

## DRAFTING BY-LAWS FOR GOOD GOVERNANCE OF COMMUNITY LANDS AND NATURAL RESOURCES



The process of drafting, debating, and adopting rules – or “by-laws” – for land and natural resource use and management is the heart of the community land protection process. If community land documentation efforts are undertaken without empowering communities to establish good governance over their lands and natural resources, land documentation may create more harm than good: leaders with a map and no downward accountability can easily sell or transact community land. Community land documentation initiatives that do not support communities to establish systems for transparent, just, and equitable land governance may invite or worsen mismanagement, corruption, and capture by local elites. They may also weaken women’s land rights by entrenching discriminatory practices that exclude women from land governance and community decision-making.

Positively, a well-facilitated, participatory, careful process of drafting and adopting community rules for local land and natural resource management often results in:

- **Good governance and increased downward accountability of leaders.**

- Systems to improve local leadership and hold community leaders downwardly accountable, such as: the establishment of term limits, periodic elections for leaders, criteria for impeachment, and rules about what decisions leaders may make versus what decisions must be made by the community as a whole (such as whether to lease land to outside investors).
- Greater democratic participation by community members in land and natural resources management decisions that previously were made by leaders without community consultation.

- Increased transparency and equality in local rule enforcement, due to the creation of consistent norms and clear, publicly known penalties for infractions.
- **Stronger rights for women, youth, and members of minority groups.**
  - Women, youth, and other vulnerable groups have the opportunity to question discriminatory customary practices and successfully advocate for rules that strengthen their rights.
  - Women, youth and minority groups are elected to governing bodies and participate in land and natural resource management decision-making processes.
- **Improved conservation, use and management of natural resources.**
  - Community members remember, revive, create and implement rules to ensure conservation and sustainable natural resources use.
  - Communities institute fees to ensure sustainable use of scarce natural resources and collect fines for misuse of these resources.
- **Alignment of community rules with national law.** Communities modify local rules to align with national and human rights law.
- **Stronger foundations that support future community prosperity.**
  - Increased community capacity to vision, plan for and actualize community-defined local development.

- Strengthened community capacity to negotiate for and actualize equal, prosperous partnerships with outside investors.
- The maintenance or revival of community cultural practices and traditional knowledge.

### AN OVERVIEW OF THE BY-LAWS DRAFTING PROCESS

This chapter describes in detail the steps for facilitating the stages of drafting by-laws. For reference, a summary overview of the major steps in the by-laws drafting process are:

1. The community collectively brainstorms or “shouts out” all existing local rules and all rules followed in the past. This is the 1st Draft of the by-laws.
2. Facilitators provide legal education on national law and international human rights law.
3. The community reviews the 1st Draft of the by-laws, adds new rules, deletes old rules that are no longer useful, and changes existing rules that should be updated. The community should also discuss how rules will be enforced and what penalties or fees may apply. Discussions continue until community agrees that they have a complete 2nd Draft. During this process, facilitators convene meetings to ensure that the community addresses issues related to women’s rights, zoning, and transparent financial management, as well as any other necessary topics.
4. Facilitators, lawyers and/or judges review the 2nd Draft to ensure that all rules and the penalties or fees for enforcing the rules do not contradict the national constitution and other relevant laws.
5. The 2nd Draft is returned to the community, which then decides how best to modify any rules or penalties that contradict national law. Once they are aligned with national law, the 3rd Draft of the by-laws is complete.
6. The community holds a large “by-laws adoption ceremony,” inviting district and regional leaders, judges, neighbors, and others. At this meeting, the community reviews its final draft by-laws (usually the 3rd Draft unless the community made additional revisions), then votes to adopt the by-laws by consensus (100% agreement) or supermajority vote (66% agreement).

### BASIC GUIDELINES FOR THE BY-LAWS DRAFTING PROCESS

Facilitators should bear in mind the following guidelines when supporting communities through the by-laws drafting process:

- **Let the community set the pace.** The by-laws drafting process should not be rushed; facilitators should allow communities to take as long as they need to authentically discuss and decide about the rules they want to govern their lands and natural resources. A healthy, inclusive process should take between 2 and 4 months, depending on the size of the community, its level of motivation, and how frequently meetings are held.
- **Let the community set the content.** Facilitators should allow communities to freely determine the content of their by-laws as they see best, to structure their by-laws in a way that makes the most sense to them, and to phrase each by-law in a way that will be clear to community members. Facilitators should never re-write community by-laws into more “legal” language, add by-laws they think would be useful, delete by-laws they think should be removed, or steer communities to make decisions they are not comfortable with. This is a community-driven process; facilitators should only advise. (For more information, see the chapter on *The Content of Community By-laws*.)
- **Make sure the process is fully participatory.** The by-laws must be discussed and agreed by the entire community, not just a small group of elders and elites. If the by-laws reflect only the ideas of a few elites, the community likely will not respect and follow them. All community members, including women, men, youth, elders, traditional leaders, seasonal users and members of minority groups should be invited to all meetings and encouraged to participate and speak their minds. Interim Coordinating Committees can help to ensure that members of all stakeholder groups are involved in the process and aware of the discussions that take place and the decisions made.
- **Work proactively with existing leaders and governing bodies.** To ensure that they understand, support, and participate in the by-laws drafting process. Facilitators should also work to make sure that community leaders are committed to supporting the future implementation and enforcement of the by-laws once they are adopted. (See the chapters on *Working with Community Leaders*, *Creating Land Governance Councils*, and *Ensuring Implementation and Enforcement of the By-laws*.)

To ensure that the by-laws drafting process is fully participatory, facilitators should work with Community Land Mobilizers, Interim Coordinating Committee, and community leaders to:

- Undertake intensive and continuous community mobilization to ensure that members of all stakeholder groups actively participate in all debates and discussions;
  - Plan community land protection meetings to take place at convenient times (such as after women and men have completed their house and farm work) and in convenient, central locations;
  - Convene special women-only meetings to identify issues that affect women's rights and participation and empower women to support one another to voice these issues during community meetings;
  - Present the community land protection work in schools and to groups of youth informally in places they convene (such as near sporting events, in markets, etc.) and invite them to attend meetings;
  - Call for the participation of specific stakeholder groups over local radio; and
  - Visit neighboring communities with historical use and access rights and invite them to attend meetings and weigh in on rules that will affect their rights.
- **Allow for – and encourage – healthy debate.** Disagreement and productive, lively discussions are part of a healthy by-laws drafting process. The process is designed to give communities the space and time to question the purposes of the existing rules and to decide whether to keep a rule as it is or change it to reflect community needs. Community members who have gone through the by-laws drafting process often describe the experience as the first time in living memory that their community sat together as a group and discussed their rules. This is particularly important during the transition from the 1st to the 2nd Drafts: during these meetings, women, youth, elders, and members of minority groups have the opportunity to both argue against rules they feel to be discriminatory and advocate for the inclusion of rules that promote their interests. While the diversity of community opinion may lead to lengthy debate, this is a natural part of the process; facilitators should prepare communities to discuss issues with respect, avoid personal attacks and name-calling, and commit to finding ways to compromise.

- **Support Community Land Mobilizers to run by-laws drafting meetings.** Because communities will need to hold many meetings to arrive at a final set of by-laws, Community Land Mobilizers will play an active role in this process. Facilitators should spend time training Community Land Mobilizers in meeting facilitation skills, the importance of women's, youth's and minority groups' contributions and ideas, and conflict mediation (to address moments where different stakeholder groups cannot agree on a rule). During the by-laws drafting process, facilitators should visit the community at least twice a month to check in on their progress, answer questions, provide necessary support, train community members on topics relevant to their by-laws (for example, transparent financial management practices), and to support the Community Land Mobilizers.

## HOW TO SUPPORT COMMUNITIES TO DRAFT BY-LAWS?

With the basic guidelines and overall process in mind, facilitators should support communities to complete the following eleven steps during the by-laws drafting process. *These steps will require facilitators to be personally present for at least 9 separate meetings*, not including the meetings run by Community Land Mobilizers in the sub-units.

**Step 1: Describe the entire by-laws drafting process from start to finish.** Make sure that community members, leaders, the Interim Coordinating Committee and the Community Land Mobilizers understand how the by-laws drafting process will proceed. Answer any questions community members may have. Ask community members to share the process with family members and neighbors and to bring them to future meetings, as all community members' input is necessary and valued. It is good practice to ask every community member present to "bring two more people with you" to the next meeting.

**Step 2: Remind the community of any ground rules for community meeting etiquette and make any new ground rules that might be necessary.** The by-laws drafting process has the potential to be lively and may provoke disagreement and debate. Facilitators should begin the process by asking the community to shout out "ground rules" for how they will treat one another during debates about community rules. Facilitators might begin the discussion by suggesting rules such as "one person talks at a time," "no finger pointing," or "respect other people's ideas."

The community should also carefully decide what procedures it will follow during the by-laws drafting process, such as how to:

- Make sure that all community members know about the by-laws process and have an opportunity to participate, even if they cannot attend meetings (for example, school children could write their ideas as homework assignments, women could host small local meetings of women neighbors and contribute a group list of ideas, etc.);
- Keep record of all meeting minutes, including who attended the meeting;
- Resolve disagreements (Who will mediate disputes? How will disputes be resolved?);
- Ensure that all “sub-units” (villages, towns, zones, wards) are informed about and actively involved in the process; and
- Agree on finalized rules, such as by consensus, by supermajority vote (66%), or by majority vote (51%).

**Step 3: Support the community to create the 1st Draft of its by-laws.** After the community has agreed on clear procedures for its by-laws drafting process, facilitators should then lead the community to brainstorm:

- All existing customary/traditional rules currently followed by community members; and
- All useful customary/traditional rules that were previously followed but have fallen out of use in recent years.

Begin the exercise by asking community members to “shout out” all the rules currently being followed by community members. To help the brainstorming process go most smoothly, facilitators should lead community members to address each of the following three categories of rules, one by one:

- 1. Rules about leadership, authority and the governance of land and natural resources**, including rules about who can be a leader, leaders’ responsibilities, how decisions about land and natural resources should be made, how to resolve conflicts, etc.;
- 2. Rules about the use and management of land and natural resources**, including rules about water, forests, livestock, hunting and fishing, thatch and building materials, seasonal users’ rights, etc.; and
- 3. Cultural and social rules to support community peace and prosperity**, including rules about women’s rights, children’s rights, rules for relationships with neighbors, etc.

Facilitators can keep the brainstormed list organized by displaying three large pieces of paper at the front of the meeting and separating the rules for each category onto their own piece of paper. As rules are shouted out, a second facilitator or a fast-writing Community Land Mobilizer should write **every single suggested rule** onto one of three large pieces of paper.

After the community has listed all of its current rules, ask community members to brainstorm all previously-followed rules that they feel should be re-instituted. Facilitators may want to ask male and female elders specifically to share memories of “how things were when they were young.” Add these rules from the past onto the lists.

When community members have finished shouting out all the rules they can think of, divide the community meeting into three smaller groups of men, women and youth. This gives women, youth and others who may not feel comfortable speaking in the large group an opportunity to contribute ideas. Give each group as many large pieces of paper as they would like and ask the groups to make a list of all natural resources located within the community. (If the community has already made a map of all natural resources in their community, facilitators can bring copies of this map for the groups to use). These lists might include:

- Wetlands, streams, and rivers
- Rock outcrops, mountains, caves, and hills
- Thatch and other home-building materials
- Rocks, sand and clay
- Herbal medicines, wild mushrooms, honey
- Saltlicks, cattle dips or kraals
- Wild animal and fish species
- Sacred or traditional areas
- Roads, schools, clinics, churches and cemeteries
- Other resources

Next, the groups should write down all the rules they can think of for each resource. Facilitators and Community Land Mobilizers might prompt ideas by asking questions like:

- How do people use this resource?
- Are there rules about who can use this resource? How much of this resource can be used?
- Are there rules about when this resource can be accessed, or how to harvest/use it?
- Who is in charge of managing this resource, or ensuring that it is not abused?

Give each group 30-40 minutes to remember rules concerning the use and management of community lands and natural resources. Encourage the groups to also add rules concerning governance and community leadership to their lists. Then, call everyone back together into the big group. Support each group to present its list of rules to the community. Add all the rules that the small groups brainstormed to the existing lists.

When the groups finish presenting, the combined list of rules becomes the community's 1st Draft of its by-laws. **Facilitators should take photographs of each of the pages** so that they can type up the rules when they return to their office.<sup>1</sup> To prepare for future meetings, facilitators should organize the rules under headings (see the chapter on *The Content of the By-laws*).

If time and resources allow, the Community Land Mobilizers should then lead the activity of "shouting out" existing and historical rules *again* in each of the community sub-units (towns, villages, wards, zones). Mobilizers should send any additional rules generated during the sub-unit meetings to the facilitators so they can add them to their typed list of rules brainstormed in the large community meeting.

**Facilitators must handle the process of writing customary rules delicately – especially if it represents a transition from oral to written rules.** The process of writing down previously unwritten rules and practices may change them. Facilitators must manage the discussion of existing rules carefully to ensure that recording customary rules does not undermine or prohibit more inclusionary practices. An unwritten traditional practice may be quite flexible or interpreted by community members in widely different terms (according to what most benefits their interests or what is appropriate in particular contexts and circumstances). Facilitators should ensure that a wide array of community members – especially both male and female elders – are present during the by-laws drafting process and are empowered to contradict or add to others' memories of a local "custom."

Similarly, the shift from oral to written risks failing to capture community practices that do not occur to people as being "rules," perhaps because they are seen more as cultural practices, deeply embedded behaviors, or because they are assumed or taken for granted. For this reason, it is helpful to work through the use and management of each type of natural resource or land area. In addition, facilitators should ensure that women, youth and members of minority groups have ample time and space to contribute in order to ensure that unspoken practices and protections for their rights are not erased in the process of transforming oral rules into written rules.

**Step 4: Provide legal education.** Facilitators should return to the community with many copies of the typed 1st Draft of the by-laws. (This typed list should include all the rules from the large community meeting, as well as any rules added at the sub-unit levels in meetings facilitated by the Community Land Mobilizers.) At this meeting, the entire 1st Draft should be read aloud. Facilitators should then tell community members that they will now have as much time as necessary to discuss, modify, adapt, and change their list of rules however they see best to meet the needs of their community today and in the future.

Facilitators should explain that the community can make any rules they would like, so long as their by-laws do not contradict the national constitution and all relevant national laws. To illustrate this, facilitators can explain that the constitution and national laws are like the ground – the community can build their "house" of rules up from there, but they cannot go under or around national law.

1. To make it clear that the typed list is only a draft, facilitators may want to add a note to the typed draft by-laws that explains that the list is not final and that it will only become final after many meetings of community review and agreement.

Facilitators should then lead communities through very brief overviews of any national laws that they should consider as they create the 2nd Draft of their by-laws. This legal overview should include:

- All equal protection sections of the national constitution (addressing women’s rights, minority rights, etc.);
- All land-related sections of the national constitution, including any eminent domain/compulsory acquisition sections and sections regarding sub-surface mineral rights;
- The basic components of national laws pertaining to:
  - Land
  - Inheritance/family rights
  - Forests
  - Water/wetlands
  - Environmental protection
  - Indigenous rights
  - Investment/mining/timber production (as appropriate)
  - Local government and administration; and
- Any relevant international human rights conventions, such as the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and the United Nation Declaration on the Rights of Indigenous Peoples (UNDRIP).

All this information may be overwhelming to communities. To keep this activity simple and useful, facilitators may want to:

- Begin the discussion of each law by asking communities members to “shout out” what they know or think that the law says;
- Pick three key messages from each law and present those concepts in 1-2 sentences, in a simple way that community members can understand and remember;
- Produce and distribute a 1-2 page, low-literacy handout of the basic concepts of national laws that communities should consider when drafting their by-laws;
- In collaboration with the Community Land Mobilizers (organized before the meeting), present theatrical role-plays that illustrate the contents of the laws; and/or
- In collaboration with the Community Land Mobilizers and community musicians (organized before the meeting), create songs about the laws and perform them for the community.

After explaining a law, to make sure that community members understand the key components of the relevant laws, facilitators might ask the community to shout out examples of rules that would be unconstitutional. Once an “illegal” rule is shouted out, facilitators can ask the community to explain why it would not be allowed under national law.

At the end of the meeting, facilitators should tell the community that at the next meeting they will begin to turn the 1st Draft of their by-laws into their 2nd Draft. Ask the Interim Coordinating Committee and all meeting attendees to take the typed, printed copies of the 1st Draft by-laws home to review with their families and neighbors, and to begin thinking about what rules should be removed, what rules should be added, and what rules should be changed.

Experience has shown that facilitators should insist that communities first agree on all of their by-laws, and then hold a separate meeting to go through the by-laws one by one and assign penalties, fees and fines. This will help the by-laws drafting process proceed much more quickly.

**Step 5: Begin the 2nd Draft of the by-laws.** The process of discussing, changing, and adding to the 2nd Draft of the by-laws is the most important part of the by-laws drafting process. It will likely take many weeks, and should involve most – if not all – community members. Community Land Mobilizers, the Interim Coordinating Committee, and leaders should devote extra energy during this phase of the work to ensure widespread participation by all community members, including: men, women, youth, elders, members of minority groups, disabled community members, elites, leaders, people who practice specific livelihoods, and members of neighboring communities who hold historical use and access rights to areas of the community.

Facilitators should begin the meeting with an explanation of the 2nd Draft process: facilitators will return periodically to hold large community meetings, and in between these meetings Community Land Mobilizers and leaders will convene meetings at the sub-unit level (wards, villages, towns, zones) to gather the input of those who may not be able to attend the larger community meetings. Each sub-unit should send representatives to the larger meetings to share the input from their small meetings and ensure that their comments are included in the debate.

Namati and its partners have found that this process goes best when facilitators visit communities every one to two weeks throughout the 2nd Draft debates in order to: provide guidance; support resolution of any particularly vigorous disagreements; and provide education on certain key topics, as requested by community members.

Second, the community should review its ground rules for the by-laws drafting meetings, including how community members will resolve disagreements about specific rules.

Third, facilitators should divide the community meeting into smaller groups of women, youth and men to begin discussing the section of rules about **use and management of land and natural resources**. It is best to start with this section of the by-laws because it will likely be the least controversial and the easiest for community members to agree upon.

As the smaller groups review and discuss the 1st Draft by-laws on use and management of land and natural resources, facilitators and/or Community Land Mobilizers should ask them to identify:

- What rules should be kept as they are, because they are good, useful rules?
- What rules are mostly good, but should be changed to ensure that they are fair to everyone and support the community's vision for the future?
- What rules should be thrown out, as they conflict with national laws, are unfair to specific groups of people, violate people's human rights, or do not protect the community's land and natural resources?
- What rules should be added to ensure that community can grow, prosper, and achieve its future vision?

The by-laws process is no small commitment: when asked what was the "hardest" part of the project, one women's focus group took the opportunity to complain about the frequency of community meetings, describing how: "The process was hard for us. Every day meeting, every day meeting! But it is a good thing to own our land – we all agreed to that."

Fourth, after the groups have had adequate time to discuss these matters, facilitators should call the groups back together to discuss the groups' ideas as a community. Because there will be many rules to talk about, facilitators should support the community to work through the by-laws in an orderly manner, issue by issue. One way to structure these discussions is to go through the topics set out in the chapter on *The Content of the By-laws* – for example, support the community to first discuss its rules about "food resources," then "water," then "community forests and grazing lands," etc. For each topic heading, a representative from each group should present their group's conclusions; after all the groups have presented, the topic can be opened up for discussion.

This process will likely take a long time; facilitators should allow the community to discuss each rule fully until they reach consensus. To speed up the process, facilitators can suggest that communities put aside rules they cannot immediately agree upon into a list of "rules to be debated later."

Facilitators should end the meeting as appropriate to timing constraints and community members' energy level. Whatever rules have not been discussed and decided can be addressed at later meetings. At the end of the meeting, facilitators should take photographs of all the agreed rules for their records and leave the lists with the community.

Over the next weeks and months, facilitators, community leaders and Community Land Mobilizers will convene many more meetings – in more or less this format – until the full content of the community's 2nd Draft by-laws has been debated and agreed.

To support an efficient by-laws drafting process, facilitators should suggest that the community wait to resolve rules with significant disagreement until after all the easily-agreed rules are determined. This highlights areas of agreement, builds momentum, and helps to get through at least some rules quickly. Communities can then move to discussing any rules that require debate and compromise. Facilitators should support community leaders and Mobilizers to hold large community meetings where the contested rules can be debated. If a community debates a rule for a long time and cannot come to agreement about it, facilitators may want to suggest that the rule be left off the list: only rules that have consensus or supermajority (66%) agreement should be included.

**Step 6: Ensure that the by-laws are debated and discussed at sub-unit levels.** Some community members – particularly elders, people with disabilities, and women with significant household duties – may not be able to attend large community meetings. This is particularly true in large communities that span thousands of hectares. To address this, it is critical that by-laws discussion meetings also take place at the sub-unit level (villages, wards, zones, settlements, etc.). The Interim Coordinating Committee should mobilize the sub-unit meetings and bring all decisions made by the sub-units back to the larger community meetings. Community Land Mobilizers should facilitate the meetings at the sub-unit level. Ideally, at least one adult from every household will be present at these sub-unit by-laws discussion meetings. Interim Coordinating Committee members and Mobilizers should use these meetings to:

1. Report on what is happening in the larger community-wide meetings;
2. Get each sub-unit's opinions about the rules proposed in the community-wide meetings.
3. Ask people what new rules they would like to add to the by-laws, what rules they would like to change, and what rules they would like to remove.

At the beginning of every larger community meeting, Interim Coordinating Committee members should present feedback from the sub-units, or support residents of each sub-unit to present the ideas and input that came out of their sub-unit meetings. This feedback should be integrated into the community's ongoing discussions.

**Step 7: Hold content-specific meetings as the 2nd Draft is discussed.** In addition to supporting community debate, helping to resolve conflicts, and providing requested information, facilitators should hold at least four content-specific meetings to inform the community's efforts to arrive at a complete 2nd Draft of their by-laws. These include:

1. A meeting to address and discuss by-laws that protect **women's rights** (see the box on *Protecting Women's Land Rights*, below);
2. A meeting to address and discuss by-laws necessary to ensure **transparent management of community finances** (See the chapter on *Financial Management for Communities*);
3. A meeting to help the community make a **zoning plan** (See the chapter on *Making a Zoning Plan*); and





4. A meeting to discuss how the community will handle any **interactions with investors** and/or requests from potential investors for use of community lands. (See the chapter on *Preparing Communities for Negotiations with Investors Seeking Lands and Natural Resources*.)

These content-specific meetings will support communities to complete some of the more challenging aspects of the by-laws (see the chapter on *The Content of the By-laws*).

**Step 8: Coordinate a legal review of the community’s 2nd Draft of their by-laws.** After many meetings, the community will eventually decide that its by-laws are complete. Facilitators should then review the by-laws in a large, community-wide meeting and make sure that:

1. The by-laws address most (or all) of the topics set out in the outline set out in the chapter on *The Content of the By-laws*; and
2. All major conflicts and disagreements have been resolved and the by-laws reflect community consensus or at least supermajority (66%) endorsement.

After the community review, facilitators should bring the by-laws to a trusted lawyer or judge for review. **The lawyer or judge should not rewrite, re-organize, or re-frame any of the community’s by-laws.** Rather, he or she should simply mark which rules are unconstitutional or go against national law. Ideally, there will be very few rules that need changing, because facilitators will have been watching for unconstitutional, unjust, exclusionary, or overly harsh rules and steering community discussion toward more appropriate rules.

Facilitating organizations should cultivate relationships with trusted local or national lawyers and judges interested in promoting community land protection. Facilitators should educate these legal professionals about the community land protection process and ensure that they fully understand the by-laws drafting process and purpose. While lawyers and judges often charge fees for their time, facilitators should consider asking them to review the by-laws free of charge or for a very low fee.

**Step 9: Support communities to arrive at a 3rd Draft of their by-laws.** After the legal review, facilitators then bring the by-laws back to the community to discuss what rules must be changed, as indicated by the lawyer or judge. Facilitators may need to devise creative ways of showing communities why certain rules are unconstitutional; for example, Community Land Mobilizers could act out the rules in a role play and ask community members to identify why the rule goes against national law. Facilitators should allow the community as much time as they need to discuss the necessary changes and arrive at new rules. If this is completed in one community-wide meeting, the Interim Coordinating Committee and Community Land Mobilizers should convene meetings at the sub-unit level to inform the sub-units of the changes made in the community-wide meeting and seek their approval. If the changes cannot be made in one meeting, the Community Land Mobilizers should convene meetings at the sub-units to seek their suggestions. By the end of this process, the community should have a completed 3rd (and final) Draft of their by-laws.

**Step 10: Share the 3rd Draft by-laws with local leaders.** Whenever possible, facilitators should ask district and regional government officials, customary leaders, and trusted cultural authorities to sign onto a community’s by-laws and officially pledge to support their implementation and enforcement. To this end, facilitators might ask these government officials and leaders to review the by-laws as part of the “legal check” component of the by-laws drafting process. Alternatively, communities can share the 3rd Draft of their by-laws with trusted local and regional officials and explicitly request their support in validating and enforcing them (see the chapter on *Ensuring Implementation and Enforcement of By-laws*).



**Step 11: Adopt the by-laws in a large ceremony.** Finally, the Community Land Mobilizers and Interim Coordinating Committee should coordinate a community-wide by-laws adoption ceremony, **attended by at least the male and female heads of every household in the community, all community leaders, trusted government officials, and relevant cultural and customary leaders.** To encourage attendance, communities might contribute funds to purchase food and drinks and/or prepare food to feed guests. To make sure that the entire community knows that their participation is critically necessary at the upcoming vote, community leaders, Community Land Mobilizers and the Interim Coordinating Committee should consider going door-to-door to invite people, publicizing the adoption ceremony on the radio, and making announcements about the adoption ceremony in places of worship, at schools, in markets, and in every sub-unit.

At the by-laws adoption ceremony, the complete list of by-laws should be read aloud. Attendees should then have an opportunity to make any final objections. If a community member raises an objection, the issue should be addressed and a solution found. If people cannot agree on a rule, it may be easiest to simply remove the rule from the by-laws rather than endanger the entire by-laws adoption process. After all final objections have been resolved,

the community should prepare to vote to adopt their by-laws. Careful notes should be taken of this process to keep a good record of the meeting and to remember any rules that were eliminated at the last moment (and may thus need to be reformulated during the first annual review of the by-laws.)

It is strongly recommended that communities adopt their rules by consensus (100% agreement) or at least by supermajority vote (66% agreement). If there are a large number of community members who disagree with the rules, they may cause conflict and confusion in the future. Facilitators and Community Land Mobilizers should create a good record of the vote by taking photographs and videos, writing down the names of every community member who was present and voted, and dating the adopted by-laws with the date and location of the meeting.

After the by-laws have been adopted, it is good to ask all voting community members to sign the by-laws. This will help make the document more legitimate in the eyes of community members, both immediately and over time. Feel free to add as many signature pages as necessary – if there are 500 people present for the vote, try to get all 500 to sign the by-laws. After everyone has signed, celebrate with food, music, dancing, and speeches!

