registry documents to a title registry program. Ultimately the title registry will replace the deeds registry, but the question remains how that process takes place. How are existing deeds documents to be utilized to validate claims during the title registration program? How are the deed documents themselves to be vetted to ensure their authenticity?

2. Sustainability: The registration system is only as good as the information contained within the system. For a registration system to remain valid and viable the information has to be a mirror of what is on the ground, i.e. what is recorded in the registry reflects the true picture of what is on the ground, both in terms of the registered owner as well as the parcel description? The first registration exercise is the process of creating this initial ‘photograph.’ However, the difficulty in terms of sustainability is that land records are not static. Land information is constantly changing as land transactions occur. Transactions include not only purchases and sales, but also mortgages, long term leases, and most importantly inheritances. All of this information needs to come into the registry.

Thus, when we speak of sustainability of the system we must realize that it is dependent on three broad factors:

Institutional capacity to maintain the system: staff, buildings, equipment, resources;

Accessibility: records need to be accessible for anyone who needs land information

Public information: continual public information dissemination to ensure that records are kept up to date;

The consultancy will investigate these issues and accordingly make recommendations to address them. Specifically, it will analyze current and future needs for staff development and training, facility upgrading, and equipment needs in MLME, CNDRA, and related institutions.

3. Benefits from a functioning land registry system are many but in most cases difficult to quantify. Those that are quantifiable are related to the increased ability to generate revenue from clear land records (taxation), increased levels of land transactions (transaction fees), and increased value of land (seen as a favorable outcome). Other benefits are quantifiable, but not necessarily in monetary terms (increased levels of mortgage activity, decrease in the number of property disputes, enhanced security of tenure). Still other benefits are related to improved information for sound land administration (land use planning, zoning enforcement, etc.)

The report will discuss these potential benefits and make suggestions of how they can be monitored over time.

V. Proposed Timetable:

The proposed implementation schedule is broken into three phases. The first phase (weeks 1-4) correspond to the initial visit of the international consultant. The second phase (weeks 5-13) is the work to be carried out by the national consultant during the interim period between the international consultant's visits. The third phase (weeks 14-17) correspond to the second and final visit of the international consultant.

Weeks 1 and 2:	Meetings with government officials and people involved in the implementation of the 1970' pilot
Week 3	Review of records at Department of Land Survey and Cartography and CNDRA
Week 4	Field visits to county offices, planning of survey structure, site and interviewee selection
Weeks 5 to 13	Field survey work, compilation of records and other related documents
Weeks 14 to 15	Review of field work, identification of missing information
Weeks 16 to 17	Completion and submission of draft report (for review)
Week 18 to 20	Submission of final report

DATA COLLECTION

Tasks - Sample selection

1 Interview the adjudication area

- from index map, create random selection of blocks and interview everyone in the block

Purpose - understanding, implementation, and subsequent use of records in land transactions

Methodology: Adjudication area 1 74 blocks select 10 blocks
Adjudication area 2-5 8 sections 1-4a/b select 2 from each sections

2. Interview the people:

- from records create list of names of participants and try to find those people or their descendants

Purpose - understanding, implementation, and subsequent use of records in land transactions

Methodology: Area 1 A random selection of 2-4 names from every third block 25 total
Areas 2 - 5 A random selection of 2-4 names from each section

3. Interview the parcel:

From the records, identify parcels of land registered and trace the subsequent history of those parcels in the deeds registry

Purpose - current status of record structure

Methodology: Area 1 A random selection of 2-3 parcels from every fourth block
Areas 2 - 5 A random selection of parcels from each section

4. Interview government officials

Preparation

Acquire all maps and documents related to pilot area
Then catalogue information

Compile list of parcels
Then compile a list of names of parcel holders

Based on maps identify site on the ground
Conduct a preliminary visit to adjudication area

Adjudication area interview

- 1.0 How long have you been living here?
- 2.0 Has the government ever come into this area to compile/list down any property records?
_____ yes
- 2.1 When did this happen? _____
- 2.2 What did they do? _____
_____ no
- 3 Do you remember the land registration exercise done in this area in 1977-78? yes _____
no _____
- 4 How did you hear about the exercise? radio _____
television _____
newspaper _____
posters _____
visit by Government staff _____
neighbors _____
others (Please specify _____)
- 5 Did someone come to your house to explain the program? yes _____
no _____
- 6 How many times did you hear about the project? once _____
twice _____
three or more times _____
- 7 How long after you learned about the pilot before they reached your premises?
One day _____
One week _____
One month _____
More than one month _____
Never came _____
- 8 What did people need to do before the survey?
_____ Demarcate parcel?

Annex 3: Data Collection

- _____yes
- 8.1.1 How did you demarcate your parcel? fenced it in_____
- pegs_____
- corner points_____
- other_____
- don't remember_____
- 8.1.2 Did you discuss the boundary with your neighbors? yes_____
- no_____
- 8.1.3 Did you agree on your boundaries? yes_____
- no_____
- 8.1.4 Did you hire a surveyor? yes_____
- no_____
- 8.1.5 Did you pay for the survey from your pocket? yes_____
- no_____
- 8.1.6 Was the surveyor a government surveyor or a private surveyor?
- government_____
- Private_____
- 8.1.7 Did the surveyor mark the corner points of your parcel? yes_____
- no_____
- _____no
- _____produce any documents?
- _____yes
- 8.2.1 What documents did you need to show? deed_____
- receipt_____
- Certificates__(specify)_____
- Other (Specify)_____
- 8.2.2 Who did you show these to?_____
- 8.2.3 What did they do with your documents?_____
- _____no
- _____other (Specify)_____
- 9 How did people prove that they owned the land? Deeds_____
- Others (Please specify _____)
- 10 Was your parcel one of those registered? yes_____
- no_____
- 11 Were there some neighbors left out of the 1970's exercise?

Annex 3: Data Collection

_____yes

11.1 Why were they left out? _____

11.2 What happened to them? _____

11.3 What happened to their land? _____

_____no

12 Were there any disputes over land during the registration program?

_____yes

12.1 What kinds of disputes? _____

12.2 Who was involved in the dispute? _____

12.3 How were the disputes settled? _____

12.4 Was the land then registered? _____

12.5 Have those disputes come back?

_____no

_____yes

12.5.1 When did this happen? _____

12.5.2 Why did this happen? _____

12.5.3 What is being done about them? _____

_____no

Individual interview

- 1 Do you own this land? yes____
no____
2. How did you get this land? Purchased____
Inherited____
Gift____
Other (Specify)_____
3. Do you remember the land registration exercise done in this area in 1977-78? yes____
no____
4. How did you hear about the exercise? radio____
television____
newspaper____
posters____
visit by Government staff____
neighbors____
others (Please specify_____)_____
don't remember____
5. Did someone come to your house to explain the program? yes____
no____
6. How many times did you hear about the project? once____
twice____
three or more times____
7. How long after you learned about the pilot before they reached your premises?
One day____
One week____
One month____
More than one month____
Never came____
8. What did you need to do before the survey?
____Demarcate parcel?

Annex 3: Data Collection

- _____yes
- 8.1.1 How did you demarcate your parcel? fence_____
- pegs_____
- corner points_____
- other_____
- 8.1.2 Did you discuss the boundary with your neighbors? yes_____
- no_____
- 8.1.3 Did you agree on your boundaries? yes_____
- no_____
- 8.1.4 Did you hire a surveyor? yes_____
- no_____
- 8.1.5 Was the surveyor a government surveyor or a private surveyor? government_____
- Private_____
- 8.1.6 Did the surveyor mark the corner points of your parcel? yes_____
- no_____
- _____no
- _____produce any documents?
- _____yes
- 8.2.1 What documents did you have to show? deed_____
- receipt_____
- Certificates__(specify)_____
- Other (Specify)_____
- 8.2.2 Who did you show these to?_____
- 8.2.3 What did they do with your documents?_____
- _____no
- _____other (Specify)_____
9. Were there some neighbors left out of the 1970's exercise?
- _____yes
- 9.1 Why were they left out?_____

Annex 3: Data Collection

9.2 What happened to them? _____

9.3 What happened to their land? _____

_____no

10. Were there any disputes over land during the registration program?

_____yes

10.1 What kinds of disputes? _____

10.2 Who was involved in the dispute? _____

10.3 How were the disputes settled? _____

10.4 Was the land then registered? _____

10.5 Have those disputes come back?

_____no

_____yes

10.5.1 When did this happen? _____

10.5.2 Why did this happen? _____

10.5.3 What is being done about them? _____

_____no

11 What happened with the program after the field work was done? _____

12. Did you receive any title or any other document for your land?

_____yes

12.1 What did you receive? _____

_____no

13 Have you sold any of your land since the titling exercise?

_____Yes

13.1 What did you sell? all of the land _____

part of the land _____

13.2 Did you report/record the sales anywhere?

_____ Yes

13.2.1 Where did you record the sales? MLME _____
Min of Foreign Affairs _____
CNDRA _____
Other _____

13.2.2 Did you receive any new documents following the sales?
_____ yes

13.2.2.1 What document did you receive? _____
_____ no

13.2.3 Where did these documents come from? MLME _____
Min of Foreign Affairs _____
CNDRA _____
Other _____

_____ No

13.3 Did the person you sold the land to receive any documents? yes _____
no _____

14. Have you given any of your land away since the titling exercise?
_____ yes

14.1 How did you give it? _____

14.2 Who did you give it to? _____

14.3 Did you report/record the gift anywhere? _____
_____ Yes

14.3.1 Where did you record the gift? MLME _____
Min of Foreign Affairs _____
CNDRA _____
Other _____

14.3.2 Did you receive any new documents following the gift? yes _____
no _____

Annex 3: Data Collection

14.3.3 Where did these documents come from? MLME _____
Min of Foreign Affairs _____
CNDRA _____
Other _____

14.3.4 Did the person you gave the land to receive any documents? yes _____
no _____

_____No

15 Did anyone inherit any land that was registered in 1977-79?

_____no

_____yes

15.1 Who inherited the land? son _____
nephew _____
brother _____
wife _____
daughter _____
other _____

15.2 Did you report/record the inheritance anywhere?

_____Yes

15.2.1 Where did you record the inheritance? MLME _____
Min of Foreign Affairs _____
CNDRA _____
Other _____

15.2.2 Did anyone receive any new documents following the inheritance?

_____no

_____yes

15.2.2.1 What were the documents? _____

Annex 3: Data Collection

- 15.2.2.2 Where did these documents come from? MLME _____
Min of Foreign Affairs _____
CNDRA _____
Executive Mansion _____
Other _____
- _____ no
- 15.3 Was the land subdivided during the inheritance?
- _____ no
- _____ Yes
- 15.3.1 How did you divide it? _____
- 15.3.2 Did you have a new survey done on the land? yes _____
no _____
- 15.3.3 Where did you record the subdivision? MLME _____
Min of Foreign Affairs _____
CNDRA _____
Other _____
- 15.3.4 Did anyone receive any new documents after reporting the subdivision?
- _____ no
- _____ yes
- 15.3.4.1 What were the documents? _____
- 15.3.4.2 Where did these documents come from? MLME _____
Min of Foreign Affairs _____
CNDRA _____
Executive Mansion _____
Other _____
16. Has the land been developed? yes _____
no _____
17. Have you had any disputes with anyone over your land since the registration?
- _____ no

Annex 3: Data Collection

_____yes

17.1 What was being disputed?

boundaries_____

ownership_____

inheritance_____

other_____

17. 2 Were these disputes solved?

_____yes

17.2.1 How were they solved?

elders_____

mediation_____

court decision_____

other_____

_____no

17.2.2 Why ot?_____

17.2.3 What is the problem?_____

Parcel Interview

1. What has happened to parcel?

_____ stayed the same

_____ changed

1.1 How did it change?

subdivided _____

consolidated _____

other _____

1.2 When did this change take place?

1.3 Did you report/record the changes anywhere?

_____ no

_____ yes

1.3.1 Where did you record the change?

MLME _____

Min of Foreign Affairs _____

CNDRA _____

Other _____

1.3.2 Did anyone receive any new documents following the change?

_____ no

_____ yes

1.3.2.1 Where did these documents come from?

MLME _____

Min of Foreign Affairs _____

CNDRA _____

Other _____

1.3.3 How long did it take to record the change? _____

1.3.4 How much did it cost to record the change? _____

Summary of Pilot Titling Information

Records of the pilot titling exercise were compiled from a number of different sources. A selection of this information is presented in the following subsections of Annex 4. A complete set of the information data sets will be made available to the Land Commission, Ministry of Lands Mines and Energy, and the Center for National Documents and Records.

Annex 4.0 presents a consolidated map of the five designated adjudication areas. This map was created from the five separate area maps found at DLSC. Annex 4.1 presents a summary of the information contained in the files kept at the Department of Lands, Survey, and Cartography. Files of all of the five pilot areas were found, sorted, and refiled in a systematic fashion. For Area One, where the titling exercise was completed and the most complete set of files exists, files were sorted by registration block, and then sorted by parcel number within that registration block. Where possible a similar filing system was used for Areas Two, Three, Four, and Five.

The table presented in Annex 4.1 is a sample of the entire information contained in the Area One file to show the format of information collected.

Annex 4.2 presents a section of the index map prepared from Area One. An index map of Area One and Area Four had been completed. The Area Four parcel index map only shows the parcels from the entire area. There has been no subdivision into registration blocks as had occurred in Area One. There were no parcel index maps prepared for Areas Two, Three, and Five as the pilot exercise had not progressed that far at the time of the collapse of the project.

Annex 4.3 presents a selection of parcel information taken directly from the parcel index map of Area One. This should represent the most complete listing of names of parcel holders.

Annex 4.4 presents a consolidation of the information from the DLSC files (Annex 4.1) and that found on the parcel index map (Annex 4-3).

Annex 4.5 presents a selection of the information collated from the parcel claims registries. Only a small section of the registry was found for Area One, which is presented in this annex. The complete data set presents the claims registry for Areas Two, Three, Four, and Five.

Annex 4.6 presents a selection of information found in the Deeds Registry.

This map of Monrovia, Liberia, is divided into five numbered zones. Zone 1 is the central urban area, Zone 2 is the southern coastal area, Zone 3 is the central-eastern area, Zone 4 is the northern area, and Zone 5 is the eastern area. Key landmarks include the National Police Headquarters, Supreme Court, Old Executive Mansion, Ministry of Foreign Affairs, University of Liberia, Don Bosco Polytechnical School, and the Barclay Training Center. The map also shows the Mamba Point, Providence Island, and the Haile Selassie Ave. The map is oriented with North at the top.

Annex 4.1 Selection of Parcel File Information

Area	Section No.	Block No.	Parcel No.	Owner's Name	Claim No.
1	III - B	25	58	Barclay, Anthony	106
1	III - B	25	58	Whoury, Bachir et al (lease)	101
1	III - B	25	59/1	International Trust Company - 2 leases	x-102
1	III - B	25	59C	Real Estate International Trust	102B
1	III - B	25	59D	King, Charles T. O.	102C
1	III - B	25	60	Hill, Henry or Chenoweth, Phenelopia ???	X-103A
1	III - B	25	60	Chenoweth, Phenolopia and Hill, Henry ???	X-103
1	III - B	25	61	Cooper, Eugene A. and Amelia	X-104
1	III - B	25	62	Grant-Hill, Annie Henrietta	x-105
1	III - B	25	62/1	El Meson (Lease)	x-403
1	III - B	25	63	Campbell, Willette Olivia	x-108
1	III - B	25	64	Cephas, Sarah Elizabeth	x-107
1	III - B	25	65	Hoff-King, Clarese	121
1	III - B	25	66	Outland, Margrette A. Estate	x - 109
1	III - B	25	?	Dennis, Wilmot L.	x-430
1	III - B	25	?	Cooper, Cephas	x-453
1	III - B	26	71/1	Reidon, Hosen & Kussa, George (lease)	x-407
1	III - B	26	75	Clark-Thomas, Martha	x-117
1	III - B	26	78	Wade, Hattie	x-110
1	III - B	26	80	Sirleaf, Alhaji Mohamed	x-121
1	III - C	27	52	Roberts, Mai Barclay (lease)	120
1	III - C	27	54/1	Taray, Salim (lease)	149
1	III - C	27	55/1	Saad, Shaffic N. (lease)	x-136
1	III - C	27	56	King, Charles T.O. III	x-137
1	III - C	27	58	Brown, Cordillia	138
1	III - C	27	60	Williams, Elizabeth	131
1	III - C	27	61	Brown, Rillis F. & Brown, Estelle	119
1	III - C	27	63	Assembly of God church	127
1	III - C	27		Union Mechanic Society (lease)	117
1	III - C	27		Barclay, Anthony	x-442
1	III - C	27		Williams, Sarah	132
1	III - C	27		Sherman, Charles D.	135

Annex 4.2 Parcel Index Map

Figure 1 Registration blocks in Area I

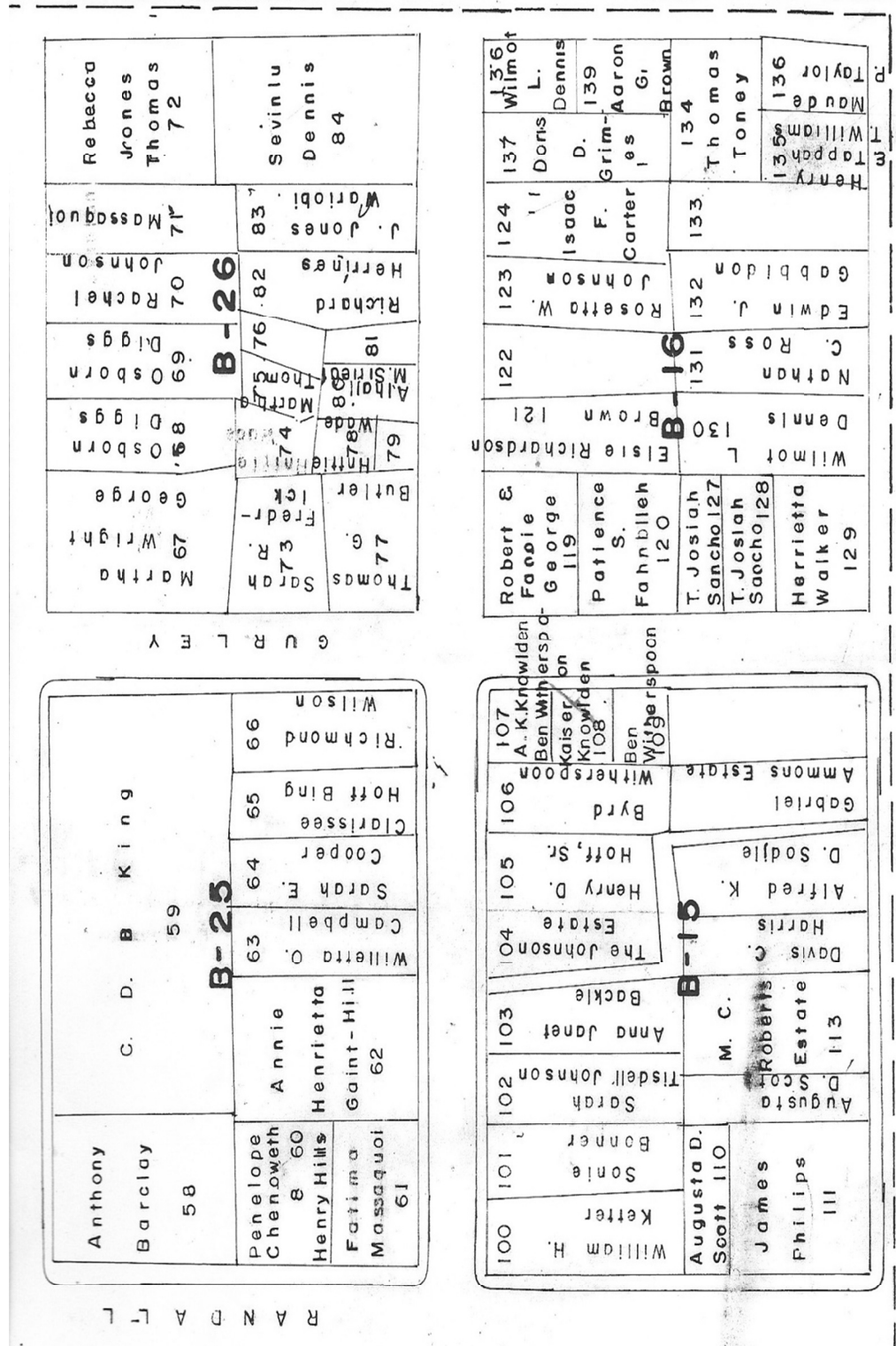
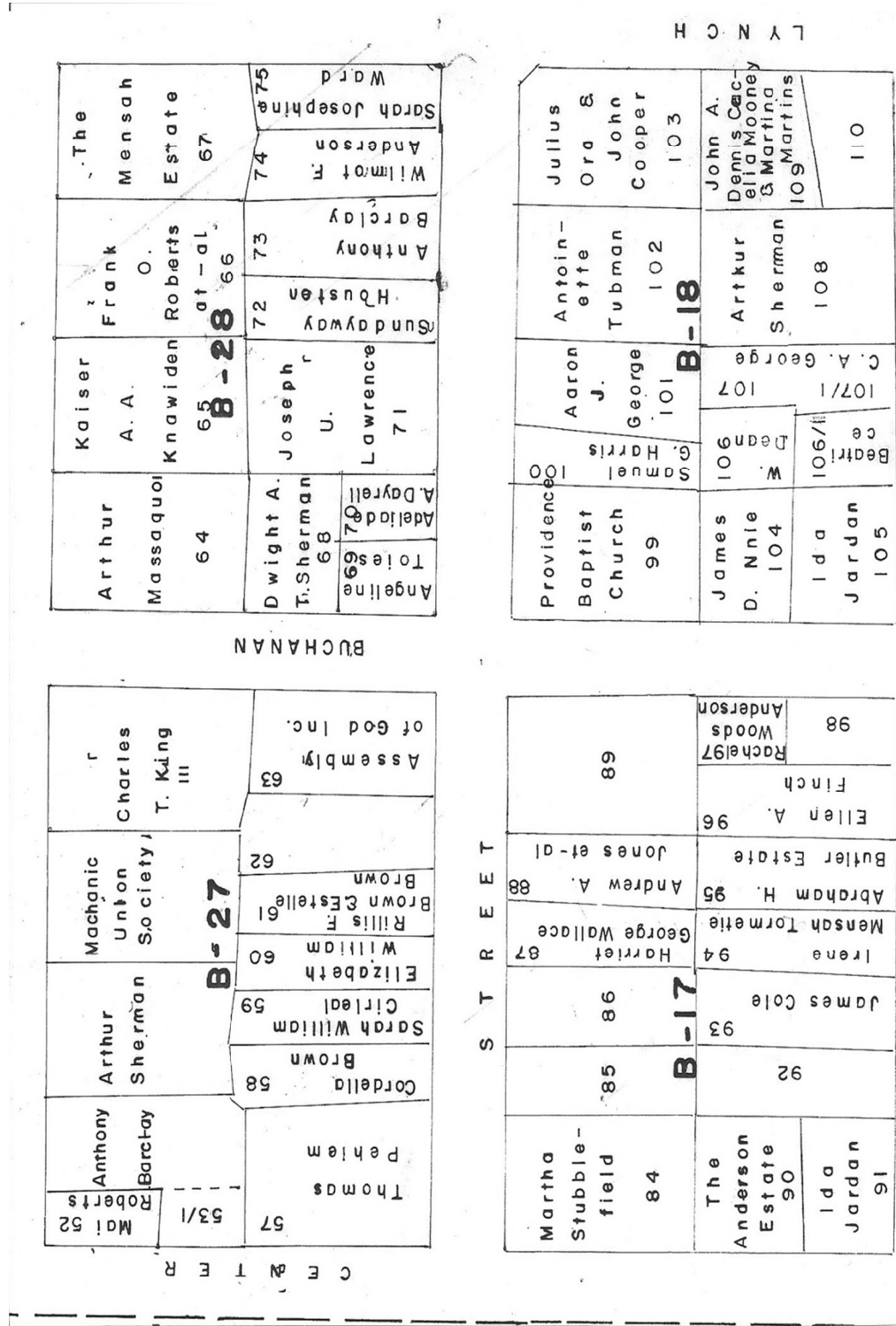


Figure 1b Registration blocks in Area 1



Annex 4.3 Selection of Parcel Index Map Information

Owner's Name	Block No	Parcel No.
BARCLAY, ANTHONY	25	58
KING, C.D.B.	25	59
CHENOWETH, PENELOPE	25	60
HILLS, HENRY	25	60
MASSAQUOI, FATIMA	25	61
GAINT-HILL, ANNIE HENRIETTA	25	62
CAMPBELL, WILLETDA D.	25	63
COOPER, SARAH E.	25	64
HOFF-BING, CLARISSEE	25	65
WILSON, RICHMOND	25	66
GEORGE, MARTHA WRIGHT	26	67
DIGGS, OSBORN	26	68
DIGGS, OSBORN	26	69
JOHNSON, RACHEL	26	70
MASSAQUOI	26	71
THOMAS, REBECCA JONES	26	72
FREDERICKS, SARAH RAINES	26	73
WADE, HUTTIE	26	74
THOMAS, MARTHA	26	75
	26	76
BUTLER, THOMAS G.	26	77
WADE, HUTTIE	26	78
	26	79
SIRLEAF, ALHAJI M.	26	80
	26	81
HENRIES, RICHARD	26	82
WARRIOBI, J. JONES	26	83
DENNIS, SEVINLU	26	84
ROBERTS, MAI	27	52
BARCLAY, ANTHONY	27	53
SHERMAN, ARTHUR	27	54
MACHANIC UNION SOCIETY	27	55
KING, CHARLES T.O.	27	56
PEHIEM, THOMAS	27	57
BROWN, CORDELLA	27	58
CORLIAL, SARAH WILLIAM	27	59
WILLIAM, ELIZABETH	27	60
BROWN, RILLIS & ESTELLE	27	61
	27	62
ASSEMBLY OF GOD CHURCH, INC	27	63

Annex 4.4 Consolidation of Parcel File Information and Parcel Index Map Information

Block No.	Parcel No.	Name	Block No.	Parcel No.	Name
25	58	BARCLAY, ANTHONY	25	58	Barclay, Anthony
25			25	58	Whoury, Bachir et al (lease)
25	59	KING, C.D.B.	25	59/1	International Trust Company - 2 leases
25			25	59C	Real Estate International Trust
25			25	59D	King, Charles T. O.
25	60	CHENOWETH, PENELOPE	25	60	Hill, Henry or Chenoweth, Phenelopia ???
25	60	HILLS, HENRY	25	60	Chenoweth, Phenolopia and Hill, Henry ???
25	61	MASSAQUOI, FATIMA	25	61	Cooper, Eugene A. and Amelia
25	62	GAINT-HILL, ANNIE HENRIETTA	25	62	Grant-Hill, Annie Henrietta
25			25	62/1	El Meson (Lease)
25	63	CAMPBELL, WILLETTA D.	25	63	Campbell, Williette Olivia
25	64	COOPER, SARAH E.	25	64	Cephas, Sarah Elizabeth
25	65	HOFF-BING, CLARISSEE	25	65	Hoff-King, Clarese
25	66	WILSON, RICHMOND	25	66	Outland, Margrette A. Estate
25			25		Dennis, Wilmot L.
25			25		Cooper, Cephas
26	67	GEORGE, MARTHA WRIGHT	26		
26	68	DIGGS, OSBORN	26		
26	69	DIGGS, OSBORN	26		
26	70	JOHNSON, RACHEL	26		
26	71	MASSAQUOI	26	71/1	Reidon, Hosen & Kussa, George (lease)
26	72	THOMAS, REBECCA JONES	26		
26	73	FREDERICKS, SARAH RAINES	26		
26	74	WADE, HUTTIE	26		
26	75	THOMAS, MARTHA	26	75	Clark-Thomas, Martha
26	76		26		
26	77	BUTLER, THOMAS G.	26		

Annex 4.5 Selection of Information from Claims Register

Area	Section No.	Parcel No	Owner's Name (family name, first Name)	Claim No.	Claim No
1	II - B	56/1	Najd, Fouzy & Saab, Akram	x-406	37
1	II - B	44	Nehme, Raymond (assignee)	x-404	38
1	III - B	72/1	Raidan, Hassan& Kussa, George	x-407	39
1	III - B	67/1	Abi-Jaoudi, R.E.	x-408	40
1	III - B	19	Republic of Liberia	x-356	41
1	IV - C	44	Governemnt of Liberia	x-154	42
1	VI - B	17	Republic of Liberia	x-355	43
1	III - B	83	Wariebi, J. Jones	x-123	44
1	ilV - B	30/1	Monrovia Fair Company	x-406	45
1	IV - B	25/1	BP (West Africa) Ltd	x-179	46
1	I - C	108/1	Ayoub, Amal	x-410	47
1	IV - B	30	Dennis, Wilmot L.	x-185	48
1	VI - A	10	Republic of Liberia	x-329	49
1	Vi - A	11	Republic of Liberia	x-328	50
1	V - C	13	Browne,Elizabeth J.	x-286	51
1	IV - C	48	Dayrell, Ethel	x-156	52
1	I - B	112/1	Maharajs, Guru	x-405	53
1	I - C	102/1	Simonovitch, Jean	x-8	54
1	I - C	102	Tubman,Antoinette	x-27	55
1	I - B	115/1	Dhillon, Rattan S.	x-417	56
1	I - B	115	Sodjie, Alfred K.D.	x-20	57
1	II - B	51	Morgan (Grimes), Rosina Robinson	x-64	58
1	IV - B	37	Cooper, Ellen G.	x-310	59
1	IV - B	40	Cooper, Ellen G.	x-220	60
1	IV - B	38	Cooper, Ellen G.	x-199	61
1	IV - B	33	Diggs, Joanna & Mary	x-188	62
1	IV - C	9	Republic of Liberia	x-167	63
1	IV - A	9	Cisco, Jacob	x-223	64
1	VI - A	35	Essel,Isaac R.	x-320	65
1	IV - A	16	Cox, Dixine, N.	x-212	66
1	III - A	52	Milton, Ellen	x-97	67
1	III - A	57	Whitherspoon, Mozeline Clausie	x-96	68
1	II - B	43	Howard, Sarah King	x-56	69
1	III - B	69/1	Younis, Foddy	x-317	70
1	III - B	62	Gant-Hill, Annie Henrietta	x-105	71
1	III - B	62/1	Meson, El	x-403	72
1	III - B	69	Diggs, Osbene K.	x-110	73
1	II - B	68/1	Wehbe, George	x-316	74
1	III - B	68	Diggs, Osberne K.	x-425	75
1	IV - A	21	Parker, Lester R.	x-220	76
1	II - B	86	Cisco, Jacob N.	x-424	77
1	VI - C	24 Jan	Punjabi, H.D.	x-386	78

Annex 4.6 Selected Deeds Registry Information

	TRANSFEROR NAME		TRANSFEE NAME		PROPERTY LOCATION	LOT NO#	TYPE OF DOCUMENT	TYPE OF TRANSACTION	TRANSACTION DATE
	LAST	FIRST	LAST	FIRST					
1	Mamadee, Kaba		Alhadji, Kaba M.		Mamba Point	LOT#46 BK#33	Transfer Deed	Agreement of Sale	Jan. 19, 1984
2	William, Dennis E., Jr.		William, Dennis E., III		Carey St.	LOT #452	Transfer Deed	Transfer	Dec. 15, 1955
3	Acolatse, Etta W. W.		Kanneh, Salanfoda		Benson St.	LOT # 156	Transfer Deed	Agreement of Sale	Oct. 2, 1085
4	Ammon, Igal		Bangura, Bindu		Randall St.	N/A	Transfer Deed	Agreement of Sale	May. 13, 1985
5	Wright, Robert L. E., Jones, William, & Jones, Rebecca L.		Jones, Joyce C.		Benson St.	LOT# 24	Executive Deed	Agreement of Sale	March 1, 1984
6	Raynes, Sarah		Cooper, Elizabeth B. & Rahert, Mai		Broad St.	LOT #18	Warranty Deed	Agreement of Sale	April 17, 1986
7	Duncan, Julia Slanart		Withespoon, Magdalene D. & Keller, Nancy D.		Mamba Point	99, 99a, & 99b	Warranty Deed	Transfer	May, 6, 1986
8	Cooper, Anna		Marshall, John Francis		Carey & clay St.	LOT# 232	Administrative Deed	Agreement of Sale	June 20, 1986
9	Cooper, Anna S., Holland, Magdalene, & Cooper, Charles A.		Holland, Magdalene C.		Robert St.	Lot# 525	Executive Deed	Transfer	June 17, 1986
10	Stepney, Samuel B.		Mamis, Francis J.		Lynch St.	Part of BK#2	Warranty Deed	Agreement of Sale	Feb. 12, 1987
11	Salisu, Lawrence and Nagba, Paleh C.		Liberia Bank of Development & Investment (LBDI)		Benson & Newport St.	BK# 68	Mortgage Deed	Mortgage	April 26, 1983
12	Sharmon, Charles D.		Allison, Grad D.		Mamba Point	Lot#20 BK#97	Warranty Deed	Agreement of Sale	Sept. 19, 1986
14	Dunliar, Timothy B.		Teah, Frank		Mamba	Lot#11	Transfer Deed	Agreement of Sale	Sept. 15, 1986
15	Morger, Alferd W.		Peabody, Calvin		Mamba Point	LOT # 30	Transfer Deed	Agreement of Sale	Aug. 3, 1986
16	Peabody, Calvin		Slinger, Edward N.		Mamba Point	LOT # 30	Transfer Deed	Agreement of Sale	Dec. 31, 1986
17	Taylor, Etta A.		Pearl, Merdea		Carey & Broad St.	LOT# 471	Transfer Deed	Agreement of Sale	May 29, 1986

Contact List

Name	Title & Institution	E-mail
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Annex 5

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Rev. Emmanuel Bowier	Former Minister of Information, Cultural Affairs & Tourism	
Anthony Robinson	Center for National Documents and Records/Archives 12 th Street	
George Miller	Assistant Minister for Land Administration Ministry of Lands, Mines & Energy	
Dr. Edward Liberty	Director-General Liberia Institute of Statistic & Geographical Information Systems Tubman Boulevard	
Morris K. Kanneh	Director of Land Administration Department of Lands, Survey & Cartography Ministry of Lands, Mines & Energy	
Cllr. Abraham Stubblefield	Legal Counselor Ministry of Lands, Mines & Energy Capitol Hill	
Milton Quaye	Real Estate Division, MOF	

One day visit to Buchanan, Grand Bassa County

On Thursday, November 25, 2010, a delegation from the Land Commission traveled to Buchanan, Grand Bassa County to meet with county lands officials. The delegation included:

1. Dr. Jeanette Carter, Advisor, Land Commission
2. Dr. Mark Marquardt, International Consultant, LC
3. MacArthur Pay-Bayee, Local Consultant
4. Matthew A. Pearce, Program Asst., LC
5. Eric Lawrence, Driver, LC

Other individuals from sector agencies on the delegation included:

1. Josephus Burgess, MLME
2. Anthony Robinson, CNDRA

The team, upon arrival, met with local county officials in the office of the county surveyor and began the meeting which lasted for three hours and ten minutes. Those in attendance with the Land Commission delegation, representing the county were:

1. David Blay, Resident County Surveyor
2. Frances Jonah Macauley, CNDRA Registrar
3. James S. Harris, Land Commissioner

Dr. Marquardt used the occasion to explain the purpose of the visit to Buchanan. He told the body that the visit was primarily about knowing the activities being undertaken in the county, their record-keeping system, inventory exercises, expectations and some of the claims people make. He said further that the delegation was also interested in how survey work for property transactions is done and the number of survey exercises done thus far.

Survey Exercises

Having explained the purpose of the visit, the Resident County Surveyor, Mr. Blay, presented a synopsis of the challenges they face. There are four surveyors in the county, two working as government surveyors and two in private practice. He said that surveyors in the county are on their own, meaning that the only relationship is that before a survey exercise goes on, notice is served the county office by whom?. What happens during the exercise is never reported to the county office and no records are kept of this work.

Record Keeping

The Resident County Surveyor presented a very dismal picture of what their record-keeping system is like. He informed the meeting that they face a very serious challenge when it comes to that. There were no record folders to make reference to and no filing system in place for records. Tracking of records is only randomly done. While the office prepares a detailed set of records to assist the courts in the settlement of land disputes, copies of these reports are not consistently kept by the lands office and there is no reporting back to the office by the courts following a decision on a particular case.

Logistical Support

Logistical support is lacking in terms of vehicles and office facilities and space. The office spaces are small and poorly equipped and are often shared with other government functionaries, thus making it difficult to ensure that records are not pilfered.

Deeds

The County Surveyor, Mr. Harris said that deeds are not stored in his office but are left with the property owner. He disappointingly told the delegation that the fourteen years war, to a large extent, was responsible for the disappearance of most of the deeds. Another challenge facing them is the nonexistence of a prescribed punishment for those involved in multiple land sales.

SDI (Sustainable Development Institute) /ILDO (International Law Development Organization)

Dr. Jeanette Carter, Advisor at the Land Commission, used the time to respond to a statement made by Mr. Josephus Burgess of the Lands and Mines Ministry who said that he has received information that representatives from an NGO are going around the country, establishing boundaries and undertaking other activities which may undermine the proposed boundary demarcation work of his ministry in the future. Dr. Carter told Mr. Burgess that what he was referring to was a pilot project, which was discussed lengthily with authorities at the Land Commission before its commencement and that it was restricted to twenty communities in Rivercess County. The pilot was designed and implemented only in Rivercess County and not in any other parts of the country. It was also not supposed to legally demarcate land but to work with communities to develop a process for obtaining statutory recognition of their customary claims as a precursor for the work to be done by the GOL.

Proposed Pilot

Using funds from the World Bank Project, the Ministry of Lands, Mines and Energy is planning to carry out a property inventory project in Kakata City, Margibi County, Gbarnga, Bong County and Buchanan, Grand Bassa County. But the local officials in Buchanan said they have little knowledge of the project. While they had heard of the project being discussed, they have not been informed of the decision about the project and had no participation in the project site selection.

Public Land

Surveys of public land are continuing in Grand Bassa County despite the moratorium on public land sales. The county's argument is that a number of sales have already been approved by the President reflecting their capacity to review applications and prepare the appropriate documents. They argued that their record of public land surveys was declared the best by the Vetting Team, and therefore they should be allowed to continue surveys/sales of public land. They inquired about the status of the deeds that were forwarded to the Commission for vetting process, wondering when they would signed and returned to them. They were told that the moratorium on public land sales was still in effect while the Land Commission and others continued to develop interim measures. The local officials said that they had never seen a copy of the Public Land Law of 1973.

The team was shown the documentation for several public land sales, all within a township or the city of Buchanan, which is ready for submission to the Executive Mansion. The documentation included a “town lot certificate” signed by the mayor and the Land Commissioner. No “traditional authorities” had signed the certificates as is done with the tribal certificate. The consensus of the local officials was that tribal certificates are valid for 8 years. From the documents, it appeared that the cost of processing a public land sale request with the local authorities was approximately US\$200. When the Land Commissioner was asked how he identified unencumbered land for a public land sale, he stated that he used a “demarcation order” to the surveyors for this task and that he would not identify as unencumbered any land on which there were tree crops or permanent structures.

Town Land

Dr. Carter raised the issue of the need for clarification of what is meant by “town” or “city” land and “rights of occupancy” associated with it. It appears that public land sales within a township or city are based on lots (4 lots equal 1 acre) even when the land is rural. Many of the townships include a substantial amount of agricultural land. This has serious implications for anyone wishing to acquire public land for agricultural purposes who have to pay the associated transaction fees based on town lots rather than on acreage. In some cases this has prevented the sales proceeding and hence restricted potential area development.

Center for National Documents and Records Agency (CNDRA)

Madam Frances Jonah Macauley, Registrar of Marriages and Deeds, CNDRA, Buchanan office, complained that she is receiving no cooperation from the Probate Court in Grand Bassa County and that the now pensioned Registrar is still performing the duties of registrar. Madam Macauley wants authorities concerned to intervene. Dr. Marquardt suggested that to deter such behavior, massive public awareness must be done, informing the residents that people doing business with her do so at their own risk of having documents prepared and recorded that have no validity. The registrar provided a copy of an administrative regulation issued by the Ministry of Finance in 2003 which indicates the fee to be charged for registering “legal and statutory documents” with CNDRA. The fees are in Liberian dollars.

The delegation from Monrovia later paid a visit to the CNDRA Registrar’s office, observed that she has an appreciable record-keeping system. She further stated that due to inadequate storage facilities, the deeds and other documents are brought to the Monrovia office for safe keeping at the end of each year. However, the office retains an index of the files and record books that have been sent so that anyone searching a record locally can be informed of the registry book number and page number of the record to be traced in Monrovia.

Township and City limits

There was a brief discussion of the “8-mile radius” prescribed by Liberian Laws for any location to be designated as a city. The concern raised by the group is that some townships or cities are located too close to one another and their radius may not satisfy the 8-mile condition, and therefore there is a need to revisit that condition. For instance, the city of Buchanan and the township of Harlandsville are less than eight miles apart, meaning that their radii overlap, whether it be square or concentric circles. The officials also commented that there was some confusion over boundaries of concessions, including that currently held by Arcelor Mittal.

Recommendations

- a. That clans and townships need re-demarcation;
- b. That boundaries harmonization be effective;
- c. That tribal people should not be seen as owners of land, but as custodians and
- d. That tribal people should always be informed before concessions or companies move to their areas.