

CREATING LAND GOVERNANCE COUNCILS



As a community is close to finishing its by-laws, the community and facilitators should plan to replace the Interim Coordinating Committee with a permanent Land Governance Council.¹ The Land Governance Council is a community-based governing body made up of community members who will be responsible for the management and administration of a community's lands and natural resources.² A community's Land Governance Council should include elders, youth, women, leaders and/or representatives of all smaller spatial or social units (towns, zones, villages, or wards) within the larger community ("sub-units"), as well as members of marginalized groups (such as ethnic minorities and landless people). The process of supporting communities to elect or select their Land Governance Council is central to the long-term success of community land protection efforts.

Facilitators should ensure that the process of forming Land Governance Council is done very carefully. Experience has shown that if communities do not thoughtfully establish, train and monitor their Land Governance Council – and integrate existing leaders into the Land Governance Council structure (as appropriate) – then by-laws may not be well-enforced, local elites may use the Council to further their own interests, and the long-term impacts of land protection efforts may be limited.

WHAT DO LAND GOVERNANCE COUNCILS DO?

Communities should pass by-laws that describe how their Land Governance Council will, in collaboration with existing community leaders and local government, work to:

- **Make land and natural resource management decisions that are in the best interest of the community.** The community should give its Council the power to make minor decisions and actions that ensure that the community's lands and natural resources are healthy and thriving. For major decisions, such as land transactions, the Council should be responsible for calling a large meeting for community-wide group discussion and decision.
- **Enforce the community's adopted by-laws.** The Council should have the power to make sure that community members follow the rules set out in the community by-laws. Land Governance Councils should publicize the rules and penalize people who fail to follow them. The Land Governance Council should also be tasked with protecting the land rights of women and other vulnerable people who may face land dispossession by more powerful family members or neighbors.
- **Help resolve disputes** related to community lands and natural resources.
- **Manage finances** (collected from fees and fines from use of lands and natural resources) in a way that is accountable, transparent, and supportive of the community's future vision.

1. The Interim Coordinating Committee is only a temporary body meant to support community-wide participation in the community land protection process.

2. Communities may call this governing body by any name they think best – the phrase "Land Governance Council" is simply a generic name for the purposes of this publication. Alternatively, facilitators may create a name for this body to use in all the communities they work with. Or, national land laws may dictate a specific name, such as "Land Management Committee" or "Community Land Development and Management Association."

- **Represent the community at meetings with outsiders**, including neighbors, investors, companies, and government officials. The community by-laws should give the Council the authority to attend government meetings, or go to court in legal actions on behalf of the community.
- **Listen to community members' ideas** and suggestions about how to better manage community lands and natural resources. The Council should organize and lead regular community meetings about the use and management of community lands and natural resources.
- **Any other responsibilities agreed by the community** and listed in the community's by-laws.
- Trustworthy, with a proven ability to manage money transparently and responsibly;
- Dedicated to conserving and protecting community lands and natural resources;
- Diverse, from a range of backgrounds (including men, women, elders, youth, minority groups, people who practice different livelihoods, and representatives of all the "sub-units" within the greater community); and
- Any other specifications the community feels is necessary.³

The Land Governance Council does not own the community's land. The Council will manage the land on behalf of the community, according to the agreed by-laws, the community's future vision, and community needs and interests. The Land Governance Council is working for the community members to manage their shared assets. If a Land Governance Council does not act in the community's best interests, does not enforce the by-laws fairly, or manages community money in a non-transparent way, the community should call a community-wide meeting to address the problem and hold the Land Governance Council accountable. A community may need to form a "Watchdog Group" to ensure that their Land Governance Council is acting in the community's best interests.

WHO SHOULD BE A MEMBER OF THE LAND GOVERNANCE COUNCIL?

Communities should design the composition of their Land Governance Council during the by-laws drafting process. The community should decide what types of people to select or elect to the Council, and what qualities Council members should have. Experience has shown that Land Governance Councils function best when they include trusted and respected leaders, elders, youth, women, and members of minority groups.

For example, a community's by-laws might require that Land Governance Council members are:

- Permanent community residents, with their primary residence located within the community;
- Honest, sensible and reliable;

BY-LAWS CONCERNING THE LAND GOVERNANCE COUNCIL

When supporting communities to draft by-laws about local governance, facilitators should ask questions that support community discussion and decisions related to:

- **Powers:** What will be the Land Governance Council's roles and responsibilities? What types of decisions may the Land Governance Council make on its own, and what decisions must it bring to the whole community for discussion and decision?
- **Composition of the Land Governance Council:** How many members will it have? Should there be any particular composition of members to ensure diverse representation?
- **Election procedures:** How will the community choose who serves on the Land Governance Council? What will be the steps and procedures for the election or selection of Council members?
- **Accountability:** How will the Land Governance Council be downwardly accountable to community members?
- **Relationships with existing leadership structures:** What will be the role of existing community leaders within the Land Governance Council? How will the Land Governance Council interact and share authority with leaders and other community governance bodies, like forest management committees?

As well as many other related issues. See the chapter on *The Content of the By-laws* for more information on making by-laws to govern Land Governance Councils.

3. One note: facilitators should make sure that communities do not set qualifications that may unfairly discriminate against or create barriers for particular individuals or minority groups within the community. For example, high literacy requirements may exclude women from take part, or land owning requirements may exclude the poor.

National laws may also have particular requirements about how a local land governance body should be composed – for example, in some countries at least one third of Council positions must be held by women. Facilitators should determine any legal requirements for Land Governance Councils and inform community members of these requirements before any Council members are selected or elected.

HOW TO INTEGRATE THE LAND GOVERNANCE COUNCIL INTO EXISTING COMMUNITY GOVERNANCE STRUCTURES?

Most communities already have existing leaders and governing bodies: facilitators must make sure that the community land protection process does not create contradictory or overlapping governance structures. **Facilitators should support communities to find creative and locally-appropriate ways of integrating existing customary and state-recognized leaders into the Land Governance Council.**

The community's decision on whether to integrate existing leadership structures into the Land Governance Council (or integrate the Council into existing structures) will depend on how trusted leaders are, how well they work together, and other factors (see the chapter on *Working with Community Leaders*). Regardless of structure, **community by-laws should clearly and specifically describe how the Land Governance Council will share power and make decisions with other leaders in the community.** Communities should take care that existing leaders do not feel that their power or authority is being eroded or undermined. Drawing a "power map" or diagram of the community's existing leadership structures during the by-laws process can help to inform how the community will integrate its Land Governance Council into its current leadership systems.

Facilitators can offer communities various ways to address challenges related to existing governance structures, such as:

- If they are well-functioning and trusted, existing governance structures can simply become the Land Governance Council – with the additional inclusion of women, youth, and/or members of minority groups, as described in the community's by-laws;
- Existing leaders may become automatic members of the Council;
- Existing leaders may be allowed to stand for election; or
- Existing leaders may be made *ex-officio* (non-voting) members of the Council.

INCREASING LEADERS' COMMITMENT TO THE CREATION OF A LAND GOVERNANCE COUNCIL

The process of electing and creating a Land Governance Council is often complicated by existing leaders' opposition to changes in their power and authority. In many ways, the election and functioning of the Land Governance Council is the most important part of the community land protection process: if a community makes good rules for land use and management and harmonizes and documents its boundaries, but then still suffers from corrupt leadership, then the whole effort may fail to create lasting positive change. Facilitators should proactively and directly address leaders' reluctance to share power or make changes to their authority. They should also make sure that community leaders understand and fully support the creation of the Land Governance Council and all related changes to their powers.

To address the issue, facilitators might try the following strategies:

- 1. Secure community leaders' commitment to the creation of a well-functioning Land Governance Council as a precondition to beginning community land protection work.** (See the chapters on *Community Selection and Establishing Expectations and Terms of Engagement*.)
- 2. Discuss the issue privately with leaders, in a small group.** Community leaders may be more open to discussing changes to their power and authority among themselves, rather than in front of the whole community. Leaders may have great ideas about how the Land Governance Council can be made part of existing community decision-making processes, and may be more willing to support changes to community leadership structures that they suggest.
- 3. Discuss changes to leaders' power during the by-laws drafting process.** Even if community leaders have previously indicated their support for including women, youth, and members of minority groups as members of a community land governance body, this change in governance should be discussed at length during the by-laws adoption process. Facilitators should raise the issue directly, and work with both leaders and community members to create a land governance structure that will actually function – and be supported (rather than undermined) by existing leaders. This might look different in every community.

HOW TO SUPPORT COMMUNITIES TO ELECT OR SELECT A LAND GOVERNANCE COUNCIL?

1. Establish an election or selection process in the by-laws.

The community should debate and decide how it will elect or select its Land Governance Council and include rules for selection or election in its by-laws. The question of how to elect or select a Council is not simple: facilitators should support each community to determine a process that best fits its own particular context and culture. Examples of different approaches to choosing a Land Governance Council include:

- Call a community-wide meeting with representatives from across the whole community, where people are nominated for Council positions and chosen by a community-wide vote;
- Ask each “sub-unit” to nominate a few people, then convene all sub-units into a larger community-wide meeting and hold an election from among the nominated people;
- Ask each “sub-unit” to elect one or more representatives, who then meet at the community level as the Land Governance Council; or
- Other procedures based on accepted local cultural and political practices.

2. Hold a large, well-attended community meeting to elect or select the Land Governance Council.

Whatever process a community chooses, the election/selection should take place during a large community meeting attended by representatives of all households in the community. **The Land Governance Council election process works best when it takes place during the same meeting as the by-laws adoption process:** in this way, the community votes to adopt its by-laws, then immediately votes to elect the Land Governance Council.

Facilitators should attend and monitor the Land Governance Council selection/election proceedings to make sure that the election process is transparent, fair, inclusive, open, and includes the participation of everyone in the community – including women, youth, and members of minority groups. The community may also want to invite district or regional government officials and customary leaders to attend the election and formally recognize the Land Governance Council as a legitimate part of local government and customary authority structures.

If elections are done badly, or if a Land Governance Council’s membership is captured by elites, facilitators should support communities to void the first election and hold a new

election. Although this may be challenging, the extra effort necessary to dissolve the elected body and hold new elections will help ensure against future conflict and confusion.

In Liberia, facilitators observed that even though communities designed democratic election procedures, in some communities local elites nevertheless succeeded in using underhanded strategies to gain control of the Council. Facilitators addressed this by supporting community members to speak out publicly against the unjust election processes, referring to their newly-adopted by-laws. In response, leaders deemed the elections to be void, and the communities conducted new, fair elections.

3. Formally dissolve the Interim Coordinating Committee.

Once the community has selected/elected its Land Governance Council, it should (at the same meeting) formally dissolve its Interim Coordinating Committee and thank their Committee members for their efforts. This step will help to avoid confusion about the role of the Interim Coordinating Committee versus the role of the Land Governance Council.

4. Train the Land Governance Council intensively.

Experience has shown that Land Governance Councils often need a great deal of training and support to help ensure that they are able to fulfill their responsibilities well. Facilitators should plan to hold at least one day-long training for Land Governance Council members. This training should include:

- Review of the community’s by-laws;
- Review (or creation) of a plan for implementation of the by-laws;
- Review of community boundaries and all MOUs signed with neighbors;
- Review of all relevant national laws;
- Review of the importance of full, participatory community consultation before making land deals with investors or the government;
- Review (or creation) of a plan for storing and updating important community documents and maps; and
- Suggestions for how the Land Governance Council can seek future help and support from facilitators, as well as regional government officials and customary leaders.

Facilitators may also want to schedule quarterly meetings with each Land Governance Council to provide further training, answer questions, and offer additional support that the Land Governance Council members might need.

5. Support the community to create systems to monitor the Land Governance Council's performance. Facilitators might suggest that communities set up a “Citizens’ Committee” or “Watchdog Group” to ensure that the Council is making decisions that benefit the community’s interests; managing money fairly, responsibly and transparently; protecting women’s rights; and enforcing the by-laws equitably. If a community decides to set up a Watchdog Group, it should include rules in the by-laws that establish its powers, what the watchdog group can and cannot do, and how it will report to the community.

HOW TO MAKE SURE THAT WOMEN, YOUTH AND MINORITY REPRESENTATIVES ACTUALLY HAVE VOICE AND POWER ON THE COUNCIL?

In many circumstances, male or elder Council members may dominate discussions and decision-making processes even when communities elect women, youth, and members of minority groups to their Land Governance Council. Men or elders may even reject the notion that women and youth have anything useful to add to discussions and decision-making processes.

To support the authentic participation of all members of the Land Governance Council, facilitators can:

- Support communities to elect strong, respected and outspoken women, youth, and minority group representatives to the Council;
- Support communities to include rules in their by-laws that dictate that all Council members must speak before a decision is taken, or other creative, locally-appropriate rules to ensure that women, youth and minority representatives’ ideas are heard and their opinions considered during decision-making processes;
- Facilitate the community land protection process in such a way that men, elders and leaders are shown – by example – that women, youth and other groups have useful, informative and important contributions to make to decisions concerning land and natural resource management, and thus should be given space to speak and listened to carefully; and

- Offer specific training or strategy advice to Council members who may face discrimination or dismissal by more powerful Council members.

Ensuring authentic participation by women and members of marginalized groups in community land governance is not a simple task. Facilitators should talk directly to leaders and Land Governance Council members about barriers to women’s and minority groups’ equal participation in land governance, and ask them to share their thoughts, opinions, and ideas. Together in dialogue with facilitators, the Land Governance Council members may be able to speak about the issue openly and find creative, local solutions that will allow the voices of women and members of minority groups to be heard. Facilitators should allow the community to find its way to solutions that are culturally appropriate and can integrate well into existing culture and practices.

NOTES