



Issues and Options for Improved Land Sector Governance in the Gambia



Results of the Application
of the Land Governance
Assessment Framework

**Synthesis Report
August 2013**



AMIE BENSOUA & CO LP
OFF BERTIL HARDING HIGHWAY
NO. SSHFC CRESCENT
KANIFING INSTITUTIONAL AREA
KANIFING MUNICIPALITY

E-mail: info@amiebensoudaco.net

Telephone Nos. 4495381 / 4496453

ACRONYMS

DLS	-	Department of Lands and Surveys
DPPH	-	Department of Physical Planning and Housing
KMA	-	Kanifing Municipal Area
KMC	-	Kanifing Municipal Council
LGAF	-	Land Governance Assessment Framework
MOL	-	Minister of Lands
MOA	-	Minister of Agriculture
MOFE	-	Minister of Forestry and the Environment
MoLRG	-	Ministry of Lands and Regional Government
NGO	-	Non- Governmental Organizations
TDA	-	Tourism Development Area

Table of Contents

1. Introduction	5
2. LGAF Methodology	5
3. Overview of Land Policy Issues in the Gambia	6
3.1 The Gambia: Background Information	6
3.1.1 Economy and geography	6
3.1.2 Governance system	7
3.2 Land Issues and Land Policy	7
3.2.1 Tenure Typology	7
3.2.2 History and current status of land policies	8
3.2.3 Land management institutions	9
4. Assessment of Land Governance in the Gambia	9
4.1 Legal and institutional framework	9
4.1.1 Continuum of rights	9
4.1.2 Enforcement of rights	11
4.1.3 Mechanisms for recognition of rights	12
4.1.4 Restrictions on rights	13
4.1.5 Clarity of institutional mandates	13
4.1.6 Equity and nondiscrimination	14
4.2 Land use planning, taxation, and management	14
4.2.1 Transparency of restrictions	14
4.2.2 Efficiency in the planning process	15
4.2.3 Speed and predictability	16
4.2.4 Transparency of valuations	16
4.2.5 Tax collection efficiency	17
4.3 Management of Public Land	17
4.3.1 Identification of public land	17
4.3.2 Justification of expropriation	18
4.3.3 Transparency of expropriation procedures	18
4.3.4 Allocation of public land	19
4.4 Public provision of land information	19
4.4.1 Completeness	19
4.4.2 Reliability of Registry Records	20
4.4.3 Cost-effectiveness, accessibility, and sustainability	20
4.4.4 Transparency of service costs	21
4.5 Dispute resolution and conflict management	21
4.5.1 Assignment of Responsibility for Dispute Resolution	21
4.5.2 Pending conflict level	22
4.6 Forestry	22
5. Policy Priorities	24
6. Conclusion	27

ACKNOWLEDGMENTS

I would like to record my gratitude to all the various experts in The Gambia both public and private who participated in this LGAF process and readily shared their experiences and expertise at all stages of the process. This report is theirs and I hope that I have been successful in capturing their concerns. I appreciate that their motivation is the strong desire to collaborate and work with Government and development partners for the creation of a robust institutional framework for land governance in the recognition that it should be one of the main planks in the country's national development strategies. This has been repeated to me in different words throughout the process.

My sincere appreciation goes to all the Government and non-governmental agencies that have supported this study. I would like to thank in particular the Ministries of Lands and Regional Government, Agriculture, Justice, Finance and Economic Affairs, the Department of Forestry and the Judiciary for their Cooperation. I hope that they will use this report as an important contribution to the development of a much needed cross sectoral dialogue on land.

To my office LGAF team, please accept my gratitude for your diligence.

Finally, I would like to thank the World Bank for giving me the opportunity to coordinate the LGAF for my country and for the opportunity to share the experiences of other countries on the drive to put land in the forefront of the global agenda in the fight against poverty and hunger. I would like to specially acknowledge in this regard the guidance and encouragement I have received from Thea Hilhorst, the LGAF Global Coordinator.

This is a synthesis of the full LGAF report that can be obtained through email: info@amiebensoudaco.net or downloaded from the LGAF website: econ.worldbank.org/LGAF

1. Introduction

The Government of the Gambia has acknowledged that a prudent and sustainable management of the country's limited land resources is an essential precondition to poverty reduction and national food security. A critical step towards the realization of current national strategic objectives would be an evaluation of the land governance environment to determine where the country stands.

In order to evaluate and prioritize these issues more systematically, country experts utilized the Land Governance Assessment Framework (LGAF) developed by the World Bank and its partners. In general, the recognition of rights to land and forests is strong in the Gambia in both rural and urban areas, as is the accessibility of forums for dispute resolution. However, the country has no unified land policy, very little incorporation of equity considerations, overlaps in the legal framework and a lack of adequate regulation and procedures required for implementation. Most urban land is registered, but procedures for the registration of customary land are weak, while the process for transferring customary land to leaseholds lacks transparency. Urban plans and other spatial information are more than two decades out-of-date, and cannot guide the fast expansion of urban development or the availability of housing. The LGAF panels identified a number of recommendations to address the most pressing issues of land governance in the Gambia in the short-term. A comprehensive reform would require the establishment of a National Land Commission as proposed in the Constitution.

This chapter synthesizes and summarizes the key findings of the LGAF process in the Gambia and outlines proposals for moving forward. The next section explains the methodology of the LGAF, while the third section provides background information on the Gambia and key issues in its land governance. The fourth section presents the results of the Gambia LGAF panel discussions and validation meetings. Part five offers recommendations for prioritizing land policy improvements, and the final section concludes.

2. LGAF Methodology

The LGAF is a diagnostic tool that is implemented in a collaborative manner at the local level in order to benchmark land governance. This process helps to establish a consensus and priority actions on (i) gaps in existing evidence; (ii) areas for regulatory or institutional change, piloting of new approaches, and interventions to improve land governance on a broader scale; and (iii) criteria to assess the effectiveness of these measures. LGAF helps put in place a structure and process to systematically track progress in improving land governance over time.

The core version of the LGAF consists of 21 Land Governance Indicators (LGIs) covering 80 dimensions of land governance, grouped into five broad thematic areas:

1. Legal and institutional framework (LGI 1-6)
2. Land use planning, management, and taxation (LGI 7-11)
3. Management of public land (LGI 12-15)
4. Public provision of land information (LGI 16-19)
5. Dispute resolution and conflict management (LGI 20-21)

The LGAF also allows the inclusion of optional thematic modules that may be relevant to a specific country context. The Gambian LGAF process included a module on forestry, which contains an additional 12 parameters. Each LGAF dimension is rated on a scale from A to D, with scoring options based on international best practice. A few LGAF terms had to be amended or their definitions adapted, and a few dimensions could not be assessed.

The LGAF process in the Gambia commenced in November 2012 and was completed in May 2013. The LGAF process was driven by national experts in three different stages: (i) investigation and collection of data carried out by selected expert investigators; (ii) an assessment carried out by 8 panel workshops covering different governance areas based on the outcome of the investigations and personal professional expertise; and (iii) a technical validation workshop which reviewed and validated the assessments made by the expert investigators and panel workshops. A range of institutions participated in and supported the LGAF process, including:

- Ministry of Finance
- Ministry of Lands and Regional Governance
- Ministry of Justice
- Ministry of Agriculture
- Department of Lands and Surveys
- Department of Physical Planning and Housing
- Department of Forestry
- Department of Parks and Wildlife Management
- Registrar General Department
- Gambia Tourism Authority
- University of the Gambia

3. Overview of Land Policy Issues in the Gambia

3.1 The Gambia: Background Information

3.1.1 Economy and geography

The Gambia is the sixth smallest country in Africa, with a land mass of approximately 10,690km² (of which 5,580km² is arable). Its main feature is the River Gambia, which bisects the country into North and South Banks. The country shares a border with Senegal on all sides, except for 80 km of coastline along the Atlantic Ocean.

The Gambia has an estimated population of 1.791 million people, of whom 58% live in urban areas. Land, forests, and water are its main resources, and agriculture is one of the main drivers of the economy, contributing 29% of GDP in 2010 although dropping to 19% in 2011 as a result of droughts. GNP per capita is 510 USD. The overall poverty head count is 48.4%, which rises to 73.9% when only rural areas are included. Household heads employed in the agricultural and fishing sector having higher poverty rates than household heads employed in the other sectors.

3.1.2 Governance system

The Gambia obtained self-government status in 1964, independence in 1965, and full republic status in 1970 as a constitutional democracy. The country experienced a military coup in 1994, which suspended the constitution. Following a two-year period of military rule by decree, the country was returned to constitutional rule in 1997. The 1997 Constitution provides for the election of a president and a National Assembly every 5 years, and a decentralized system of local government administration. The Gambia is administratively organized into 5 regions (Central River, Lower River, North Bank, Upper River, and Western) the municipality of Kanifing and one city, Banjul. Each region is further subdivided into districts. District authorities are called *seyfo*, while villages and towns within districts are headed by *alkalos*.

The legal system is tripartite, based on statute law/English common law, Sharia (Islamic law), and customary law, as discussed in Section 4.5.1. The court system comprises the superior courts of record (high court, court of appeals, and the Supreme Court) and a subordinate court system comprising magistrate's courts and specialized tribunals.

3.2 Land Issues and Land Policy

3.2.1 Tenure typology

The land tenure system in The Gambia is shaped by its colonial history. Three tenure types exist: freehold, leasehold, and customary. Freehold and leasehold tenure are statute-based and were introduced by the British, while customary tenure evolved from the traditions and practices of indigenous communities.

Legally, in the Gambia all land is public land. This include all state land (Banjul and KMA) and designated state land (Kombo North, Kombo South and Kombo Central) that is not yet recorded or registered to third parties; forest, wildlife parks, and reserves; land held by public institutions (including SSHFC GT Board, i.e. TDA, GPA, AMRC, etc.); and all customary lands not yet registered or recorded to communities, as these are vested in the District Authority to be held by them for the benefit of the communities.

Customary land covers the majority of the land – some 5,084 km² – with an estimated population of 792,317. Such lands are administered under district authorities and local chiefs in the regions, as explained in the next section. It is estimated that freehold land covers 537.7 km² (10%) and affects some 453,640 inhabitants. Freehold areas include residential urban areas, also in the regions (designated state land), acquired public land, as well as forest parks, wildlife parks, nature reserves, and the Tourism Development Area (TDA).

Comprehensive data on leaseholds is not available, and the area cannot be estimated because leaseholds do not form a consistent block of land. Forms of leasehold include subleases and tenancies, licenses, land mortgages, and deemed leaseholds, or 99-year leases of state land (as explained in the next section).

Table 1: Main tenure types in the Gambia

Tenure type	Legal recognition	Registered	Legally transferable	Area (km2)	Population (millions)	Observation
Customary land	yes	no	Yes- w/ consent district / alkalo	9,084	0.792	
State land: freehold -urban	yes	yes	yes	537.7	0.453	Former crown land Banjul
State land freehold – forests, wild life park, nature reserves	yes	yes	no	385		Former customary land
State land freehold-acquired public land	yes	yes	Yes- if residential	n.a	n.a.	Expropriated for public interest
State land freehold-Tourism Development Area	yes	yes	Yes by state allocation through GTboard	n.a.	n.a	Lease from district / customary in 1970 for 99 years
Designated state land	yes	Possible when parceled	Yes with endorsement alkalo and chief	677	0.489	alienated customary land
Leasehold grants (by State)	yes	Yes – individual plots	Yes with consent minister	n.a.	n.a.	22,756 leases issued – conflict overlap with customary land
Sublease and tenancies	Yes	yes	Yes with consent land lord			
Deemed leasehold	yes	no	Yes w/ consent district and physical planning clearance	677 (incl leaseholds)	0,489	Kombo north – can be converted in formal leasehold

3.2.2 History and current status of land policies

The borders of the Gambia were demarcated between 1891 and 1905, pursuant to the Anglo-French Convention of 1889. The area was originally divided into areas referred to as the colony and the protectorate, which were administered separately. The dichotomous approach to land administration – with freehold and leasehold on one hand, and customary on the other – reflects the distinct land policies governing the colony and the protectorate, respectively. However, in practice the two systems overlap and interact in complicated ways.

In the colony, land was vested in the British Crown, from which the state could grant freehold or leasehold grants. In 1945, the Lands Act converted colonial land into state land and prohibited the creation of freeholds without the consent of the House of Representatives (a prohibition that

remains under current law). From then on, the state only granted leaseholds, although the freehold grants issued in Banjul prior to 1945 remained secure.

The practical implications of these policies differed between Banjul and KMA. Since Banjul had no record of human settlement prior to its acquisition by the British, there was little conflict over its status and allocation. By contrast, the rest of the colony consisted of ceded lands (notably Kombo Saint Mary, ceded by the King of Kombo in 1840), on which a significant number of villages were already located. These communities continued to occupy their lands as traditional owners, making customary allocations of the land. As a result, two systems of land ownership operated in practice. Conflicts arise particularly when the State granted such lands to third parties.

Then in 1991, the State Lands Act replaced the Lands Act that had regulated land management in Banjul and Kombo Saint Mary (formerly the colony). This Act introduced the deemed leasehold as a recognized land title and empowered the Ministry of Lands (MoL) to designate any area in the regions as state land. Upon this designation, all occupiers of the land in question were deemed to hold a 99-year lease from the state. In 1994, Kombo North, South, and Central were designated as state lands and their residents deemed to hold leases. Because of the significant increase in land values in Greater Banjul area in particular, there has been an unprecedented increase in the sale of land prompting Government to freeze transactions in some areas (especially coastal areas) from time to time and even remove Alkalos.

In contrast to the colony, the protectorate was divided into five administrative divisions, each under the jurisdiction of a commissioner (now governor). The Lands (Provinces) Act of 1946 vested all land with the district authorities, called *seyfo*, administered land in accordance with customary law for the benefit of the indigenous communities. The *seyfo* had the authority to appoint an *alkalo*, or village head, for villages and towns within the district. Today, this basic administrative structure remains in place, with few modifications, under the Local Government Act of 2003. The Lands (Provinces) Act, which later became the Lands (Regions) Act, remains in operation in the country.¹

The Lands (Provinces) Act also introduced leasehold. Leases could be granted by district authorities only with the endorsement of the Provincial Commissioner and the approval of the MoL, now known as the Ministry of Lands and Regional Government (MLRG). This provision became a vehicle for the alienation and registration of customary land.

Although, the Independence Act of 1964 fused the colony and the protectorate under one administration land governance systems are still very different. Issues are arising in particularly with respect to the adaptation of customary tenure, the regularization of deemed leaseholds and land use planning more in general. The Gambian Constitution of 1997 called for the establishment of a land commission, and in 2007 the Land Commission Act provided for a

¹ Freudenberg, Mark Schoonmaker. August 2000. "Tenure and Natural Resources in The Gambia: Summary of Research Findings and Policy Options," Land Tenure Center Working Paper No. 40, p. 11.

commission tasked with advising on land administration policy and ensuring compliance and transparency in land allocation. To date, however, the commission has not been established.

3.2.3 Land management institutions

The main institution for land administration and management is the MLRG, which is the institution responsible for the administration of the land Acts and therefore the development of land policy. The ministry includes both the Department of Land and Surveys (DLS) and the Department of Physical Planning and Housing (DPPH). The DLS is responsible for national survey control systems and mapping, while the DPPH is involved in land use planning and development control. Other national ministries maintain responsibility for certain categories of land. For example, the Ministry of Agriculture reviews leases of agricultural land, while the Ministry of Forestry and the Environment oversees forest resources in the country.

Customary land is administered by the *seyfo* and *alkalo*, as noted above, while district tribunals preside over dispute resolution. The regional governor maintains the power of review over district tribunal decisions.

Resources available to land agencies are inadequate to train or retain qualified personnel or to acquire appropriate equipment and vehicles for key functions like surveying, mapping and planning. Information on land allocations and sale is not within the public domain and not publicly accessible.

4. Assessment of Land Governance in the Gambia

4.1 Legal and institutional framework

4.1.1 Continuum of rights

Recognition of a Continuum of Rights						
LGI	#	Indicator	A	B	C	D
1	i	Land tenure rights recognition in rural areas	■			
1	ii (a)	Land tenure rights recognition in urban areas (Banjul and regions)	■			
1	ii (b)	Land tenure rights recognition in urban areas (KMA)		■		
1	iii	Rural group rights recognition			■	
1	iv	Urban group rights recognition in informal areas			■	
1	v	Opportunities for tenure individualization			■	

Country performance on the legal recognition of both urban and rural rights is high because the Gambia has had a legal framework for land rights recognition in place since 1945. No legal distinction has been made between urban populations and the rural population with respect to land rights.

Most rural land falls under customary tenure, and thus rural land rights are recognized to the extent that they are covered by customary law. The study noted that in some places, community ownership is giving way to family ownership, and in the Kombos in particular, customary land is

regularly alienated. Still, clarifications of customary law are needed, including how it might be reformed to meet the current economic needs and realities of communities.

Rights in Banjul are fully registered either as freehold or as registered leasehold grants from the state and are therefore legally recognized. Likewise, the rights of urban communities in the regions have been recognized by the Lands (Regions) Act as beneficial owners under customary law. By contrast, rights in KMA are recognized for those who have formal leases from the state, but not for those who lack such leases but regard themselves as customary owners.

Groups must apply for formal registration in order to receive legal recognition, regardless of whether the group is located in a rural or urban area. Thus while group land rights may be recognized at the local level, this does not automatically translate into legal ownership. Many groups have not registered or formalized the ownership of land in their custody or use.

The law provides opportunities for tenure individualization through the leasing process or the obtaining of a Certificate of Occupancy. It is also possible to individualize land under customary law by obtaining a lease from the district authority under the Land (Regions) Act. How tenure might be individualized under customary law itself is not addressed, even though the transfer of land from communal/family ownership is a routine occurrence.

4.1.2 Enforcement of rights

Enforcement of Rights						
LGI	#	Indicator	A	B	C	D
2	i	Surveying/mapping and registration of claims on communal or indigenous land				
2	ii	Registration of individually held properties in rural areas				
2	iii (a)	Registration of individually held properties in urban areas (Banjul)				
2	iii (b)	Registration of individually held properties in urban areas (rest of country)				
2	iv	Women's rights are recognized in practice by the formal system (urban/rural)				
2	v	Condominium regime that provides for appropriate management of common property				
2	vi	Compensation due to land use changes				

As a result, there is geographical variation in the extent of land surveying and registration, depending on the predominant form of tenure found in each area of the country. Since freehold titles predominate in the City of Banjul, all properties are formally registered. In KMA, approximately 57% of properties are registered. In the regions, the vast majority of land is held under customary tenure, which cannot be registered. Land parcels are only mapped when someone applies for individual leasehold on communal land. Most rural land holders do not formalize their titles, except when they need to use the land as collateral or for official/business purposes. The LGAF investigation concluded that less than 10% of customary land boundaries have been surveyed and demarcated, around 10% of rural land is leased, and only 7.4% of properties in the regions were leased and registered.

The formal law is completely silent on women land rights. While this does not appear to pose a problem with regard to acquired public land and land in Banjul and KMA (where land is owned by and administered directly by the State), it is a major obstacle with respect to Regions land. The constitution recognizes customary practices as an exception to the definition of discrimination, posing an obstacle to the legal equality of women and reinforcing customary practices that deny women ownership and control over land.

The law does not recognize common property under condominium/apartment regimes, although the concept of common property is consistent with communal arrangements under the extended family system.

While under the Physical Planning and Development Control Act the Minister has discretion to authorize the payment of compensation for land use change in accordance with the Land Acquisition and Compensation Act, the law is not clear on the payment of compensation for land use change.

4.1.3 Mechanisms for recognition of rights

Mechanisms for Recognition of Rights						
LGI	#	Indicator	A	B	C	D
3	i	Use of non-documentary forms of evidence to recognize rights				
3	ii	Formal recognition of long-term, unchallenged possession				
3	iii	First-time registration on demand is not restricted by inability to pay formal fees				
3	iv	First-time registration does not entail significant informal fees				
3	v	Formalization of residential housing is feasible and affordable				
3	vi	Efficient and transparent process to formally recognize long-term unchallenged possession				

Due to the prevalence of the customary land tenure system, recognition of non-documentary forms of evidence in the formal court system is high. Non-documentary forms of evidence can be used alone to obtain full recognition of claims to property when others forms of evidence are not available.

Legislation does not exist to formally recognize long-term unchallenged possession; however, an administrative process does exist for state lands and deemed lease areas. The procedure ordinarily is clear and practical, but because it is not regulated, it is subject to a high level of discretionary action. There is no possibility of formalizing the occupation of private land. Disputes regarding private land are settled by the court system.

Registration processes for regional lands are not prescribed. In urban areas, while formal fees for first time registration of property are generally low, the cost of first-time sporadic registration for a typical urban property may exceed 5% of the value if the property was acquired by purchase before the application for formalization. Registration may also involve discretionary payments to lawyers, unlicensed surveyors or planners (who are mostly hired from DPPH), and *alkalos* and

district chiefs, which may be higher than formal fees. In addition, officers in the DLS/DPPH may have to be “tipped” to expedite the process.

The formalization of urban housing involves securing land titles on the one hand and registering housing units in unplanned areas on the other. Plots from unplanned areas can generally be formalized except if there are conflicting claims over ownership, boundaries, and so forth. However, the requirements for leaseholds are less transparent and typically require the intervention of “experts,” for which payment is required.

4.1.4 Restrictions on rights

Restrictions on Rights						
LGI	#	Indicator	A	B	C	D
4	i (a)	Restrictions on urban land ownership	■			
4	i (b)	Restrictions on urban land use and transferability				■
4	ii	Restrictions on rural land use, ownership, and transferability				■

Restrictions on land ownership are provided under both the Land Regions Act and the State Land Act, and the LGAF panel deemed them to be justified in light of the Gambia’s limited land resources. Still, LGAF participants considered other restrictions cumbersome and unjustified, particularly those on transferability and mortgages that require ministerial consent. Restrictions relating to rural land use are largely nonexistent, and the few that do exist are weakly enforced.

Ownership restrictions are typically imposed where the land falls within reserve areas and where land is preserved for public use, as well as in some cases where the use contradicts what is recommended in the master plan. Periodically, leases to specified areas may be under “embargo” while the government deliberates on possible future development options. Information on these areas is often not publicly disseminated.

4.1.5 Clarity of institutional mandates

Clarity of Mandates						
LGI	#	Indicator	A	B	C	D
5	i	Separation of policy formulation, implementation, arbitration roles			■	
5	ii	Differentiated mandates across institutions			■	
5	iii	Differentiated responsibilities across levels of government			■	
5	iv	Information sharing across institutions				■

Land issues have not been approached in an integrated way. For instance, the Agricultural and Natural Resource policy does not address land issues. Moreover, overlaps between land agencies have not been addressed or harmonized, and the differing mandates of district authorities and *alkalos* with respect to land are not sufficiently spelt out.

Likewise, the division of the MLRG into the DLS and DPPH has never been reviewed. The DLS is wholly responsible for the administration of the State Lands Act, leading to an

overconcentration of authority. The department lacks independent oversight, as the Land Commission has not been established. This concentration of roles has given rise to allegations of abuse and the appointment of Commissions of Inquiry to investigate land issues over the years, the last of which was in 2012.

Information on land is not systematically collected or maintained. Consequently, land use data is not easily and routinely available to the MLRG/DPPH and to other government agencies. There is no policy for sharing information on land rights with interested institutions, including NGOs and the private sector.

4.1.6 Equity and nondiscrimination

Equity and Non-Discrimination in the Decision-Making Process						
LGI	#	Indicator	A	B	C	D
6	i	Clear land policy developed in a participatory manner				
6	ii	Meaningful incorporation of equity goals				
6	iii	Cost of implementing policy is estimated, matched with benefits, and adequately resourced				
6	iv	Regular public reports indicating progress in policy implementation				

There is no record of public participation in the legislative processes relating to the enactment of any land related laws. Most people are unaware of the contents of these laws and policies. Similarly, even to the extent that a land policy can be inferred from existing legislation, there is no evidence of programme budgeting. Capacity is also very weak in the main land agencies, and most have very few professionals. Likewise, there is no systematic monitoring of policy implementation. Land officials occasionally submit monitoring briefs to their lines of authority based on sporadic field visits, but these reports are not made public.

4.2 Land use planning, taxation, and management

4.2.1 Transparency of restrictions

Transparency of Land Use						
LGI	#	Indicator	A	B	C	D
7	i	Urban land use plans and changes to these are based on public input				
7	ii	Rural land use plans and changes to these are based on public input				
7	iii	Public capture of benefits arising from changes in permitted land use				
7	iv	Speed of land use change				

Country performance in this thematic area is generally weak. This is primarily because there has not been any land use plan produced since 1985. Capacity has been lost overtime, and the institutional infrastructure for planning has not been given much attention. Moreover, land use planning and management is a multi-sectoral exercise: it requires an integrated and interdisciplinary approach that should include the public and private sectors, civil society, and

community leaders. This has so far been absent in the consideration of land use issues in the country.

As discussed in 4.2.2, the most recent master plans expired in 2000, and there is no record of public input in their original development. Today, planning capacity is nonexistent, and the capacity of the DPPH to track development on the ground is weak. With very little planning actually occurring, there has been little opportunity for public participation, making transparency a moot issue.

4.2.2 Efficiency in the planning process

Efficiency of Land Use Planning						
LGI	#	Indicator	A	B	C	D
8	i	Process for planned urban development in the largest city			■	
8	ii	Process for planned urban development in the next 4 largest cities			■	
8	iii	Ability of urban planning to cope with urban growth				■
8	iv	Plot size adherence	■			
8	v	Use plans for specific land classes (forest, pastures, etc.) are in line with use				■

Land use planning has mostly been limited to urban planning. The first comprehensive plans were made in 1984 with the creation of the GBA master plan and three growth centre plans to provide guidance on land use in the face of rapid urbanization and population growth; however, these plans expired in 2000 and have yet to be revised. Plan implementation has not been successful to the extent that urban sprawl is a vivid occurrence. There is little capacity either to produce current plans or to utilize such plans to control the urban development process.

Institutional mandates for land use planning are not clearly defined between city/municipal councils and national agencies. Urban expansion is unplanned, and urban services are sometimes provided after evolution of settlements, generally after they undergo some densification. Urban planning has no capacity to cope with growth, in the face of rapid rural migration to the GBA/Greater Banjul Metropolitan area. The resulting unplanned areas are illegal, strictly speaking, since they lack development permits; however, the LGAF panel distinguished between these unplanned areas and “typical” notions of informal/illegal areas.

Plot size adherence in unplanned areas is low and existing requirements for residential plot sizes are met in less than 50% of plots in unplanned areas. By contrast, existing requirements for residential plot sizes in planned areas are met in at least 90% of plots.

While there are substantial and apparent deviations from existing plans for forests, wetlands, reserves and parks, green belts and buffer zones, there is insufficient data to substantiate the magnitude of deviation from plans in these rural land classes except for forestry. The National Forest Assessment found significant loss of forest cover from 44% in 1981 to 37% in 2010, with the loss of mangrove cover accounting for 73% of this loss.

4.2.3 Speed and predictability

Speed and Predictability						
LGI	#	Indicator	A	B	C	D
9	i (a)	Requirements for building permits are affordable/transparent (modern construction)				
9	i (b)	Requirements for building permits are affordable/transparent (traditional structures)				
9	ii	Time to get building permit				

Speed and predictability in the current planning process is good. The processes for acquiring a building permit for a residential dwelling is efficient and takes between 2-4 weeks. At D5 per square metre and D15 in application fees,² it is also affordable. A medium size unit of 150m² would cost about D750.³ The rate does not, however, distinguish between simple traditional structures and more complex structures. The cost may be somewhat high for traditional structures. The requirements for building permits are justified and affordable, but not clearly disseminated or consistently enforced. However, for most people, even for owners of modern villas in expensive neighbourhoods, development permits are not viewed as a critical requirement due to the perceived absence of penalties for non-compliance.

4.2.4 Transparency of valuations

Transparency of Valuation						
LGI	#	Indicator	A	B	C	D
10	i	Clear process of property valuation				
10	ii	Public availability of valuation rolls				

Valuation processes are based on the cost per square metre of the structures on the land, rather than its market value.⁴ The LGAF panel noted that this is a distortion in the valuation system, since the market value of a property is to a large extent determined by its location. Thus some owners of high-value properties pay significantly less tax than they would under a market-based valuation process. Additionally, the valuation roll is five years out-of-date, having been last conducted in 2003 to apply through 2008. The roll is not publicly accessible, and property owners are generally only aware that their properties have been valued when the tax collector shows up at their doors. Similarly, people are reluctant to allow valuers into their homes to conduct valuation exercises as they do not understand the valuation and rating process.

² Approximately 15 US cents and 46 US cents, respectively, as of July 2013.

³ Approximately 23 USD, as of July 2013.

⁴ Where the value of the property is less than D300,000, the area councils apply a fixed rate property tax of D100 to D500.

4.2.5 Tax collection efficiency

Tax collection efficiency						
LGI	#	Indicator	A	B	C	D
11	i	Property tax exemptions justified				
11	ii	Completeness of tax roll				
11	iii	Assessed property taxes are collected				
11	iv	Taxes higher than cost of collection				

Religious, health, educational institutions, and properties used for social amenities are exempted from property taxes. This was found to be justified and consistently applied. However, the application of capital gains tax is less transparent and consistent. The unit rate applied to capital gains tax was generally found to have no relation to the transaction price. The rate of tax collection is very low. For 2012, 77% of tax revenues (approximately D60 million) in KMA and 76.9% (approximately D46.4 million) in WCR were uncollected. This was attributed to a high rate per poundage, poorly paid and unmotivated staff, weak enforcement capacity, tax evasion, and corrupt practices. The cost of collecting taxes is 8% for the Kanifing Municipal Council and 14% for the West Coast Region, which is considered to be low. This is largely because the staff is unskilled, with low salaries.

4.3 Management of Public Land

4.3.1 Identification of public land

Identification of Public Land						
LGI	#	Indicator	A	B	C	D
12	i	Public land ownership is justified and implemented at the appropriate level of government				
12	ii	Complete recording of publicly held land				
12	iii	Assignment of management responsibility for public land				
12	iv	Resources available to comply with responsibilities				
12	v	Inventory of public land is accessible to the public				
12	vi	Key information on land concessions is accessible to the public				

Formally, all land in the Gambia is public land. Direct ownership of public land by the State as well as its custodianship of customary land was found to be justified and in the public interest provided it is prudently and sustainably managed.

State land has not been inventoried. Most lands cannot be identified on the ground although some are mapped. Its management is fragmented between central and local authorities and different sectors. The management of public land has primarily been the responsibility of the MLRG. Customary land is directly vested in the district authorities, but a structure for the management of lands under the direct custody of district authorities is missing and district authorities seem to be involved only for the purpose of leasing or other formal transactions.

4.3.2 Justification of expropriation

Incidence of Expropriation						
LGI	#	Indicator	A	B	C	D
13	i	Transfer of expropriated land to private interests				
13	ii	Speed of use of expropriated land				

In the past 3 years, only two expropriations occurred, one in Allatentu and the other for the Banjul Port Expansion Project. Country performance in this area is good. In general, expropriations are carried out in the public interest, and it is uncommon for the government to expropriate land for pure private use. However, expropriations for the purpose of creating residential layouts do occur, in which case the majority of beneficiaries are private individuals. This is part of a policy to make housing available and affordable. Expropriated land is also typically put to its destined use immediately.

4.3.3 Transparency of expropriation procedures

Transparency of Expropriation Procedures						
LGI	#	Indicator	A	B	C	D
14	i	Compensation for expropriation of ownership				
14	ii	Compensation for expropriation of all rights				
14	iii	Promptness of compensation				
14	iv	Independent and accessible avenues for appeal against expropriation				
14	v	Appealing expropriation is time-bounded				

Compensation is paid for expropriation of registered land i.e. leasehold and freeholds under the Land Acquisition and Compensation Act in cash and, where appropriate, in kind by relocation of residential owners. Compensation for unregistered land is limited to improvements/structures on the land and usufructuary rights in the case of land under customary tenure. There are no clear guidelines on how the compensation for usufructuary rights should be done, resulting in a high level of discretionary application of the rules. For farmers the compensation may be limited to the loss of income in one farming season.

Less than 50% of claimants receive compensation within a year. Expropriation exercises do not include arbitration mechanisms to which persons affected may refer disputes. The great majority of persons affected by expropriation are illiterate farmers, whose awareness of avenues for redress is limited. High court proceedings are expensive and generally unaffordable to most Gambians, and moreover take years to complete.

One example of good practice in terms of fairness and transparency of compensation, which should become the norm, is the case of the 34 properties at Half-Die in Banjul, which were expropriated for the port expansion. A task force of different institutions and property owners was setup to implement the process and to inform the property owners of their rights of appeal in an arbitration process. An independent consultant was hired to carry out the determination of value and to conduct negotiation for compensation. Compensation was promptly paid to more

than 90% of expropriated owners. The few owners who were dissatisfied were heard by a panel in an arbitration exercise.

4.3.4 Allocation of public land

Transparent Processes for Divestiture						
LGI	#	Indicator	A	B	C	D
15	i	Openness of public land transactions				
15	ii	Collection of payments for public leases				
15	iii	Modalities of lease/sale of public land				

Traditionally, the Ministry of Lands had the power to issue leasehold grants of public land under the State Lands Act of 1991 and its forerunner, the Lands (Banjul & KSM) Act. Within the past decade, however, a new mechanism has arisen that allows the government to cede public land at market prices in order to generate revenue. Officially, the sale of land by the Land Sales Committee (LSC) is by public auction. However, the 2011 Commission of Inquiry into Land Allocation (CILA) found that there was poor documentation, the process was not approved by the minister, no records of maps and valuations existed, and the process was not transparent. Some plots were not in fact advertised, and some members of the committee sold plots to themselves at “give-away prices.”

In general, all agreed payments for the sale or lease of public land have to be made before the title is transferred to the buyer.

4.4 Public provision of land information

4.4.1 Completeness

Completeness of Registry Information						
LGI	#	Indicator	A	B	C	D
16	i	Mapping of registry records				
16	ii	Relevant private encumbrances				
16	iii	Relevant public restrictions				
16	iv (a)	Searchability of the registry / org with information on land rights (Banjul)				
16	iv (b)	Searchability of the registry / org with information on land rights (rest of country)				
16	v	Accessibility of registry records				
16	vi (a)	Timely response to requests (land/deed registry)				
16	vi (b)	Timely response to requests (cadastre)				

More than 90% of records for privately held land registered in the registry are readily identifiable in maps in the registry or cadastre. The system provides for all original registered deeds/leases to be accompanied by a cadastral map/plan prepared by the DLS. Original copies are kept by DLS and, for Region land, by the governor’s office.

Relevant private encumbrances – i.e. mortgages, pledges, and subleases – are not always recorded. This has been attributed to high stamp duty fees (20% of annual rent) and the fact that registration is voluntary. Public encumbrances – e.g. the re-entry of leases, change of use, compulsory acquisitions, and relocations – are not required to be registered by any law and may not be recorded at all.

Both the registry and cadastre are not automated, and access can be a serious challenge. The records in the Land/Deeds Registry are searchable by parcel for Banjul only because a register of town lots exists. For the rest of the country, the records are not searchable by name of owner or by parcel. They are searchable only by deed Serial Registration Number (SR No.). Without the SR No., it is virtually impossible to find the records of a property in the registry.

Generally copies of documents can be obtained from Registry within a week by the right holder or lawyers. Such copies are not usually given to third parties “as a precautionary measure.” Searching for a document from the cadastre can take longer, and it is not unusual to be told that a file or document cannot be located.

4.4.2 Reliability of Registry Records

Reliability of Registry Records						
LGI	#	Indicator	A	B	C	D
17	i	Registry focus on client satisfaction				
17	ii	Cadastral/registry info up-to-date				

The generation of revenue is the primary consideration of most government services. A customer service culture is not the norm. The registry and cadastre have therefore not developed service standards or a system to receive feedback from users. Office conditions are also not encouraging for clients.

The pace of physical development in the field is much faster than the process of updating these cadastral plans by way of consistent and systematic map revision campaigns by the DLS. A system of systematic updating the registry and cadastre is absent. Both are only updated in the process of preparing leases or registering documents.

4.4.3 Cost-effectiveness, accessibility, and sustainability

Cost Effectiveness, Accessibility, and Sustainability						
LGI	#	Indicator	A	B	C	D
18	i	Cost of registering a property transfer				
18	ii	Financial sustainability of registry				
18	iii	Capital investment in the system to record rights				

The cost of registering a property transfer is high - above 5% of the transaction value: there is a minimum 5% capital gains tax for an individual seller (and 10% for companies), a fixed stamp duty cost of 5% payable by the buyer, lawyer’s fees (discretionary), and registration fees of

D1000. Other fees may be payable to intermediaries and land agents. The cost of maintaining the Land/Deeds registry is currently less than 10% of revenue (with an estimated personnel cost of D112,440 compared to an estimated D1,623,000 of revenue in 2012). There is further potential for generating revenue from unregistered transactions and for the registry to be financially self-sufficient. There is little or no capital investment. Monies generated are paid into the Consolidated Revenue Fund, from which budgetary allocation is made to the Attorney General's Chambers and the Ministry of Justice for the registry.

4.4.4 Transparency of service costs

Transparency of Service Costs						
LGI	#	Indicator	A	B	C	D
19	i	Schedule of fees for services is public				
19	ii	Informal payments discouraged				

A schedule of fees is available for all services in the registry and cadastre, but this is not published in an accessible medium. The last publication of fees for the registry by legal notice was done in 1972. Moreover, the land sector operates mostly informally. The processes before final registration are cumbersome, bureaucratic, and opaque and encourage informality to grow. While illegal staff behavior is not condoned, there are no mechanisms in place to check it actively.

4.5 Dispute resolution and conflict management

4.5.1 Assignment of Responsibility for Dispute Resolution

Assignment of Responsibility for Dispute Resolution						
LGI	#	Indicator	A	B	C	D
20	i	Accessibility of conflict resolution mechanisms				
20	ii	Informal or community based dispute resolution				
20	iii	Forum shopping				
20	iv	Possibility of appeals				

The Gambia has a tripartite legal system founded on the received English law, Sharia, and customary law. Customary law is administered by district tribunals, while Sharia law is administered both by *cadi* courts and by districts tribunals for personal law matters of Muslims.

The country has a mature formal dispute resolution system. First-instance courts that deal with land cases include the district tribunals (unlimited jurisdiction on land disputes), magistrate's courts (jurisdiction limited to possession/ejection), *cadi* courts (Sharia jurisdiction on inheritance and succession), and the High Court (unlimited jurisdiction). Rent tribunals also deal with landlord and tenant disputes. In addition, there is the Alternative Dispute Resolution Secretariat (ADRS), which has offices in Banjul, Farafenni, and Basse. There are also informal and community systems of alternative dispute resolution, including committees of elders and other mechanisms set up by different ethnic groups.

Physical access to dispute resolution mechanisms is high. District tribunals are present in all districts in the country and highly accessible to local communities. However, concerns have been consistently raised about their composition, independence, and impartiality. The *cadi* court system has been extended to 2 out of the 5 Regions – Basse and Kerewan – and this presents an opportunity to transfer Sharia jurisdiction from district tribunals to them. The High Court handles a high proportion of first-instance land cases. Access to the high court is limited because they are only present in GBA, Brikama, and Basse, and affordability is a major challenge.

There is some overlap of jurisdiction - both the High Court and district tribunals have original jurisdiction over land disputes. At the same time the High Court also has appellate jurisdiction over district tribunals, but none over *cadi* courts. The *cadi* courts and district tribunals have overlapping jurisdiction over inheritance disputes. Some magistrate’s courts have also been assuming jurisdiction over land disputes because of the ambiguous wording in the Subordinate Court Civil Proceedings Act. However, disputes cannot generally be pursued simultaneously in several courts.

4.5.2 Pending conflict level

Low Level of Pending Conflicts						
LGI	#	Indicator	A	B	C	D
21	i	Conflict resolution in the formal legal system				
21	ii	Speed of conflict resolution in the formal system				
21	iii	Long-standing conflicts (unresolved cases older than 5 years)				

The level of pending land disputes in the district tribunals is low, but the average for all courts is high compared to other types of cases, at 42.7% in 2012. The average time for resolving land disputes cases is 30 days in the district tribunals, but 8 months to 4 years in the High Court. Less than 50% of land disputes are resolved under one year.

4.6 Forestry

Commitments to Sustainability and Climate Change Mitigation						
FGI	#	Indicator	A	B	C	D
1	i	Country signature and ratification of international conventions				
1	ii	Incentives to promote climate change mitigation through forestry				

The Gambia is a party to the five major international conventions that are directly relevant to the rational and sustainable management and utilization of forest resources. All of these conventions have been integrated in forest, wildlife, and water subsector policies and streamlined into national action plans, although implementation remains a challenge.

Despite Government’s endorsement of the Framework Convention on Climate Change, relevant incentives such as payment of environmental services to promote forestry activities to mitigate

climate change are seemingly absent and awareness remains limited among the private sector and local communities.

Recognition of Public Goods Aspects and Promotion of Sustainable Use						
FGI	#	Indicator	A	B	C	D
2	i	Public good aspects of forests recognized by law and protected				
2	ii	Forest management plans and budgets address the main drivers of deforestation and degradation				

Biodiversity in the Gambia faces serious threats, including the loss and fragmentation of natural habitats due to deforestation, wetland drainage, infrastructural development, overgrazing, and poor farming practices, as well as human population pressure and poverty. Still, numerous pieces of legislation recognize the public goods aspects of forests, including the Forest Act of 1998, the Forest Policy of 1995-2005, and the Biodiversity Policy of 2000 -2010. The Biodiversity Act has been revised but is yet to be enacted.

National, international, and community-based organizations are actively involved in the restoration and rehabilitation of degraded forest lands, with the participation of affected rural communities. However, the sector is constrained by the allocation of funds for the implementation of planned activities in addressing the drivers of deforestation and desertification, which are mainly bush fires and uncontrolled illegal tree felling.

Supporting Private Sector Sustainable Investment						
FGI	#	Indicator	A	B	C	D
3	i	Commitment to forest certification and chain-of-custody systems to promote sustainable harvesting				
3	ii	Commitment to SMEs as a way to promote competition, income generation, and productive rural employment				

Neither the Department of Forestry, nor communities, nor private operators are registered with individuals or groups accredited to certify the management systems applied in the various forest categories. Since a high percentage of timber consumed in the Gambia comes from the troubled region of Casamance, a chain-of-custody system would be rather impossible to apply in the country. The legal framework is silent on the certification of forest products as a control or monitoring mechanism.

The Government actively supports the development of small to medium-sized forest sector businesses that use forest resources sustainably through the Market Analysis and Development (MA&D) approach. MA&D allows local people to identify products/services and develop markets for them to boost community revenue, while also encouraging them to protect forest resources. The scheme is revenue-sharing, with a net benefit of 85% to the communities (60% for village development and 40% to reinvest in forests).

Livelihood of Forest-Dependent Communities						
FGI	#	Indicator	A	B	C	D
4	i	Legal recognition of traditional and indigenous rights to forest resources				
4	ii	Sharing of income and benefits from public forests with local communities legally provided for and implemented				

The legal recognition of indigenous and traditional rights and access to forest resources is high. Forest regulations provide for forest access and use in the context of a Community Forest Management Agreement, and the Forest Policies of 1995 & 2010 specifically call for community undertakings and private forestry.

Forest Land Use, Tenure, Conversion						
FGI	#	Indicator	A	B	C	D
5	i	Boundaries of the countries forest estate, the classification into various uses, and ownership are clearly defined and demarcated				
5	ii	In rural areas, forest land use plans and changes in these plans are based on public input				

Forest boundaries are generally clearly surveyed and demarcated for most categories of forest lands and ownership – forest parks, community forests, and private forests. Encroachment into forest lands and the maintenance of boundary pillars and sign boards are major challenges.

There has been significant progress in promoting sustainable forest resource management through the participation of certain stakeholders, such as local communities and the private sector. Still, there is a need for policy dialogues and increased transparency at the local community level in developing land use plans.

Controlling Illegal Logging and Forest Crimes						
FGI	#	Indicator	A	B	C	D
6	i	Approach to controlling forest crimes, including illegal logging and corruption				
6	ii	Inter- and intra-agency efforts and multi-stakeholder collaboration to combat forest crimes, and awareness of judges and prosecutors				

There is negligible coordination inside and across agencies to combat forest crime. Judges and prosecutors are not adequately knowledgeable about the effects of forest offences. The level of comprehension of forest staff of existing policies, laws, and regulations for combating forest crimes is also questionable.

5. Policy Priorities

The following are the key policy implications that LGAF expert panels derived for further consideration by relevant government authorities.

Legal and Institutional Framework

Given the current absence of a land policy, a clearly articulated and integrated national land policy needs to be developed as a top priority. This policy should include proposals on shelter delivery and on strengthening women's land rights, along with implementing legislation. A first step towards policy development would be the establishment of a National Land Commission in accordance with the 2007 Act. With respect to land administration, the weak legislative framework for mapping, titling, street naming, and registration needs to be addressed, and the Survey Act of 1991 should be reviewed to ease up what is perhaps one of the most time-consuming aspects of the leasing process: the preparation of cadastral maps. The legislative framework should be reviewed with a view to addressing the need for all encumbrances to be registered, to ensure that interests in all registered land are recorded and apparent. Institutional procedures guiding the recording of charges should be clearer and more consistent.

Likewise, a legislative review of all land acts as well as their implementation needs to be undertaken. Overlaps and gaps have to be addressed through legal reform and the putting in place of comprehensive regulatory mechanisms to support processes and procedures. Equally, sector legislation needs to be reviewed and reformed. In addition, reflection is needed on approaches for customary law codification and reform to enhance the robustness of customary law and align it with national objectives for rural development and poverty reduction. The Local Governments Act should be reviewed to redefine the role of traditional rulers in the management of land, in particular the *alkalos*. The State Lands Act should be reviewed, as the provision whereby land can be designated state land is the source of many conflicts.

Land Use Planning, Management and Taxation

An institutional framework for integrated and sustained land use planning capacity needs to be built, given the weaknesses in planning at the moment. Except for forestry, state land is not being managed. Vacant lands without private ownership should be comprehensively planned, including public amenities.

Mechanisms for the coordination and sharing of information between the land agencies could help fill in the gaps in the current maps and master plan, and should be encouraged in the short term. Equally, the requirements for building permits (surveying, planning, and demarcation) can be used to update future master plans. However, since data on current land use nationwide across all sectors is lacking, new data must be collated through a nationwide exercise. This exercise should include all subsectors and should result in the production of up-to-date topographic land use maps, including available state land. Land use procedures (for example, a manual of procedure) and processes that are transparent, appropriate, and participatory should be put into place. In particular, the absorption of land by the government for any purpose, as well as the granting of leases, must follow specific guidelines, which need to be laid out, and must be done transparently. In addition, such records should be made available to the public. To improve capacity, a comprehensive staff audit, recruitment, and training are required. Improved revenue generation, user fees, and donor support are also necessary.

Management of Public Land

There should be a degree of transparency involved in the allocation or sale of public lands, particularly if the allocation or sale is conducted by public institutions. The sale of public lands should rest in the hands of an independent land agency, and the central government should be discouraged from conducting such sales. There should be guidelines for the sale of public land for the sake of consistency. All land agency sales should be advertised and conducted by way of tender. Records of public land sales should be inventoried and displayed at the respective land agency. Unfettered access should be available by members of the public to information on all allocations and or sales of public land.

The government should set up a policy review panel to look into all aspects of public land sales, with a view toward creating the appropriate environment for shelter delivery via the creation of residential layouts and the sale of land to people. The government land sales policy for residential use should not be revenue motivated, but intended to create an environment for an effective ‘shelter delivery’ system which reflects the aspirations of the people.

Policies must be developed and strategies put in place for controlling the widespread practice of individuals acquiring vast tracks of land from customary owners for speculative purposes. The practice will generate future scarcity and may force the government to expropriate land for public interest at significant costs.

Compensation should be given in a consistent and uniform manner. In the interest of fairness and transparency, the formulation of a set of regulations that can be uniformly applied for expropriated lands, whether registered or unregistered, is required. All valuations for expropriations should be done by private consultants. There should be a statutory timeline for the payment of compensation and penalties awarded for delay. Prompt compensation for expropriated land engenders confidence in land governance, especially when such expropriations affect the most vulnerable sectors of society. The process of compensation ought to be first resolved before being put to the required use; otherwise, unnecessary conflict is created.

Public Provision of Land Information

The full mapping and demarcation of all lands and an efficient system for registration of land rights should be pursued and established. Likewise, the formalization of the land and housing sectors needs to be pursued. Additionally, there is a need for the comprehensive and accurate updating of cadastral maps. Moreover, an efficient property valuation system, including a system of identification and street naming, needs to be established, supported by an effective strategy for outsourcing selected components of the valuation and collection systems to enhance effectiveness and efficiency. A robust and modern registration system is required. This implies the creation of a digitized and automated land registration system that has a database that is accessible to all stakeholders, and that would have built into it sufficient safeguards for the protection and upkeep of land records. Stamp duties should be revised downwards, since the capital gains tax – which is a minimum of 5% for an individual and 10% for a company – has to be paid by the seller. At the same time, quality and service standards should be improved, and cost-effective pricing of services should be devised in order to ensure sustainability. In order to

accomplish this, capacity building on key skills should be undertaken and a framework for outsourcing cadastral support services should be developed.

Dispute Resolution and Conflict Management

A legislative review is necessary to remove jurisdictional overlaps among first instance courts. The numerous decisions on land should be compiled and collated to form a compendium of cases to guide the courts on the applicable land law, and judges should have capacity in land matters and land law. Although many forums for dispute resolution exist in the Gambia, the low level of awareness of land conflict resolution mechanisms implies the need for public sensitization. The 39 district tribunals are the court of first instance for a majority of the people, and customary law is what applies to land in the regions. Thus, the jurisdiction and composition of the tribunals should be reviewed, and the perceived lack of independence of district tribunal members needs to be addressed. They should be constituted by independent persons of undoubted integrity in the community who are knowledgeable in customary law. Likewise, district tribunals should be fully brought under the administrative supervision of the judiciary and their members appointed by the Judicial Service Commission. The governors should not have any review jurisdiction over tribunal decisions. To improve the effectiveness of the ADR system, discussion is needed on whether the *seyfolu* and *alkalos* should be incorporated into the ADR system and how to enhance adherence to ADR decisions reached after mediation. Finally, a system of appeals from rent tribunal decisions needs to be established.

The effective management of forest lands will require an action plan for the implementation of the Forest Policy 2010-2019 and the Wildlife Policy and Bill 2013-2022, as well as improved human and institutional capacity. Moreover, there is a need to encourage gender mainstreaming in forest management and to promote the creation of public-private partnerships for sustainable forest conservation.

6. Conclusion

The LGAF process in the Gambia served to highlight areas of strength and weakness in the land management systems and practices of the country. Overall, land rights have solid legal recognition, including the rights of communities to forest resources. Similarly, the country has a number of formal and informal mechanisms for dispute resolution that are accessible to local populations. Yet critical gaps remain in other aspects of land governance, particularly with respect to the absence of a unified national land policy and a severe lack of planning capacity and weaknesses in land administration. The LGAF process involved the broad and active participation of a wide range of stakeholders from within and outside government and from the central to the local level. This demonstrates a growing commitment to start addressing land issues in order to ensure the prudent and sustainable management of Gambia's limited land resources, which are central to poverty reduction, national food security, and sustainable urban development.