

GRIEVANCES & DISPUTES RESOLUTION MECHANISM (GDRM) MANUAL



SUPPORTING STAKEHOLDERS IN THE PEACEFUL RESOLUTION OF GRIEVANCES & DISPUTES WITHIN THE FOREST SECTOR

January 2021

This publication of this manual is part of the “**Building Capacities of Small-Medium Forest Enterprises (SMFEs) in Ghana and Liberia to Supply and Trade in Legal Timber**” project which was executed by the Nature & Development Foundation (NDF) and the Liberia Timber Association (LibTA) with funding from UK-Aid under the Forest Governance, Markets and Climate Programme (FGMC)



Project Title: “**Building Capacities of Small-Medium Forest Enterprises (SMFEs) in Ghana and Liberia to Supply and Trade in Legal Timber**”**Project Objective:** “To contribute to improved forest governance and promote legal timber trade in West Africa”

IMPLEMENTING PARTNERS: Nature & Development Foundation (NDF)

Liberia Timber Association (LibTA)

Liberia Chainsaw Timber Dealers Union LICSATDUN)

Kumasi Wood Cluster (KWC)

START DATE: April 1, 2018

END DATE: March 31, 2021



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An effective monitoring and evaluation requires the establishment of a system, procedure and tools for generating information, tracking progress on indicators, collating and analyzing information generated.

11.1 Monitoring

The Technical Secretariat of the LibTA in collaboration with the NU-CFMB and the NUCFDC and companies should develop a monitoring plan with a set of activities, timelines and output indicators against which progress will be measured.

The plan will seek to achieve the following:

- ⇒ Ensure that outlined activities in the implementation plan are carried out in a professional and timely manner;
- ⇒ Check records to ensure that proper documentation of conflicts and grievances and how they have been handled are being kept;
- ⇒ Assess whether communities are having information on grievances resolved between communities and companies;
- ⇒ Assess the context for evolving conflicts which could serve as an early warning mechanism; and
- ⇒ Monitor the quality of stakeholder's participation and involvement in GDRM initiatives.

11.2 Evaluation

The primary objectives of the evaluation, which will be conducted by an external person or institution, are to establish the extent to which the GDRM has been effective, efficient and sustainable in identifying, resolving, and preventing the escalation of grievances and conflicts in the sector. The evaluation will also provide empirical evidence that will set the basis for policy recommendations to improve the grievance handling process. It will also involve documenting lessons learned from the process and using them to improve the GDRM.

10. 8 Conduct awareness on the GRM:

The proposed grievance resolution mechanisms outlined in the Social Agreements and contracts between companies and communities are not understood by governance structures and community members. LibTA should organize separate meetings with companies and community structures to explain the dispute resolution mechanisms available to actors engaged in the sector.

10.9 Increase negotiation skills of communities and concessions:

Negotiation is a major component of resolving grievances between parties. Parties involved in negotiating also need a set of skills to effectively perform their roles and responsibilities in the process. LibTA should seek technical assistance from international NGOs and CSOs to provide negotiation training for their members as well as community governance structures.

10.10 Test the GDRM in a community:

LibTA should engage international NGOs and CSOs to explore funding opportunities to pilot the GDRM in at least two communities where grievances exist. The process will be documented and a comparative lessons learnt analysis conducted and the outcome used to improve future resolutions of grievances.

11.0 Monitoring and evaluation of the GDRM

The overall purpose of monitoring and evaluation is to track progress and status of implementation of the GDRM components and activities and use the outcomes to share lessons learnt and provide feedback to further strengthen and improve GDRM in the sector. This approach will be managed by the LibTA and will include a multi-stakeholders framework to ensure that all actors participate to ensure collective learning and ownership of the exercise and its outcomes.

Specifically, the M&E will seek to:

- ⇒ Strengthen institutional capacities to handle forest conflicts and grievances;
- ⇒ Ascertain whether or not GDRM is effectively handling conflicts and grievances and their root causes in a timely manner; and
- ⇒ Identify lessons and document best practices in GDRM that can be applied to other sectors such as land conflicts.

ACRONYMS

ADR	Alternative Dispute Resolution
CA	Community Assembly
CBO	Community Based Organization
CFDC	Community Forest Development Committees
CFMA	Community Forest Management Agreement
CFMB	Community Forest Management Body
CSO	Civil Society Organizations
CRL	Community Rights Law
CUC	Commercial Use Contract
EC	Executive Committee
EPA	Environmental Protection Agency
FDA	Forestry Development Authority
FMC	Forest Management Contracts
GoL	Government of Liberia
GRM	Grievance Resolution Mechanism
KIIs	Key Informant interviews
LLA	Liberia Land Authority
LRA	Liberia Revenue Authority
LibTA	Liberia Timber Association
LTTC	Liberia Tree and Trading Corporation
MIA	Ministry of Internal Affairs
MoJ	Ministry of Justice
NBST	National Benefit Sharing Trust
NCCE	National Council of Chiefs and Elders
NFRL	National Forest Reform Law
NUCFDC	National Union of Community Forest Development Committees
NUCFMB	National Union of Community Forest Management Bodies
SA	Social Agreement
TSC	Timber Sale Contracts
WIPO	World International Property Organization



ACKNOWLEDGMENT



This publication was accomplished under the project named: “Building Capacities of Small & Medium Forest Enterprises (SMFEs) in Ghana and Liberia to supply & trade in legal timber”. Said project was funded by UK-Aid through its Forest Governance, Markets, and Climate (FGMC) Programme.

Sincere thanks and appreciation goes out to the Nature & Development Foundation (NDF) of Ghana for its role as international coordinator of the project in Liberia and Ghana and especially to Mr. Mustapha Seidu (Esq.), whose singular gesture of reaching out to a delegation from the Liberia Timber Association (LibTA), that was visiting Ghana, on the possibility of working together made that project a reality.

In addition to those mentioned above, special recognition is also given to the officers and members of the Executive Committee (ExCo) of LibTA as well as the staff of its Technical Secretariat for their steadfastness and their unflinching desire to ensure that this work was done in a timely, orderly and professional manner. Hats off to Mr. Jihad Y. Akkari, Acting President of LibTA, and his team.

Note is also made of Mr. Oscar Bloh, the consultant hired by the Technical Secretariat to do the desk review, research, and focus group discussions needed for this work, as well as all those that took out their time to review and edit the draft work of Mr. Bloh, through personal revision or group discussion.

In this regards a big thanks to the Forestry Development Authority (FDA) especially its Community Forestry Departments, the leaderships and secretariats of both the National Union of Community Forest Development Committees (NUCFDC) and the National Union of Community Forest Management Bodies (NUCFMB), as well as to those staff of the various member companies of LibTA that agreed and did the final revision on this work.

Lastly hats off to Mr. James Flomo Tellewoyen, of the Palladium’s Multi-stakeholder Forest Governance and Accountability Programme (MFGAP) in Liberia, for willingly providing expert guidance during the development of this manual.

Please know that this is possible because of the effort you made.

Thanks to each and everyone of you for enduring with us and supporting this work.

Head of Secretariat
The Technical Secretariat (LibTA)

10.3 Indicators:

The extent of success in the implementation of this plan will be determined by the following indicators:

Number of grievances documented disaggregated by categories and location.

Number of grievances resolved before they erupt into violence.

10.4 Operationalizing the plan:

The initial operationalization of the GRM will be rolled out through a one-year implementation plan as a pilot scheme in selected communities. Lessons learnt will be documented for continuous improvement of the mechanism as conflict is a dynamic phenomenon. The operationalization will consist of several components in a strategic approach, capacity building of LibTA, regular engagements, and creating awareness of dispute resolution mechanism.

10.5 Strategic Approach for implementation:

In the implementation of this plan, LibTa will adopt a strategic approach by engaging international development partners supporting reforms in the forest sector through capacity development of CSOs and the private sector.

10.6 Institutional capacity building of LibTA:

LibTA will seek financial contributions from its members to build its institutional capacity to track, monitor and document evolving grievances between logging companies and affected forest communities. This documentation will provide real time information on ongoing grievances in the sector that can be used for analysis and early warning and response.

10.7 Facilitate the conduct of regular meetings:

In the Social Agreements it is the responsibility of companies to convene regular quarterly meetings between companies and the CFDC and communities. These meetings serve as a platform for the exchange of information as well as to resolve any grievance that any of the parties may have. LibTA should remind its members of the value these meetings have in maintaining a healthy working relationship with communities.

- ◇ Qualify your language: Say things like: "I don't know if we could do X"

9.2: Customary Practices:

Traditional practices in the resolution of grievances have their roots in the cultures and values of communities across Liberia's fifteen counties. In Liberia, these practices are relatively informal and a combination of mediation and adjudication proceedings. In the mediation process, elders and chiefs facilitate dialogue and discussion between the parties but at the end they consult and reach a decision on who is right and wrong. Their decisions, in most instances, are binding on the parties as members of the community. This is the adjudication aspect.

Traditional conflict resolution mechanisms are relatively cheap and the ultimate objective is to mend broken or damaged relationships. The long term objective is to pursue restorative as opposed to retributive justice whereby harmony and social cohesion among community members are restored. The quality of the customary method of dispute resolution is contingent on the neutrality and credibility of the chiefs and elders who usually lead the process. Because of their traditional role in the management of forest lands, issue of conflict of interest is usually associated with the involvement of chiefs and elders in the mediating conflicts between communities and logging concessions.

10.0 Implementation Plan:

10.1 Objective:

The overall objective of the GDRM implementation plan is to provide a framework that will facilitate the carrying out of activities that are aimed at tracking ongoing conflicts, preventing conflicts from becoming violent, and resolving and mitigating conflicts.

10. 2: Expected Results:

The implementation of the GDRM plan will produce the following results:

Reduced incidences of grievances and conflicts occurring between companies and forest communities.

Increased capacity and awareness to disputants about the GRM at national, county and local level and how it can be accessed.

Increased capacity of LibTA to track, monitor, and document evolving grievances in between companies and forest communities.

Introduction:

Liberia hosts the largest remaining blocks of the Upper Guinean forests of West Africa. The Government of Liberia estimates that 40 percent of the remnants of the Upper Guinean forests are found in the country. During the civil war, the forest sector gained notoriety for its alleged role in the conflict thus leading to United Nations sanction in 2003.

Following the adoption of the National Forestry Reform Law (NFRL) of 2006 the United Nations lifted the timber sanctions on Liberia, paving the way for logging to resume. The law specifically mandates the distribution of revenue from logging between local communities, county governments and the central government, and provides for community participation in forest governance. The NFRL called for the adoption of a subsequent law to strengthen community rights in the management of forest resources.

The Community Rights Law (CRL) of 2009 with Respect to Forest Lands provides the legal basis for the government handing over forest management responsibilities to communities through Community Forest Management Agreements (CFMAs).

Before the war, logging was the most significant industry in the forestry sector, and it remains the main economic activity in the sector today. A total of seven (7) Forest Management Contracts (FMCs) were awarded before the passage of the CRL and are the main government issued logging concession in the country. A total of forty (40) communities have been granted Community Forest Management Agreements (CFMAs) by the Forestry Development Authority (FDA) and several of them are under now under logging operations as per third-party agreements between CFMA-holding communities and logging companies.

Under the terms of the FMCs, logging companies are required to sign Social Agreements with communities situated within the contract area and on the fringes. These agreements provide for royalty payments directly to the beneficiary communities and other social benefits, as well as guarantee the rights of the companies to operate. Third-party agreements between CFMA-holding communities and logging companies constitute the second form of contracts that bind communities and companies in the logging industry. The rights and responsibilities of both companies and communities are outlined in these legally binding Social Agreements and Third-Party Agreements. These two forms of agreement establish a contractual relationship between companies and forest communities.

Conflicts in the logging sector

Conflicts related to logging operations have been reported in many parts of the country. Some of the conflicts arise from claims and counterclaims of non-compliance related to the terms of an agreement. Others arise when communities take direction to prevent the operation of companies, especially when they allege that the company is not performing as per their agreement, and others arise from internal disputes within communities. In CFMA areas, all the conflicts that have been documented are linked to logging operations. These conflicts, which are of different intensities, have an adverse effect on the sector. Actors are under obligation to manage these grievances so that the interests of all stakeholders are protected in sustainably managing community forests.

Conflicts that lead to violent acts have immense costs. Apart from the loss of lives and physical injuries, they can disrupt logging operations, which affects revenue flow to the company, government and the communities and portrays a negative picture on the investment climate. These conflicts have also demonstrated that the dispute settlement clauses in the Social Agreements and Third-party Agreements are not working well as they should. A robust Grievance & Dispute Resolution Mechanism (GDRM) that reinforces the dispute settlement mechanisms in these contracts could therefore assist the Liberia Timber Association (LibTA) and its members to be proactive in identifying and resolving conflict issues as they arise, rather than being reactive waiting to intervene in full-blown conflicts.

Objectives of the Grievance Resolution Mechanism

This grievance & dispute resolution mechanism has one overarching objective, that is to reduce grievances & disputes amongst and between concessionaires within forest sector of Liberia and the various communities within and adjacent to their respective concession areas.

Definitions

Grievances : For the purpose of this report, grievances include complaints, disputes, disagreements, conflicts, concerns, unfulfilled expectation, a violation of the terms of an agreement, and claims that one party or group has against another.

Dynamics of Grievances : Grievances can occur between a community and a company; between the FDA and communities; between two or more companies; within a community; or between the FDA and a community.

9.0 Negotiation and Customary Practice:

In the dispute resolution portions of the CUC and Social Agreements, negotiation and the use of customary practices are integral parts of resolving grievances. In the event wherein a settlement is not achieved, the parties then subject themselves to arbitration procedures.

9.1 Negotiation:

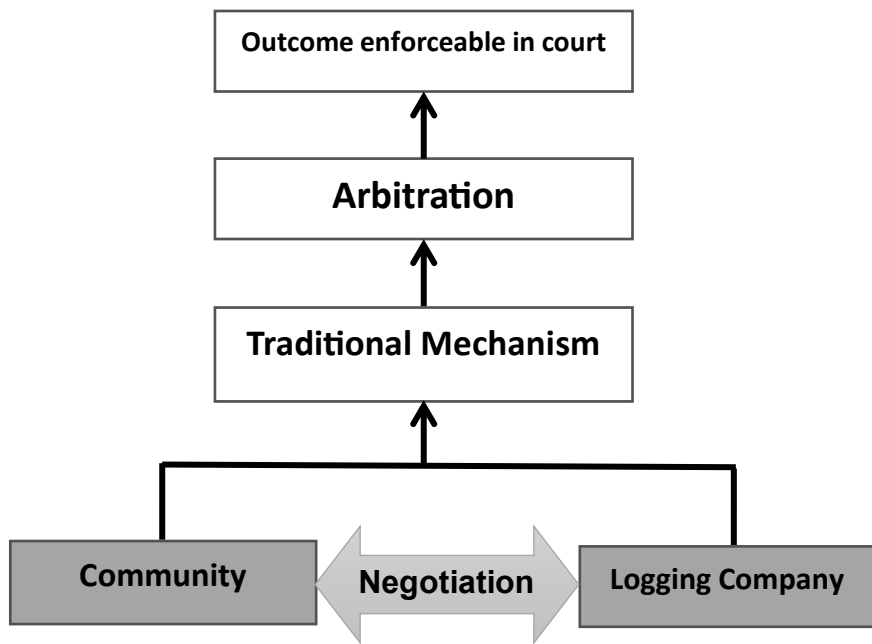
This is a form of ADR whereby two or more parties settle their differences or grievances. It is a process that does not require a third party intervention and the parties engage each other and seek a solution through compromises without injuries to the parties. There are five stages to the negotiating process:

- ⇒ Preparation
- ⇒ Information Sharing
- ⇒ Bargain
- ⇒ Conclude
- ⇒ Execute

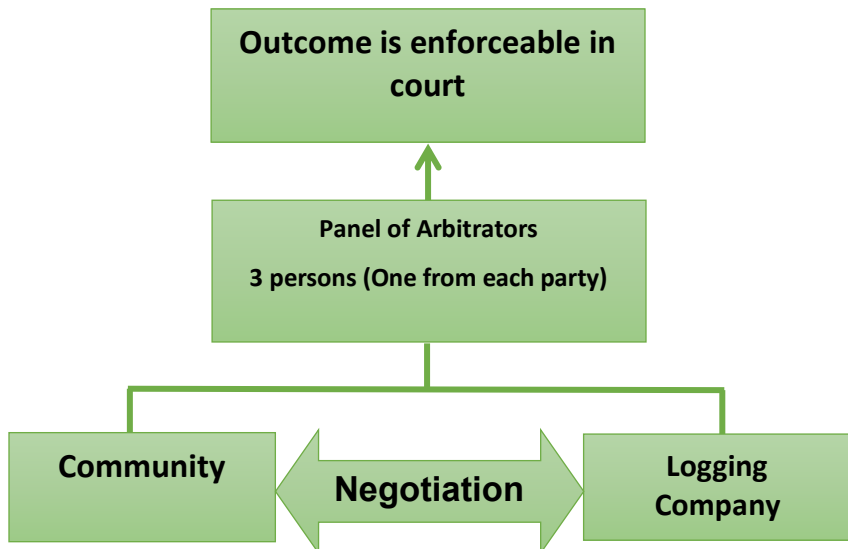
In the implementation of these stages, there are certain skills that the parties need:

- ⇒ **Set a clear goal:** This is what a party seeks to achieve from the negotiation. That is what a party wants to walk away with from the process. In dealing with this, a party must consider answering the following questions:
 - ⇒ What is the best possible outcome?
 - ⇒ What is your bottom line? This is the less acceptable offer a party can accept.
 - ⇒ What is a party's plan B? This involves seeking alternatives.
- ⇒ **Identify your negotiating strategy:** Look for a point of entry that seeks to protect your interest.
- ⇒ **Understand your negotiation style:** Identify your personality and preferences and they have impacted on past negotiations.
- ⇒ **Build Motivation:** Seek to understand why the other party wishes to make a deal.
- ⇒ **Play the reluctant party:** Most negotiations have an eager and reluctant party. Consider the following if you choose to be the reluctant one:
 - ◇ Use your body language to communicate your reluctance: Sit back and keep the tension low in your body.
 - ◇ Manipulate your voice to sound more reluctant: Speak slowly and softly.

Grievance Resolution Structure under the Social Agreement



Grievance Resolution Structure under the Commercial Use Contracts



Grievance Resolution Mechanism : A method wherein parties that have grievances can resolve them through alternative dispute resolution processes without resorting to legal proceedings. The outcome should satisfy the interests of the parties.

Methodology:

The consultant undertook three main activities to generate information related to the assignment leading to the production of a report, advancing ideas for the formulation, implementation and operation of a Grievance Resolution Mechanism (GRM) to address conflicts in the sector. The three main activities included desk review, data collection, analysis and drafting of the report. During the literature review stage, secondary information was compiled. The data collection phase included the conduct of Key Informant Interviews (KIIs) with stakeholders in the sector. The data gathered was collated and analyzed setting the framework of the contents of this report.

2.1 Desk Review

Secondary information was collected through a review of relevant documents linked to the operation of the sector. Statutes, policies, regulations, guidelines, third party agreements, social agreements and field based research were reviewed. The purpose of the review was to better understand the legal, institutional, regulatory and operational contexts informing activities taking place in the sector and how they were contributing to grievances.

2.2 Qualitative data collection

Primary and qualitative data was collected through the conduct of KIIs targeting four categories of stakeholders. The first was logging companies who are members of the Liberia Timber Association (LTA). The second was the representatives of the Forestry Development Authority (FDA) which is the regulator of the sector. The third was the leadership of the National Union of Community Forestry Development Committees (NUCFDCs) and National Union of Community Forestry Management Body (NUCFMBs). The last group interviewed was Civil Society Organizations (CSOs) engaged in advocacy to protect the rights of forest communities.

Interviewing these diverse stakeholders was intended to ensure the validity and reliability of the data. Interviews were focused on understanding the political, socio-economic context that was generating grievances, the types of grievances, the actors, implications of grievances on the sector and proposals on mechanisms that can resolve them without necessarily resorting to legal processes.

The contents of this document was validated through a one day consultative process held on September 4, 2020 with stakeholders including representatives from FDA, logging companies, forest governance structures and CSOs. Another round of validation was held on September 25, 2020 with similar stakeholders to review the final contents of the GRM.

2.3 Analysis and Reporting

All information generated was collated and analyzed, looking for trends and patterns based on triangulation of the responses from the KIs and secondary data sources. This process helped to draw general and specific findings leading to the formulation of conclusions.

2.4 Limitation of the Assignment

This assignment took place in the midst of the COVID-19 pandemic wherein normal operations of offices were disrupted thereby making it challenging to access interviewees and conduct face to face interviews. The consultant would have preferred to engage affected forest communities to obtain more of the primary data on current grievances sources, but the short timeframe of the contract, no resources for in-field travel, and complications traveling to during COVID-19 and the regulation on social distancing could not make this possible. There was little empirical information available to show how a method was used to resolve grievances in the sector.

3. Contextual Framework of Grievances in the Forest Sector

3.1 Categories of grievances

Various categories of grievances related to logging operations are summarized below. Some of these categories of grievances may be entrenched than others with some having higher risk of triggering violence and they may not necessarily represent all existing grievances in the sector.

- ⇒ Competing interests: Grievances may arise from competing interests around commercial logging, the need for conversation, community livelihood, and cultural values and norms.
- ⇒ Lack of will power to ensure compliance by regulating institution: Sometimes, the government's institution with the legal mandate to regulate the sector may be unable or unwilling to enforce the laws or regulations in the management of forest resources.

by the agency named in the agreement to appoint the arbitrators.

- ⇒ **Representation by attorney. A party has the right to be represented by an attorney at any proceeding or hearing under this chapter, and may claim such right at any time as to any part of the arbitrators' hearing that has not taken place.**
- ⇒ **Determination by majority of arbitrators. The hearing shall be conducted by all of the arbitrators, but a majority may determine any question and may render an award.**

Oaths, witnesses, subpoenas, depositions (Section 64.6):

- ⇒ *Oaths, witnesses, and subpoenas.* The arbitrators shall have the power to administer oaths and may request the clerk of the appropriate Circuit Court to issue subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence. Subpoenas so issued shall be served, and upon application to the court by a party or the arbitrators, enforced, in the manner provided in chapter 14 of this title.
- ⇒ *Depositions.* On application of a party, the arbitrators, in the manner and upon the terms designated by them, may permit a deposition to be taken of a witness who cannot be subpoenaed or is unable to attend the hearing, for use as evidence. Chapter 13 of this title shall regulate the procedure for securing such deposition.

The award (64.7):

- ⇒ *Form and content of the award.* Except as provided in section 64.5 (4) the award shall be in writing and signed by the arbitrators joining in the award. It shall include a determination of all the issues submitted to the arbitrators the decision of which is necessary in order to determine the controversy.
- ⇒ *Time within which the award must be made.* An award shall be made within the time fixed by the agreement or, if not so fixed, within fifteen days from the date of the final submission of the controversy to the arbitrators, unless on application of a party, the court orders a shorter or longer limitation. The parties may extend the time in writing either before or after the expiration thereof. A party waives the objection that an award was not made within the time required unless he/she notifies the arbitrators of his/her objection prior to the delivery of the award to him/her.

Stage 4: Preliminary Hearing. After appointment and confirmation of the Arbitrator, the preliminary hearing conference with the parties and the arbitrator will be scheduled and held.

During this call, preliminary issues are addressed, the exchange of information between the parties is scheduled and a hearing date is set.

After the call is held, the Arbitrator will issue a written document called a “scheduling order”, which confirms all important dates and specifics discussed on the call.

Stage 5: Hearing Stage. In keeping with Chapter 64 of the Civil Procedure Law of Liberia guiding arbitration:

- ⇒ ***Time and place of hearing.*** The arbitrators shall appoint a time and place for the hearing and notify the parties personally or by registered mail not less than fifteen days before the hearing. Appearance at the hearing waives such notice. The arbitrators may adjourn the hearing from time to time upon their own motion and shall do so upon the motion of any party to the arbitration proceedings for good cause shown, provided that no adjournment shall extend beyond the date set in the agreement for the making of the award unless the parties consent to a later date. If the arbitrators fail to proceed promptly with the hearing and determination of the controversy, application may be made to the court by any party to the proceeding for an order directing the arbitrators to proceed promptly.
- ⇒ ***Evidence.*** The parties are entitled to be heard, to present evidence and to cross-examine witnesses.
- ⇒ ***Hearing upon default.*** The arbitrators may hear and determine the controversy upon the evidence produced, notwithstanding the failure of another party, duly notified, to appear at the hearings.
- ⇒ ***Award by confession.*** An award by confession may be made at any time before an award is otherwise made. The award by confession shall be based upon a statement, verified by the oath of the parties, containing authorization to make the award, and if a sum of money is to be awarded, the amount of the sum or the method of ascertaining it, and the facts constituting liability. The award by confession may be made at any time within three months after the statement is verified. The award may be made by the arbitrators or

- ⇒ **Community Governance Structure:** Intra-community grievances can result from the lack of transparency, diverse representation, inclusive decision-making and accountability in the management of forest resources by community governance structures. Elite community members on forest governance structures may use their position and exert undue influence over decision-making processes that tend to exclude others.
- ⇒ **Conflicting legal and regulatory frameworks:** In instances where the statutes and regulations governing the sector are not in harmony or both frameworks come in clash with customary practices, grievances may occur. Such grievances can be reinforced when laws or regulations do not have sanctions when there is non-compliance.
- ⇒ **Limited access to information in forest management:** When communities do not have access to information about concession contracts and social agreements with companies, they tend to rely on rumors and this breeds grievance. This is sometimes reinforced by unrealistic expectations that communities have of companies even in the event where business environment is declining.
- ⇒ **Companies commit to too many promises:** In negotiating third party contracts and social agreements with communities, companies tend to make too many promises and implementation may be affected by negative business climate.
- ⇒ **Pre third party contracts marred by bad faith:** Some communities enter into pre-third party contractual discussions with companies in bad faith. Their engagements with companies are characterized by double standards and unfair business practice by seeking help from one company to establish their community forest and signing contract with another. This sets one company against another which is a source of inter-concession disputes.
- ⇒ **Access to forest resources:** Local communities to a large extent depend on forest resources to meet their subsistence needs. The lack of access to forest resources due to policies, regulations, or practices can generate grievances around livelihood.
- ⇒ **Benefit sharing:** The lack of equitable benefit sharing from resources generated from the forest drives grievances particularly among affected communities who may feel cheated.

3.2 Contributing Factors

Generally, grievances are generated or influenced by political, cultural, and socio-economic factors, either singly or in combination. They can be manifested at national or community level. Triggers and drivers can also be determining factors in explaining how a conflict unfolds. Grievances in the forest sector can be dynamic and complicated because the sector itself is marked by complexities that is why context is important. Understanding the factors contributing to grievances can be meaningful in determining resolution mechanisms.

Overall, grievances in the forest sector at the local level can be understood from three perspectives: non-compliance by companies in fulfilling their contractual and social agreement commitments, benefit sharing and dependence on forest resources for livelihood. Benefit sharing and dependence are closely linked to ownership of forest resources as guaranteed by the CRL. Logging companies are perceived by local communities as entities that are there to dispossess them of their forest and deny them their rights.

Understanding grievances in the logging sector, just like analyzing any other complex conflict, can be categorized in three causes: (a) structural (entrenched or deep rooted causes); (b) proximate (factors that exacerbate conflicts); and (c) triggers (event or events that spark a conflict). This categorization of grievances sets the framework for a deeper analysis of the issues contributing to conflicts in the sector.

- ⇒ Structural or systemic causes: These are underlying factors that have become entrenched and rooted in policies, institutions, attitudes and behaviors. Because of their entrenched nature, these types of grievances are difficult to resolve.
- ⇒ Proximate cause: This constitutes factors that contribute to an environment that is conducive to behaviors that lead to violent conflicts but are often a symptom of a larger problem.
- ⇒ Triggers: These are significant events that can spark and escalate an existing conflict into violent manifestation.

The following table represents structural causes, proximate causes and triggers based on responses from stakeholders interviewed.

choose to have a three-member arbitral tribunal, each party appoints one of the arbitrators; those two persons then agree on the presiding arbitrator;

- ⇒ **Arbitration is neutral:** In addition to their selection of neutrals of appropriate background, parties are able to choose such important elements as the applicable procedure, language and venue of the arbitration. This allows them to ensure that no party enjoys undue advantage; and
- ⇒ **Arbitration is a confidential procedure:** The World International Property Organization (WIPO) specifically protects the confidentiality of the process in order to protect the interests of the parties.

The decision of the arbitral tribunal is final and easy to enforce
Under the WIPO Rules, the parties agree to carry out the decision of the arbitral without delay. National courts can enforce decisions reached from the arbitration process.

Stages of the Arbitration Process

The stages described below provide a generic framework on the arbitration process. While each case is different and may have unique facts and circumstances that can change the usual procedures, arbitrations usually proceed through the following general stages:

Stage 1: Case Initiation. A Party to an agreement shall give written notice to the other Party, stating the nature of the dispute and appointing its arbitrator. The other Party must appoint its arbitrator and provide its responses to the dispute as stated by the Party giving the notice of arbitration within ten (10) days.

Stage 2: Arbitrator Invitation. The FDA as the regulator of the sector invites the parties to consult and submit the name of its arbitrator to serve on the case. As part of this process, the arbitrator reviews case information, checks for conflicts and returns a signed oath document, along with any relevant disclosures, if applicable.

Stage 3: Arbitrator Appointment. Each party selects its arbitrator. The panel of arbitrators will be composed of three persons: One from the community, one from the company and the third is the Managing Director of the FDA or his or her designate.

The Chairperson notifies the parties of the appointed arbitrators.

The grievance element will be responsible for handling conflict at the local, county and national levels. At the local level, activities will be carried out to track and improve existing mechanisms to handle conflicts. At the county and national levels respectively, county and national GRM Committees will be created to intervene in conflict issues. County Committees will handle grievances that have gone through unsuccessful community level mechanisms, grievances occurring outside of communities. The National Committees will handle grievances of a national nature or those that were not resolved at the County level and will have the authority to find a settlement if mediation fails.

The feedback element will facilitate communication between communities and the FDA through a channel to be managed by office of the FDA Field Officer in the county. The Field Officer will keep track of all complaints coming from the communities or companies.

The advocacy element seeks to provide legal assistance to communities in dealing with companies and negotiating their interests. Communities can work through CSOs to facilitate the provision of legal assistance.

The documentation element will be integrated at all levels of grievance resolution processes, from the communities to the National Committee, and consist in a simple standard form for documenting grievances through the creation of a database. This task will be managed by the Liberia Timber Association in coordination with community forest governance structures.

8.2 Principles of Alternative Dispute Resolution (Arbitration):

In almost all of the legal instruments regulating the sector, arbitration is recommended as the mechanism for the resolution of disputes or conflicts. **Arbitration is a procedure in which a dispute is submitted, by agreement of the parties, to one or more arbitrators who make a binding decision on the dispute. In choosing arbitration, the parties opt for a private dispute resolution procedure instead of going to court.**

It operates by the following principles:

- ⇒ **Arbitration is consensual:** Arbitration can only take place if both parties have agreed to it. In the social agreements arbitration was inserted as a clause to resolve disputes. In contrast to mediation, a party cannot unilaterally withdraw from arbitration;
- ⇒ **The parties choose the arbitrator(s):** Under the World International Property Organization (WIPO) Arbitration Rules, the parties can select a sole arbitrator together. If they

Category	Grievance Driver
Structural Causes	<p>Lack of compliance by actors in fulfilling their roles and responsibilities in keeping with laws and regulations.</p> <p>Years of exclusion of communities in participating in decision-making affecting forest resources.</p> <p>Forest resources are inadequately managed</p> <p>Illiteracy rate of community members makes them vulnerable to exploitation.</p> <p>Forms of social and economic inequalities that reinforced divisions.</p> <p>Centralization of political and economic power</p> <p>Weak governance structures at the county level</p> <p>Weak institutional capacity of government institutions to enforce laws and regulations.</p> <p>Mistrust of the judiciary to render justice without favor.</p>
Proximate Causes	<p>Increased dependence by communities on forest land for livelihood</p> <p>Unequal power relations between communities and concessions and communities and FDA</p> <p>Corruption and patron-client relationship at national and local level.</p> <p>Lack of communication between concessions and affected communities.</p> <p>Unfair benefit sharing schemes, practices and policies</p> <p>Failure of government and private sector to make full disclosure on forest resources</p> <p>Weak and ineffective community governance structure in the management of forest resources</p> <p>Limited technical knowledge and skills among community members to sustainably manage their forest.</p>

Triggers	<p>Restriction on communities to access their forest land</p> <p>Displacement of communities as a result of extension of concessions.</p> <p>Concessions infringing on lands used for traditional or cultural purposes.</p> <p>Presence of armed guards in concession areas</p> <p>Physical or violent attacks on community members by state security or private security firms hired by concessions.</p> <p>Insufficient alternative livelihood projects/ support for affected communities</p> <p>Affected communities not given rights to employment or other benefits as stipulated in private sector contracts and MoUs</p> <p>Motor accident involving a company's vehicle that leads to the death of a member of an affected community.</p> <p>Land grabbing through expansion of large scale concessionaires</p> <p>Imposition of concession contracts on communities</p> <p>Misinformation about what a concession can and cannot deliver to communities</p> <p>Political interference with local forest management systems</p> <p>Clashes with traditional or community norms, customs and values</p> <p>Pollution of water sources by concessionaires.</p>
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8.0 Proposed Framework for Developing a Grievance Resolution Mechanism

There is a general consensus among stakeholders interviewed that any formulated grievance resolution mechanism should be implemented through an FDA regulation. This will give legitimacy and enforcement power. Such a regulation, however, should be developed in a participatory manner involved external and internal actors that are affected by grievances arising from the sector.

8.1 Structure of the GDRM

Based on the findings from the interviews conducted, the GRM includes four core elements:

- ⇒ **A grievance element**, to handle conflicts, leveraging existing structures but also including new channels and processes for appeals.
- ⇒ **A feedback element** serving as a channel for communities and companies to report conflict issues and for communities and companies to give feedback to the FDA on how they are relating to each other and the implementation of decisions reached on previous conflicts resolved.
- ⇒ **An advocacy element**, which includes the provision of legal assistance to communities to deal with legal matters in negotiating with companies and pursuing the resolution of grievances.
- ⇒ **A documentation element**, creating a system and procedure for tracking and documenting grievances and monitoring how they are being resolved.

In addition to these elements, two major activities are proposed to strengthen the GRM and promote conflict prevention and management:

- ⇒ **A conflict resolution capacity strengthening program**, which entails providing training in alternative dispute resolution skills for community leaders, CFMBs, CFDCs, FDA field officers, and community members on how to use the new GRM.
- ⇒ **A conflict prevention program, which includes regular engagements between the actors to be proactive in** addressing emerging grievances and to resolve them in a timely manner before they become structural and difficult to handle.

tion in accordance with the Commercial Arbitration Rules and judgment rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The laws applicable to the dispute, the Social Agreement and the interpretation thereof are the laws of Liberia. The arbitration shall take place at an acceptable location within the towns represented by the CFDC and the arbitral proceedings will be in English with interpreter provided for in local languages”.

7.5 Commercial Use Contracts

Under Section 15.1: Any dispute connected with the formation, performance, interpretation, nullification, termination or invalidation of this Agreement or arising from, or related to this Agreement in any manner whatsoever, which cannot be resolved through the direct consultations and negotiations by and between the Parties shall be referred to arbitration by the affected Party.

The Parties agree to submit disputes arising out of this Agreement, which cannot be solved amicably, to arbitration.

Arbitration shall be conducted by an arbitral panel of three (3) persons. Each Party to this Agreement shall name one (1) arbitrator. The third arbitrator, who shall act as chairman of the arbitral panel, shall be the Managing Director of the FDA or his/her designated representative.

The arbitration shall be conducted in keeping with arbitral rules under Liberian laws. Each Party shall be responsible for and shall pay the fees and expenses of its appointed/designated arbitrator. The fees and expenses of the third arbitrator shall be shared on an equal basis by the Parties, while the remaining costs and expenses of the arbitration proceeding shall be assigned by the arbitral panel as it sees fit and shall be paid by the party adjudged liable to the other or in default of Agreement.

A decision by the majority of the arbitral panel shall be binding on the Parties and enforceable in a court of law without delving into the merit of the dispute or the award.

To invoke arbitration, a Party to this Agreement shall give written notice to the other Party, stating the nature of the dispute and appointing its arbitrator. The other Party must appoint its arbitrator and provide its responses to the dispute as stated by the Party giving the notice of arbitration within ten (10) days. After notice to the Chairman, the arbitral panel shall commence its work and shall work every day until a decision is arrived at and rendered.

Triggers	<p>Restriction on communities to access their forest land</p> <p>Displacement of communities as a result of extension of concessions.</p> <p>Concessions infringing on lands used for traditional or cultural purposes.</p> <p>Presence of armed guards in concession areas</p> <p>Physical or violent attacks on community members by state security or private security firms hired by concessions.</p> <p>Insufficient alternative livelihood projects/support for affected communities</p> <p>Affected communities not given rights to employment or other benefits as stipulated in private sector contracts and MoUs</p> <p>Motor accident involving a company’s vehicle that leads to the death of a member of an affected community.</p> <p>Land grabbing through expansion of large scale concessionaires</p> <p>Imposition of concession contracts on communities</p> <p>Misinformation about what a concession can and cannot deliver to communities</p> <p>Political interference with local forest management systems</p> <p>Clashes with traditional or community norms, customs and values</p> <p>Pollution of water sources by concessionaires.</p>
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4. Current Grievances and Stakeholders:

4.1 Manifestation of logging related grievances

Grievances related to logging manifest themselves in different forms. Below are some examples of current grievances in the logging sector that can exacerbate conflicts and the key stakeholders involved. --

1) Forest Use Grievances

There are competing interests among stakeholders in the use of forest resources which contribute to grievances. The current power dynamics among the stakeholders indicate that the FDA and companies play a more dominating role in the sector. Communities do not have equal power to the companies and this affects the ability of communities to effectively negotiate their interests. When their interests are not met, communities tend to take hard line positions which can exacerbate existing grievances.

One recent example involves competing interests of companies and local communities. In 2019, aggrieved community members in Doru Chiefdom (Nimba County) demanded the cancellation of a contract signed in 2009 between their community and the Liberia Tree and Trading Corporation (LTTTC). Members of the group spent more than a week camping outside the Forestry Development Authority (FDA) office outside Monrovia. The protesters accused LTTTC of non-performance. The dispute went through legal proceedings that ended at the Supreme Court. In the same year, LTTTC and Gbi Chiefdom (Nimba County), a neighbor of Doru Chiefdom, were also embroiled in a dispute also related to allegations of LTTTC non-performance.

In Districts #3B and C (Grand Bassa County) local authorities and the leadership of the Community Forest Management Body in the area were involved in a conflict that led to the President setting up a committee to intervene. At the core of the conflict was a disagreement over which logging company should be awarded the Third-party Agreement to log in the area. One faction backed West Water and the other backed the Renewed Forestry Group.

In Kpanyan Statutory District (Sinoe) conflict related to the CFMA escalated into violent clashes that left several people wounded. The violence erupted between competing factions

7.3 Community Rights Law (CRL)

The Community Rights Law of 2009 with Respect to Forest Lands (CRL) is intended to empower community governance of community forest land. CFMBs are five-member bodies, accountable to the CA, and authorized to manage the day-to-day activities of community forest resources. CFMB responsibilities include: making decisions and representing the community in all matters related to community forest resources; implementing the CA's policies; and developing and implementing both the CFMP and the CFMA.

The CRL also establishes a system of benefit-sharing. Communities may enter into commercial use enterprises and contracts for timber and other forest products produced on community forest lands, subject to various conditions. CFMBs consider and negotiate terms for requests for both commercial and non-commercial use, access, and management of community forest resources. The CRL takes precedence over the NFRL when a conflict of law between the two is determined.

The CRL does address grievance resolution between communities, the FDA, and other parties, in a limited way stating "Any dispute arising between two or more communities and Authority, communities and third parties, about the access to or management of community forest resources may be resolved through customary dispute resolution mechanisms or by the application of the Arbitration Laws of Liberia as found in Chapter 64 of the Civil Procedure Law." This provision permits disputants to select among customary processes, arbitration, or another preferred forum to resolve their grievances.

7.4 Social Agreements

In the social agreements between communities and companies, a provision is made for the resolution of disputes. Section four of the social agreement between a company and an affected community monitored by the CFDC states: "In the event of any issue of controversy under this agreement, the parties will initially seek to resolve their differences with the assistance of the FDA. In the event that there are still differences local government officials (District Commissioner, paramount Chiefs, Clan Chief, and Town Chief) should be considered as neutral parties in a third-party mediation process, provided their neutrality is so proven in said conflict. If not resolved by the steps above, any controversy or claim arising out of or relating to this agreement shall be exclusively settled by binding arbitra

7.1 Land Rights Act

Formalization of Customary Land ownership and management includes two activities: First, the LRA provides for the government to carry out a confirmatory survey of all Customary Land in Liberia. One intended use of the survey is to resolve subsequent cases of boundary disputes between one community and another or a private person or government entity. Second, each community establishes a Customary Land Development and Management Committee (CLDMC) under the LRA. The CLDMA's powers, meeting as a decision-making body, include reviewing and deciding on complaints arising from the allocation or use of Customary Land.

Grievance resolution is provided for in Part III, Chapter 10 of the LRA. The law assigns the responsibility to the Liberia Land Authority (LLA) to develop regulations for resolving customary land grievances between communities through customary law and ADR. Parties are granted a 30-day period to file a petition for judicial review, before the LLA files a petition to judicially enforce its decision.

7.2 National Forestry Reform Law (NFRL)

The National Forestry Reform Law of 2006 (NFRL) substantively reorganized forestry management, categorizing forestry licenses and holders' associated obligations, including to communities. The NFRL establishes that all forest resources, save those located in communal forests or developed on private land through artificial regeneration, are held in trust by the Liberian government for the benefit of the people.

The statute contains several provisions specific to the resolution of grievances and disputes

- ⇒ First, the NFRL requires license holders enter into social agreements with communities;
- ⇒ Second, the FDA is authorized to incorporate grievance resolution provisions into two types of forest resource licenses, Forest Management Contracts (FMCs) and Timber Sale Contracts (TSCs); and
- ⇒ Third, the FDA is authorized to issue regulations governing the resolution of grievances for offenses under the NFRL and its regulations. The FDA may also promulgate regulations establishing additional procedures for resolving grievances over forest resource management.

within the Tartweh and Drapoh Chiefdoms. Like in Grand Bassa, three logging companies were implicated in the conflict: Delta Logging Company, Atlantic Logging Company and Universal Forest Corporation.

2) Forest Ownership Grievances:

The CRL recognizes community ownership of their forest resources. This statutory recognition goes with entitlements as outlined in the NFRL and Forestry Policy and Implementation Strategy such as payment of royalty by companies in the form of harvest based fees, 30% of all area-based fees to affected communities from commercial logging. In addition, the law requires that companies pay equal or exceed \$1 per cubic meter of logs harvested annually to affected communities.

Despite this acknowledgment by the law, compliance by companies in paying these fees has been a challenge. Also, fees that are paid by companies to the government to be disbursed to affected communities are not done in a timely and the communities vent their anger and frustration towards the companies and in some instances responding violently. A full account of the benefit sharing with communities from commercial logging is unknown due to inaccurate reporting by the government including the FDA.

The National Benefit Sharing Trust (NBST) reports although not publicly that from 2015-2017 the Government of Liberia (GoL) made a total of \$2.6 million in installments to the NBST Fund. The Forest Trends report further asserts that the \$2.6 million represents about 10% of the money reportedly collected in area fees and bid premiums (\$27.7 million; rather than the 30% affected communities are entitled. If they had been granted their full entitlement, communities should have received more than \$8.3 million. In 2018, no area-based payment was made by the GoL to affected communities.

3) Forest Governance Structures Grievances

Community Forest Management Bodies (CFMBs) are established for the administration of community forest plans throughout Liberia and they are expected to report to the Community Assembly (CA). However, feedback from stakeholders indicates that there are deficiencies in communication between the CFMB and other governance structures including the CA. This lack of communication has contributed to the lack of accountability of resources thereby creating grievances among community members.

4.2 Liberia Grievance Typology:

Taking the data from the interviews conducted with stakeholders grievances can broadly be categorized as per the table below. The table does not demonstrate an exhaustive list of the conflicts taking place in the sector but represent the common ones that are taking place.

Category	Grievance
Forest Tenure Security	<ul style="list-style-type: none"> ◆ Communities' rights to entitlement to their forest resources are not fully protected. ◆ Competition between commercial logging and conservation ◆ Encroachment, particularly in protected areas and national parks ◆ Trespassing due to illicit logging in community forest ◆ Competing interests in the use and management of community forest
Access to resources	<ul style="list-style-type: none"> ◆ Inadequate alternative sources of livelihood ◆ Forest Degradation ◆ Farming within the community forest ◆ Hunting in reserved forest
Benefit sharing	<ul style="list-style-type: none"> ◆ Lack of equitable benefit sharing among community members ◆ Failure by government and companies to pay due royalties to affected communities. ◆ Commitments outlined in Social Agreements are not fulfilled by companies
Criminal activity	<ul style="list-style-type: none"> ● Illegal hunting ● Illegal mining ● Illegal logging ● Illegal pitsawing or charcoal making ● Theft of concession resources ● Damage or destruction to property of companies

Liberia Grievances based on interviews conducted

See Forest Trends Report of July 2020: Community Benefits Sharing in the Forestry Sector: Liberia's legislative Framework and Track Record on Sharing Land Rental Fees from Commercial Logging 2007-2019.

Formal Courts	<ul style="list-style-type: none"> ◇ Significant mistrust between communities and the judiciary ◇ Capacity issues resulting in long trial proceedings. ◇ Costly for many rural communities 	<ul style="list-style-type: none"> ◇ Ongoing efforts for reforms.
Forest Management Bodies	<ul style="list-style-type: none"> ◇ Allegations of mismanagement of resources. ◇ Lacking in enforcement powers ◇ Perceived corruption in dealing with companies and FDA ◇ Limited training and expertise in forest management 	<ul style="list-style-type: none"> ◇ Awareness among community members of resources generated from forest ◇ Formation of National Unions to infuse standardized practices in signing contracts with companies. ◇ CSOs providing capacity building support.
CSOs	<ul style="list-style-type: none"> ◇ Significant mistrust between CSOs and private sector ◇ No standard position whether to serve as third party intervenor ◇ Perceived bias by FDA 	<ul style="list-style-type: none"> ◇ Increased engagement with concessionaires ◇ Strong alliance with communities ◇ Building partnership with FDA

Institution	Challenges	Opportunities
Traditional Courts	<ul style="list-style-type: none"> ◇ Limited knowledge on the complexities of the laws. ◇ Potential patron-client networks which leads to cronyism or corruption ◇ Potential conflict of interest ◇ Gender imbalance in operations ◇ Chiefs not elected and this poses legitimacy issues. 	<ul style="list-style-type: none"> ◇ Simplified version of the laws can be used to educate chiefs. ◇ Recognition of customary practices for resolution of land disputes. ◇ Local Government Act calls for the election of chiefs.
Forestry Development Authority	<ul style="list-style-type: none"> ◇ Mistrust from communities ◇ Limited capacity to enforce decisions ◇ Generally viewed as being slow to respond ◇ Limited logistical capacity to conduct investigations of grievances in communities. 	<ul style="list-style-type: none"> ◇ Regulation on grievance management is developed. ◇ Community engagement training to build mutual trust ◇ Increased co-operation between FDA and LLA
Liberia Land Authority	<ul style="list-style-type: none"> ◇ Slow in finalizing regulations to implement the LRA. ◇ Unclear procedures on how customary land can be formalized. 	<ul style="list-style-type: none"> ◇ Increased co-operation between FDA and LLA ◇ Streamline process into the formal court system

Communication and information within forest governance structures	<ul style="list-style-type: none"> ◆ Lack of intra-communication among governance structures ◆ Limited information from forest management bodies to larger community ◆ Limited reporting capacity of governance structures ◆ Decision making processes are influenced by traditional leaders ◆ Limited record keeping among CFMBs ◆ Limited technical knowledge among community members on sustainable forest management ◆ Lack of community involvement in forest matters ◆ Limited disclosure of forest resource management
Competing interests	<ul style="list-style-type: none"> ◆ Commercial logging taking precedence over conservation ◆ Deforestation due to expansion of concessions ◆ Lack of respect by private sector for traditional systems ◆ Disrespect or disregard of cultural practices when giving concession rights which leads to evasion of sacred sites.
Forest governance	<ul style="list-style-type: none"> ◆ Limited capacity of rangers ◆ Lack of conflict resolution training among Governance structures ◆ Low levels of education among community members ◆ Clash between customary practices and statutory justice system ◆ Corruption and patron-client network ◆ Interference by lawmakers and traditional leaders in forest management ◆ Limited enforcement of laws
Conservation	<ul style="list-style-type: none"> ◆ Encroachment into protected areas ◆ Harvesting forest products from protected areas ◆ Conservation versus alternative livelihood ◆ Hunting in protected areas

4.3 Actors

Conflict analysis and understanding its dynamics are incomplete without a mapping of the actors who directly or indirectly influence the outcomes of a conflict and their perspectives on the cause of conflict. This section focuses on mapping the actors of conflicts in the sector with the purpose of understanding the following:

- 1) Internal and external actors who have interests in the conflict;
- 2) Their interests and positions;
- 3) Their motivations, incentives and disincentives;
- 4) The power and influence they bring to the table; and
- 5) The quality of relationship between or among the actors.

From the interviews conducted, actors have been categorized into two different types including internal and external.

1) Internal Actors

Internal conflict actors can be sub-divided into two categories: primary and secondary. Primary actors are those directly involved or are affected by a conflict. Within the forest sector, the primary actors are those who relate and engage with it on a daily basis. Within the context of this assignment, primary grievance actors within Liberia's forest sector are those who depend on the forest for commercial or other reasons and they are predominantly forest governance structures and community members.

Secondary actors are those who may have an interest in the conflict and may be affected by its outcome. These include: FDA, Environmental Protection Agency (EPA), Liberia Revenue Authority (LRA), county administrative authorities, and communities.

2) External Actors

External actors in Liberia's forest sector are those who engage with the forest for a particular purpose: commercial or development projects. These actors may be engaged with the sector for a protracted period but do not have intrinsic ties to the forest. External actors include the following: concession companies and CSOs who have interest in the conflict because of their work but are not active players.

[Actors identified in the Liberia Forestry Sector from a broader perspective.](#)

Zor CFMB (2011), Community Forest Management Agreement Between the Forestry Development Authority and Community Forest Management Body of Zor Community in Nimba County, Liberia

FDA (2016), Social Agreements Handbook, FDA Guidelines for Developing and Implementing Social Agreements

6) Zor CFMB (2011), Community Forest Management Agreement Between the Forestry Development Authority and Community Forest Management Body of Zor Community in Nimba County, Liberia

7) FDA (2016), Social Agreements Handbook, FDA Guidelines for Developing and Implementing Social Agreements

agreement as described in the FDA's Social Agreement Handbook which governs how a concession holder may access community forest and what compensation or benefits they are expected to provide the community. The CFDC is usually also responsible for allocation and distribution of those benefits among community members.

6.6 National Union of CFMBs and of CFDCs

Both CFMBs and CFDCs have a National Union. The unions provide a forum for CFMBs/CFDCs across the country to come together, often with elected officials and FDA representation, to share their experiences, learning and grievances on a national platform. The national unions can also engage in advocacy at the national level to protect the interests of their individual members and also set standards for engaging with companies.

7.0 Institutional Challenges and Opportunities in Grievance Resolution

The institutional systems for grievance resolution in Liberia have a number of strengths but also suffer a number of weaknesses or areas for improvement. The following table highlights some of the key weaknesses within the existing system and opportunities for improvement. This table focuses specifically on those institutions with explicit or implicit authority of grievance resolution.

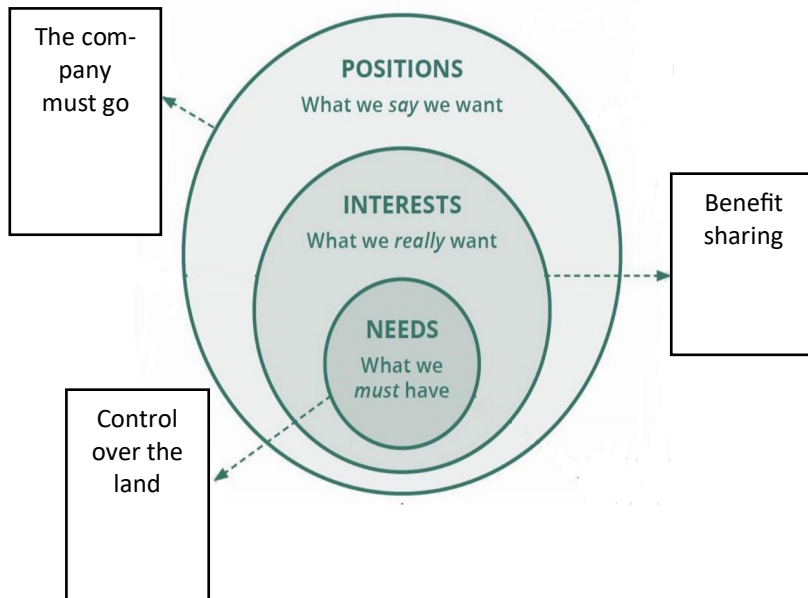
Table: Institutional Challenges and Opportunities to Improve

Category	Actors
Legislature	<ul style="list-style-type: none"> ◇ Senate and House Standing Committees on Agriculture & Forestry ◇ Senate and House Standing Committees on economic issues and land-related issues
Civil Society	<ul style="list-style-type: none"> ◇ NGOs working on community rights issues, gender, environmental issues, conservation, or transparency in the sector.
Local Government	<ul style="list-style-type: none"> ◇ County superintendents ◇ District commissioners ◇ Chiefs and Traditional leaders
National Government	<p>Agencies:</p> <ul style="list-style-type: none"> ◇ Forestry Development Authority ◇ Environmental Protection Agency <p>Ministries:</p> <ul style="list-style-type: none"> ◇ Ministry of Finance and Development Planning ◇ Ministry of Agriculture ◇ Ministry of Justice ◇ Ministry of Mines and Energy ◇ Ministry of Internal Affairs <p>Commissions:</p> <ul style="list-style-type: none"> ◇ Liberia Land Authority ◇ National Investment Commission
Communities	<ul style="list-style-type: none"> ◇ Community Elders ◇ Farmers, hunters, herbalists ◇ Youth and women groups ◇ Secret societies
Forestry Governance	<ul style="list-style-type: none"> ◇ Community Assembly ◇ Executive Committee ◇ Community Forest Management Body ◇ National Union of CFMB ◇ Community Forest Development Committee ◇ National Union of CFDC

International actors	Development partners, including <ul style="list-style-type: none"> ◇ USAID ◇ World Bank ◇ EU International NGOs, including <ul style="list-style-type: none"> ◇ Conservation International ◇ Fauna & Flora International ◇ Global Witness
Private Sector	<ul style="list-style-type: none"> ◇ Commercial logging companies (national & foreign) ◇ Holders of mining and agricultural concessions ◇ Chainsaw operators ◇ Timber dealers ◇ Operators of timber processing facilities ◇ Charcoal producers & traders

- ⇒ Conduct awareness raising activities in order to inform all community members about the community forestry program;
- ⇒ Represent the community in all matters and negotiations related to community forestry resources and program;
- ⇒ Stop and immediately inform the nearest FDA Office about any forestry offences occurring within the community's forest area;
- ⇒ Report quarterly to the Executive Committee of the Assembly on the management of community program and submit quarterly financial reports;
- ⇒ Establish a Community Forest Fund by opening bank account(s) in order to hold and expend monies generated from the use of community forest resources and other related sources;
- ⇒ Administer the Community Forest Fund with respect to the receipt and expenditure of monies according to sound financial management principles and practices, following the approval of annual budgets by the Executive Committee of the CA;
- ⇒ Ensure that community forest resources are managed in an environmentally sustainable manner, including conserving and protecting wildlife within the Community Forest; and
- ⇒ Ensure good governance and accountability in community forest management as well as perform other functions as are necessary and consistent with the functions of a CFMB.

Understanding conflicts: Position, Interest and Need: Diagram adapted from Fisher, et al, 2000



In this agreement, no grievance resolution powers are given to the CFMB. The CFMB is not given any direct powers of grievance resolution. Rather, under item f, all offences should be referred to the FDA. The FDA then has a responsibility to “facilitate the resolution of conflicts upon request by the community”. As an administrative body, it is likely that the FDA will use mediation or arbitration which runs the risk of enforcement of the decision reached.

6.5 Community Forest Development Committees

Community Forestry Development Committee (CFDC) are similar to CFMBs but are designed to represent the community when dealing with concessions and private companies, rather than the FDA or other communities. The CFDCs are elected community bodies of at least five members that represent forest people's interests and make sure they get information they understand when negotiating concessions. To achieve this aim, the CFDC will negotiate the terms of the social

5) Zor CFMB (2011), Community Forest Management Agreement Between the Forestry Development Authority and Community Forest Management Body of Zor Community in Nimba County, Liberia

Under the CRL, each community must elect a Community Assembly (CA) including both community members and county level government members. The CA will have an Executive Committee, elected from representatives of the community or communities within its scope. The Executive Committees of CAs, with support of the FDA, are empowered to investigate alleged mismanagement, misconduct or misappropriation of funds by the CFMBs, prepare recommendations for remedying the situation and to ask the FDA to take over management if those recommendations are not followed within 90 days. Under the CRL, the CAs are the highest level of local forestry authority, responsible for forest governance and the forest management plan (CRL, s4.1).

6.4 Community Forest Management Bodies (CFMBs)

Community Forest Management Bodies (FMBs), an integral part of forest governance structures, have legal backings to provide management, protection, and governance services to forest communities. They are established through a community forest management agreement (CFMA) between the FDA and the local community, in keeping with provisions of the National Forest Reform Law (NFRL) 2006 and the CRL 2009. The CFMB typically consists of five or more officers and is overseen by the Executive Committee of the CA referenced. The CFMB must draft a Community Forest Management Plan (CFMP). This plan must ensure the community manages the forest in a sustainable manner based on principles of inclusivity, transparency, and accountability. The plan must be accepted and agreed on by the CA and the FDA.

The CFMB is meant to represent the community in all matters related to community forestry. Under the CRL Regulations, all activities of these bodies must “operate with openness, inclusiveness and accountability.” For example, in the CFMA between the FDA and Zor community for a community forest in Nimba, the responsibility of the CFMB is stated to be to:

- ⇒ Operate in accordance with the terms and conditions in this CFMA, community forestry rules and other relevant legislations and regulations;
- ⇒ With the involvement of the community members, and approval of the Executive Committee of the CA, develop and implement CFMPs under guidelines and specifications issued by the FDA;
- ⇒ With the involvement of community members and approval of the Executive Committee of the CA, prepare and implement community forestry rules/guidelines;

5.0 Current mechanisms for managing grievances:

This section provides an overview of the level of institutional mechanisms that are available for resolving forest related grievances in Liberia. It is based on interviews conducted with key stakeholders and literature review. Discussions were held to assess whether these mechanisms are responsive in resolving grievances in the forest sector.

There are a number of existing mechanisms for dealing with general governance issues with the propensity to breed conflicts. These grievance resolution mechanisms can be divided broadly into three categories: formal, informal and semi-formal.

5.1 Formal Grievance Resolution Institutions

Formal grievance mechanisms are defined as institutions that have the authority to adjudicate or arbitrate in conflict matters and whose decisions are binding on the parties and enforceable. These mechanisms are situated within the Executive and Judicial branches of the government.

1) Executive branch

In the Executive branch, grievance mechanisms include County and District Authorities, Ministries, Agencies and Commissions. Some of these institutions are listed below with summary descriptions of their mandate.

- ⇒ Ministry of Justice (MoJ): The MoJ is the primary state institution responsible for law and order and for enforcing decisions from the formal justice system. In the event of a perceived eruption of a violent conflict, the MoJ has the mandate to intervene. Among other functions, the MoJ is responsible for the following activities in support of its mandate: enforcement of the laws of Liberia; Prosecution of all violators of the laws of Liberia and initiation of all other legal proceedings for the enforcement of the law; and Provide opinions on legal matters and give services to the President of Liberia and to all other government agencies requiring the legal skills of the MoJ.

Despite this important mandate that the MoJ has, it lacks the institutional and logistical capacity to perform effectively and efficiently in handling conflict issues across the country.

- ⇒ National Council of Chiefs and Elders: The National Council of Chiefs and Elders (NCCE) is the representative body of traditional authorities in Liberia and it operates under the Ministry of Internal Affairs (MIA). It is comprised of Chiefs and elders from the administrative districts of the fifteen counties. In keeping with the Local Government Act of 2018, one of the core responsibilities of the chiefs and elders is to promote peace, reconciliation and development in the counties. The chiefs play influential roles in the resolution of disputes at the local level but they may not be neutral in dealing with conflicts in the forest sector involving communities and companies because of their vested interest.
- ⇒ The Forestry Development Authority: The FDA has the legal status to regulate and manage the Liberian forest sector including managing community forests, national parks, protected areas, and the issuance of Forest Management Contracts (FMCs) and Timber Scale Contracts (TSCs). The FDA also supports the establishment of community forest governance structures and approves third party contracts between communities and companies and is further responsible for the enforcement of all laws, policies and regulations intended to regulate the sector. Grievances arising from the implementation of third party contracts and social agreements are referred to the FDA for resolution. As an administrative body, the FDA uses Alternative Dispute Resolution and recourse from its decision can be pursued at the courts. The resolution of complaints by the FDA, however, is stalled due to logistical constraints its faces in traveling to communities where the conflicts occur.
- ⇒ Liberia Land Authority (LLA): The LLA has the legal mandate for land management in Liberia and for adjudicating land and boundary disputes including customary land, using ADR. In resolving local grievances, the LLA makes use of the county authority structure including their own County Land Administrator. Appeal from the ruling of the LLA can be taken to the Circuit Court in the county where the dispute arises.
- ⇒ Environmental Protection Agency (EPA): The EPA is the regulatory institution charged with the protection and maintenance of the environment in Liberia. The EPA is mandated to “co-ordinate, monitor, supervise and consult with relevant stakeholders on all activities in the protection of the environment” but not with grievance resolution arising from environmental matters. While the EPA has its own inspectorate force at national and county level and the law establishing the EPA provides for violations of environmental or EPA policies, the EPA acts more as an environmental police force with grievances being resolved through the formal courts or other methods.

ings. Once a decision is made and all aggrieved parties sign onto the outcome, the decision becomes binding. ADR processes are underpinned by the following principles: non-adversarial, communication, collaboration and equity. ADR is also relatively cost effective and requires limited time as compared to judicial courts, making it more accessible.

One of the drawbacks of ADR is that it is, ultimately, voluntary. If a party feels that discussions are not going their way, or that the process is not being equitably conducted, they can leave the table and refuse to sign the end agreement. Parties can do this at any stage, even after weeks or months of discussion. ADR also relies on strong facilitation and free of conflict of interest that would limit the risk of powerful parties influencing the process and outcome.

6.2 Third party intervention

In interviews conducted with stakeholders, some of them mentioned that third party interventions such as Civil Society Organizations (CSOs) can play a meaningful role in resolving grievances. Logging companies, on the other hand, seem not to support this position because they view CSOs with suspect, asserting that CSOs bias in reporting on their activities. This demonstrates the level of mistrust companies have of CSOs. Despite this perception companies have of CSOs, civil society groups can also play a role in grievance resolution by acting as mediators, negotiators or providing expert knowledge based on their experience of the sector. In addition to this role, CSOs can also include grievance resolution activities in their projects including ADR training and other forms of institutional capacity support to local governance structures.

6.3 Forest Management Bodies

The legal framework guiding the forest sector provides a three-tier governance structure for the management of community forest. These include the Community Assembly (CA), Executive Committee (EC), and Community Forest Management Body (CFMB). These structures are made of community members who interact daily with the forest and are knowledgeable of grievances arising from the activities of diverse actors carrying out activities in the forest.

Community Assemblies (CAs):

The CFDC is usually also responsible for allocation and distribution of those benefits among community members.

In terms of grievance resolution, if parties are unable to come to an agreement during negotiations, FDA or third party (such as Chiefs, civil society) mediators or a combination of the two can assist to resolve a conflict. The cost of this process is covered by the concession holder. If mediation fails, the parties can seek binding arbitration which they are entitled to appeal to the courts. This process is the same under the Social Agreement for handling grievances arising from the operation of the Social Agreement.

D) National Union of CFMBs and of CFDCs:

Both CFMBs and CFDCs have a National Union. The unions provide a forum for CFMBs/CFDCs across the country to come together, often with elected officials and FDA representation, to share their experiences, learning and grievances on a national platform. The national unions have a number of elected officer posts, headed by a chairperson. Representatives from the national unions can also step in to negotiate on behalf of communities and serve to represent community interests in forestry matters wherever possible. These Unions also advocate for the rights of affected communities and develop policies to support the operations of individual CFDC and CFMB.

6.0 Grievance Resolution Mechanism Framework:

This section provides a framework for alternative mechanisms that can be leveraged in the resolution of grievances related to logging.

6.1 Alternative Dispute Resolution (ADR)

Most of the legal instruments governing and regulating activities in the sector refer to Alternative Dispute Resolution (ADR) as a grievance handling mechanism. These methods can include mediation, negotiation, or arbitration whereby a neutral third party facilitator agreed to by the parties facilitates a discussion between the aggrieved parties. These facilitators are often respected members of society who enjoy the confidence of the parties. In arbitration, a neutral adjudicator(s) are selected who propose compromises and settlements to the aggrieved parties based on the facts of the situation while in negotiation, the parties are supported to seek their own compromises often with independent witnesses.

The primary objective of any of the ADR processes is to create the platform for aggrieved parties to come together to resolve their grievance as opposed to deferring the decision to court proceed-

2) Judicial System

In Liberia, the formal judicial system consists of the Supreme Court, the Circuit Courts, Commercial Courts and Magisterial Courts.

- ⇒ The Supreme Court: The Supreme Court is the final arbiter of justice in Liberia and has the authority to adjudicate all appeal cases whether they arise from the formal courts and administrative agencies.
- ⇒ Circuit Courts: The Circuit Courts sit directly below the Supreme Court and tend to adjudicate both civil and criminal cases including aggravated assault, burglary, and murder. They are also empowered to hear appeal cases from lower courts and administrative agencies like the FDA.
- ⇒ Magistrates Courts: Magistrates Courts are courts of first instance and they have limited civil and criminal jurisdiction, dealing with low value (under \$15,000.01) and misdemeanors cases. In more serious cases including rape, murder, or burglary, the magistrate courts must refer to Circuit Courts after preliminary hearings are conducted. Debt cases of certain monetary value are referred to the Debt Court.
- ⇒ Commercial Courts: The Commercial Court was established in September 2010 to promote a favorable investment climate and instill confidence in the business community. It is one of a number of specialized circuits at the circuit level. It has a three-judge specialized panel, with the size of hearing depending on the case value. The Commercial Court has jurisdiction to hear commercial contracts cases such as those between communities and companies. .

In conflicts between actors in the forest sector, the formal justice system should be the last resort because it is expensive, adversarial, and time-consuming.

5.2 Alternative Dispute Resolution

Apart from the formal justice system, ADR is widely practiced in many communities in the resolution of disputes. In practice, what is called ADR is a combination of the principles and procedures of mediation and ADR. In situations wherein this model of ADR is used to settle grievances, the outcome becomes binding on the parties. The application of ADR in resolving grievances is relatively cost effective, less adversarial as compared to the formal justice system thereby making it more accessible. A party to a conflict who is not pleased with the outcome of an arbitration process may pursue legal action.

One of the major limitations of ADR is that it is, ultimately, voluntary. If a party feels that discussions are not going their way, or that the process is not being equitably conducted, they can leave the table and refuse to sign the end agreement. Parties can do this at any stage of the resolution process. To be effective, the person(s) managing the ADR process must have strong facilitation skills. Without these skills, the process risked being manipulated by the most powerful actor such as the FDA or wealthy companies.

5.3 Third party intervention

Mediations and negotiations are other forms by which grievances can be resolved. Members of international NGOs and civil society groups can play a role in grievance resolution by acting as mediators or negotiators. The facilitators discussed in the above ADR section are often respected members of society who are neutral in the grievance, and agreed upon by the aggrieved parties. This principle is also applied to mediation and negotiation processes.

Apart from playing a facilitating role, international NGOs and CSOs can use their platforms and interventions to support grievance resolution between conflicting parties. They can also provide capacity building support to actors in the sector through ADR training. At the same time, some CSOs are of the view that by playing a negotiating, mediating or arbitrating role in the resolution of grievances in the sector, their advocacy role in protecting the rights of communities will be compromised.

5.4 Semi-Formal Grievance Resolution Structures

There are several semi-formal structures in communities that can be utilized for the resolution of grievances. These structures were formed with the support from FDA and CSOs. These bodies are consulted over forest grievances.

A) Community Assemblies

Under the CRL, each community must elect a Community Assembly (CA) including both community members and county level government members. The CA will have an Executive Committee (EC), elected from representatives of the community or communities within its scope. The EC with support of the FDA, are empowered to investigate alleged mismanagement, misconduct or misappropriation of funds by the CFMBs, prepare recommendations for remedying the situation and to ask the FDA to take over management if those recommendations are not followed within 90 days. Under the CRL, the

CAs are the highest level of local forestry authority, responsible for forest governance and the forest management plan (CRL, s4.1).

B) Community Forest Management Bodies (CFMBs)

CFMBs are management units established to govern and protect community forests. They are established through a community forest management agreement (CFMA) between the FDA and the local community, as subject to the NFRL of 2006 and the CRL of 2009. The CFMB typically consists of five or more officers and is overseen by the EC noted above. The CFMB must draft a Community Forest Management Plan (CFMP). This plan

The CFMB is meant to represent the community in all matters related to community forestry. Under the CRL Regulations, all activities of these bodies must “operate with openness, inclusiveness and accountability.

The CFMB is not given any direct authority of grievance resolution. The CRL states that all offences should be referred to the FDA. The FDA then has a responsibility to “facilitate the resolution of conflicts upon request by the community. It is likely that this will take form of mediation or arbitration which, as noted above, is the FDA’s standard practice for resolving grievances. The FDA, however, is involved in the negotiation process between communities and companies and this role could undermine the neutrality required of a mediator or arbitrator. Under the CRL, the CFMB is given additional powers of enforcement stating that “any person or operator” who violates forest rules or applicable by-laws established by a CFMB is subject to penalties as set forth in the by-laws and constitutions of said community.

C) Community Forest Development Committees:

Community Forestry Development Committee (CFDC) are similar to CFMBs but are designed to represent the community when dealing with concessions and private companies that are managing FMCs or TSCs.

The CFDCs are elected community bodies of at least five members that represent forest people’s interests and make sure they get information they understand when negotiating concessions. To achieve this objective, the CFDC will negotiate the terms of the social agreement as described in the FDA’s Social Agreement Handbook which governs how a concession holder may access community forest and what compensation or benefits they are expected to provide the community.