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Tenure and Natural Resources in The Gambia: Summary of Research Findings and Policy Options

Mark Schoonmaker Freudenberger



Land Tenure Center

AN INSTITUTE FOR
RESEARCH AND EDUCATION
ON SOCIAL STRUCTURE,
RURAL INSTITUTIONS,
RESOURCE USE,
AND DEVELOPMENT

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TENURE AND NATURAL RESOURCES IN THE GAMBIA: SUMMARY OF RESEARCH FINDINGS AND POLICY OPTIONS

by

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**Working Group on Resource Tenure and Land Use Planning,
Law Reform Commission of The Gambia,
and Nancy Ann Sheehan**

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TENURE AND NATURAL RESOURCES IN THE GAMBIA: SUMMARY OF RESEARCH FINDINGS AND POLICY OPTIONS

by

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1. INTRODUCTION

This summary report synthesizes the central research findings of the Working Group on Resource Tenure and Land Use Planning and the Law Reform Commission of The Gambia, recommending a series of tenure policy options for both government and donor agencies. Specific programs and projects are also discussed.

The interministerial Working Group on Resource Tenure and Land Use Planning (Working Group) was established in March 1993 to coordinate a process of applied research and dialogue on resource tenure in The Gambia. It falls under the tutelage of the Planning Unit of the Ministry of Natural Resources and Environment; field research and public policy discussions have been financed through the Agriculture and Natural Resource Management Project (ANR) of USAID/The Gambia.

The Working Group sent a team of six individuals from different ministries to participate in a three-week tenure workshop at the Land Tenure Center, University of Wisconsin–Madison, in April 1993. During this session the team reviewed the issues involved in the tenure debate in Africa, summarized the tenure problematic in The Gambia, and designed a field research process to advise policy discussions.

The informed team conducted a series of case studies on the tenure situations found in different agroecological zones in The Gambia. Case studies were carried out in Upper Baddibu and Kiang West districts (in June 1993) and in Sami and Sandu districts (in November 1993) (see map, p. 3). The research team held workshops on their initial research findings, which form the basis of this report.

The ANR also funded (through the Land Tenure Center) a grant to the Law Reform Commission of The Gambia to review the land and resource disputes that have been brought before the Supreme Court, Court of Appeals, and five district tribunals over the past five years. Alhaji B.M. Marong, Research Officer of the Law Reform Commission, coordinated this research. The review sought to:

- ♦ describe different categories of land and resource disputes;
- ♦ ascertain the process by which resource disputes are resolved at the various levels of Gambia's legal system; and
- ♦ uncover the legal principles (either customary rules or legislated laws) employed in resolving different categories of land and resource disputes.

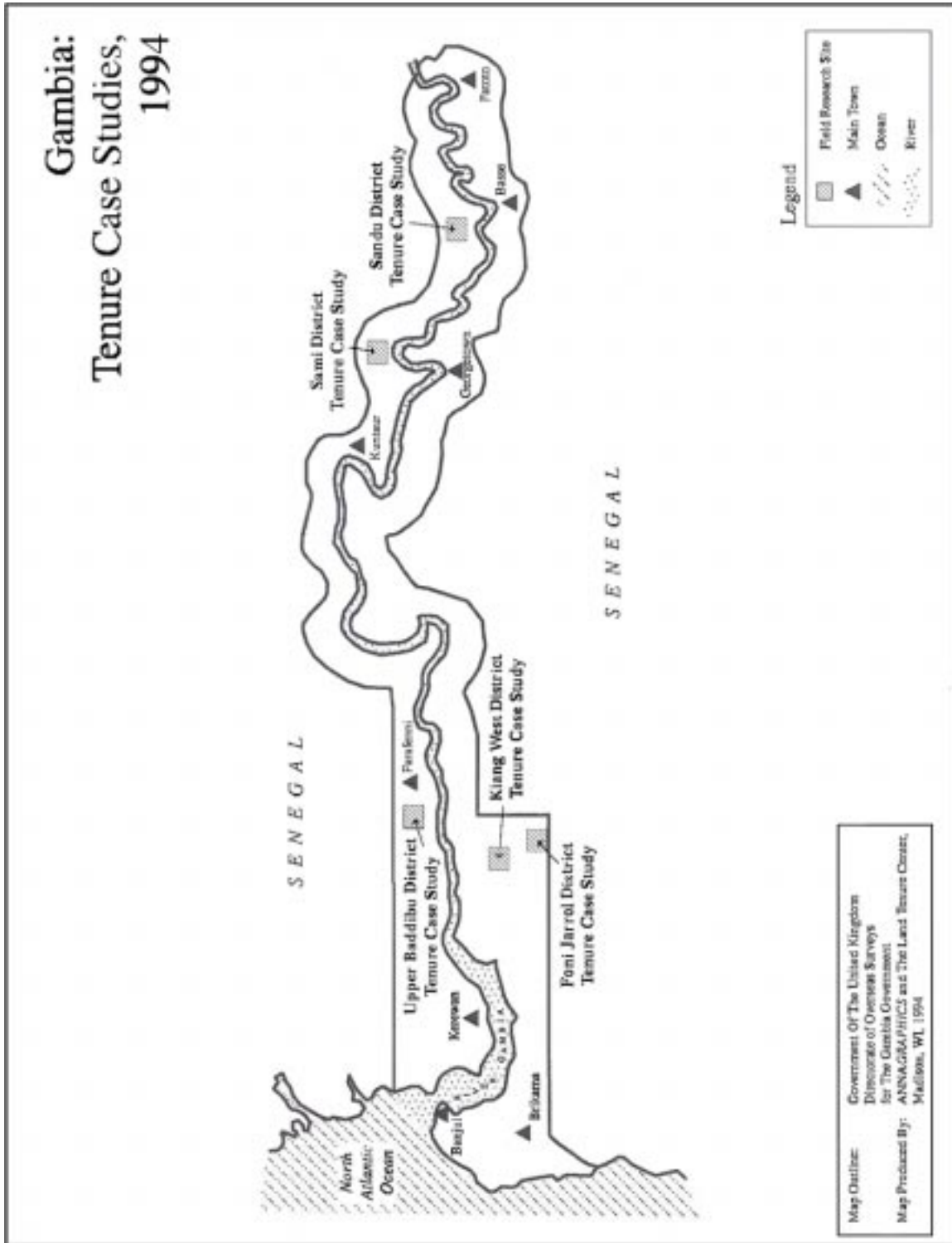
Partial conclusions of the Law Reform Commission are incorporated into this summary of research findings. The complete commission report will be presented to the government in the near future.

This summary report comprises key tenure issues about tenure and natural resource management in The Gambia. It looks at definitions of tenure and resource-management vocabulary, formal legislation and customary tenure arrangements, and areas where tenure issues are the most contentious. Having identified the key problems in the current tenure systems, the report then addresses various approaches that government and donors may wish to take in confronting these problems. These proposals range from replacing customary tenure regimes with new legal frameworks to looking for ways to strengthen established customary arrangements. The report goes on to consider how individuals working in the natural resource domain can better respond to tenure concerns through designing and implementing projects. Finally, the report focuses on specific policy actions that the government may wish to take in the short, medium, and long term to address the concerns raised.

Certain themes run throughout all sections of the report; highlighting these points may help the reader organize the information in an "absorbable" fashion. Among the key issues to keep in mind are the following:

- ♦ Even though The Gambia is a small country, tenure practices vary immensely from area to area and even from village to village. The complexity and diversity of tenure arrangements do not lend themselves to easy generalization. This diversity may, at first glance, appear to reflect haphazard and idiosyncratic patterns of development. More careful analysis, however, suggests that in most cases there are identifiable reasons for these differences, which indicate the adaptation of rules and practices to specific conditions and situations. One of the great strengths observed in customary tenure systems is flexibility and adaptability to changing circumstances.
- ♦ Tenure in The Gambia is not a neat, dualistic system of formal legislation, on the one hand, and customary practices, on the other; rather, the fingers of the two hands are intertwined. Over time, customary tenure traditions have entered into the formal legal framework and the laws of the land have caused customary tenure rules to adopt certain practices and precepts. In addition to these two major forces in the Gambian tenure system, numerous other factors have influenced the rules governing resource management at the local level. These include, among others, Islamic tenets and the influence of projects, which often bring their own sets of rules to bear.
- ♦ While both customary and formal legal structures exist and constantly interact, there has been an increasing tendency over the past decade for the government to expand its jurisdiction and to attempt to take a more active and directive role in resource management and planning. At the same time, nongovernmental organizations are playing a more important role in rural development.

Map 1. Gambia tenure case studies, 1994



- ◆ The expansion of the central government into the resource management domain renders tenure arrangements at the local level more complex. Institutional jurisdictions need to be clarified between the central state and district authorities, nongovernmental organizations, and resource-user groups. This report suggests ways to do this from both the “top” and the “bottom” of civil society.

In contrast to other African countries, the citizens of rural Gambia enjoy considerable tenure security. In general, rural populations have reasonable certainty that they will obtain access to land for seasonal field-crop cultivation. Customary tenure traditions are strong in The Gambia, and for this reason rural populations know and respect traditional tenure arrangements. This does not suggest that the picture is rosy, however. Tenure pressure points do exist, especially around the commons. The commons may be degraded because property rights are not clearly articulated. Land borrowers and certain socioeconomic groupings of women may have rather insecure rights to land.

2. TENURE ISSUES IN THE GAMBIA

This section of the summary report addresses key issues that frequently arise when trying to understand The Gambia’s tenure and natural resource systems. The first section defines the terms that are widely used in describing tenure systems and shows how these terms apply to specific situations found in The Gambia. The second section looks at key pieces of legislation that affect resource management in the country. The third section looks at customary tenure arrangements, including the rights of women and approaches to conflicts and conflict resolution, since many resource-management practices are governed by local tenure rules rather than formal legislation. Finally, the fourth section focuses on some of the most critical issues confronting the Gambian tenure system by identifying specific “hot spots” or pressure points on private lands, the commons, and state reserves.

2.1 TENURE DEFINITIONS

2.1.1 Resource tenure

Tenure is simply the term for the rights that individuals and communities have in land and other natural resources. The nature of these rights and the extent to which people have confidence that they will be honored (“security of tenure”) play a critical role in determining how resources are used. When these rights are framed effectively so that they provide secure expectations of continued access to resources, their users are more likely to take the long view, conserving and regenerating, rather than exhausting, the resource base. Alternatively, dysfunctional tenure rules can lead to resource degradation (Bruce 1989, p. 1).

Tenure is often considered to be a “bundle of rights.” A given resource may have multiple users, with different rights based on the nature of the use and the time when it is exercised. A piece of land may be the subject of rights belonging to several different persons or groups. Various stakeholders of diverse ethnic origins, occupations, and interests may utilize the same resources of a particular area either simultaneously or serially.

For analytical purposes, it is often helpful to consider tenure arrangements in light of the following property-rights categories:

Holding

The holding is the aggregate of all parcels of land held by family members within a household in which the family or individual is given more or less exclusive use. It consists of all the land in the farmer's possession, whether owned or leased or held on some other basis. The holding may consist of a single parcel of land or several separate parcels. People's rights to their holdings are governed by several different property regimes in The Gambia. The vast majority of land in rural areas of the country is governed by customary land tenure arrangements.

The holding may be held either as private property or as a lease, or some combination of both. Private property is the legally and socially sanctioned ability to exclude others. Private property is not only a characteristic of western property-rights systems but also of traditional Gambian tenure arrangements. Traditional tenure systems permit selling, lending, renting, and gifting of land and other natural resources. Private property in natural resources exists in many forms. Fruit trees, orchards, and compound gardens are often the private property of individual women and men in both rural and urban areas. Trees planted by an individual or her/his descendants are usually privately owned (see box). Shallow wells dug for the watering of cattle are often the private property of the individual who paid for the digging.

The towering baobab trees in the village of Karantaba Tabokoto were planted behind the settlement by the forefathers of a particular *kunda* (compound). The fruits and leaves of the trees cannot be harvested without the permission of the compound head. However, children who wish to harvest a few fruits for themselves need not ask. Those who wish to harvest fruits may be subject to the following arrangement: One-third of the fruits to the owner and two-thirds for the collector. Leaves sprouting in the early dry season may be harvested by anyone without requesting permission. However, permission must be asked of the owners to pick leaves sprouting during the early rainy season. Removal of bark for rope-making requires the permission of the owner (Sami District Case Study).

An active commercial market exists for privately owned land in and around several urban areas of The Gambia. A complex system of norms and practices govern the transfer of land and other privately owned resources. Under customary tenure arrangements, heads of lineages and households tightly control the use, lending, rental, and inheritance of land.

Leasehold is the tenure arrangement under which the landowner gives the land to someone else to use temporarily in return for rent. In The Gambia, the 1990 Lands Act provides for 99-year leaseholds. A lease is granted by government to an individual specifying a termination date, though renewal is possible. The law spells out the mechanisms to register title deeds. The Department of Lands and Surveys of the Ministry of Local Government and Lands measures and records the boundaries of the parcels and produces a map indicating ownership and special conditions attached to the use of the land. Government agencies often control physical development of the land through restrictions attached to the title deed.

Commons

The commons in The Gambia are resources that do not have rules of exclusion by individuals or groups but are used by all members of the community. These include pastures, mangroves, ponds, streams (*bolong*), and most forested areas. The commons are valuable, though often ecologically threatened, sources of food and fiber products for rural and urban populations. The collection, processing, and marketing of such products as firewood, construction materials, fruits and nuts, fish, oysters, wild game, and medicinal plants generate benefits for a wide array of user groups, especially the most socially and economically marginal segments of Gambian rural communities.

The commons are resources used simultaneously or serially by members of a community (Bruce 1993, p. 6). Often these “common-pool” resources are sufficiently large as to make it costly, but certainly not impossible, to exclude nonowners from obtaining benefits from their use (Ostrom 1990, p. 30). Communities invest considerable time and energy in constructing rules and conventions to define rights of access to particularly valuable resources. Unfortunately, institutional arrangements governing the commons are sometimes so poorly defined and

The “sacred forest” of Sintet is a 10-hectare area of towering silk cottonwood and baobab trees located next to the village. A freshwater stream used to flow year-round through what foresters say is a “relic-gallery forest,” and even today, crocodiles are said to live deep within the mud. Prayers are said here, ceremonies are performed, curses are pronounced, and people come to the area to settle disputes in the calm and cool shade of the trees. As one elderly man explained, “go to the sacred tree and tell it what bothers you and ask it to help you.” The forest has many other uses. Livestock graze within the forest and drink water from the seasonal pools. People come to collect deadwood, fruit, nuts, honey, and roots dug up from certain trees and shrubs. Tree felling is strictly forbidden. The forest is governed by a “conservator,” an elderly gentleman with considerable mystical and magical powers who, over the years, has planted trees and watched over the forest carefully (Foni Jarrol Case Study).

enforced that they lead to ecological degradation of the resource itself. Tenure insecurity in the commons is often high in The Gambia.

Common-property regimes are sets of rules that define who has access to the commons (Lawry 1990, p. 406). Common-property regimes are “corporate group property” in that, while a collectivity may exclude others from the use of the resource, it may permit individual members of the group to possess specified rights and duties to the resource. Rights and management responsibilities accrue to specified groups or communities of people while nonmembers are excluded from use of the specified resource. Sets of rules define the rights and duties of members and nonmembers with regard to access, use, and management of these resources by both groups (IFAD 1992, p. vii). Like private-property regimes, common-property regimes depend upon an

effective system of authority to enforce the rules and mechanisms governing resource use. Successful common-property regimes exist when communities agree to moderate their exploitation of the resource or accept punishment if they violate rules protecting the resource. Several common-property regimes exist in The Gambia and new ones may be emerging (see box).

In open-access regimes no rules govern the exclusion of any resource user and hence everyone has free and unrestricted access. Purely open-access situations are quite rare in The Gambia. Usually several user groups claim historical rights to a particular resource, yet neither

the state nor traditional authorities are able to adjudicate competing demands for access or enforce existing restrictions on its exploitation. Violent conflicts sometimes occur in these situations. This institutional vacuum often leads to the excessive use of the natural resource because no authority structure can enforce either exclusion by nonmembers of the community or responsible use by its own members (see box).

State reserve

In state property regimes ownership and control over resource use is vested in government. Through laws and regulations the state establishes the rules governing the use of the resource. Statutory laws in The Gambia vest the state with control over such resources as forests, watercourses, government-constructed boreholes, and land expropriated for public purposes. Compensation is usually paid when land is expropriated for public works. Various government ministries and departments are empowered with managing these state lands. For example, government technical services are charged with the responsibility of managing state reserves (Forest Parks and National Parks) often found in or contiguous to villages. As the case studies demonstrate, forestry services must often deal with tenure conflicts that the local communities have concerning use rights to these parks (see box).

The forest commons in the Foni Jarrol District consists of an uncultivated area between the villages of Sintet, Kammamadu, and Wassadun. This forested area, located on the rocky uplands between several valleys, is used jointly by the contiguous villages for the collection of a wide array of forest products. Even though the residents of these villages consider this forest to be theirs, no rules formally regulate the extraction of forest resources. Key forest species are threatened by abusive and excessive woodcutting, bush fires, and heavy grazing. For this reason one can say the forest suffers from an open-access tenure situation (Foni Jarrol Case Study).

Dumbutu is surrounded on nearly all sides by state forest parks and the Kiang West National Park. Rural communities around the park are uneasy because rights of access to the forest have been progressively restricted over the years. Livestock owners fear loss of access to grazing within the park, though for the time being it is still allowed. Women oyster collectors were initially banned from collecting in the mangroves, though the order was rescinded later on. The forest parks have been fenced off and no access of any kind is permitted. Felling of trees, burning, hunting, and trapping are prohibited in the National Park. Commercial wood gathering for sale is no longer allowed, though villagers can go into the park to gather deadwood for household use. Restrictions of use rights may be justified on ecological grounds, but these interdictions should only be made following in-depth scientific studies supporting such actions. Communities should be consulted and ways should be sought to compensate traditional user groups for the loss of access (Kiang West Case Study).

2.1.2 Relationship between resource tenure and sustainable use of natural resources

The literature on land tenure in Africa hypothesizes that increased agricultural productivity and sustainable management of natural resources are facilitated through a process of strengthening individual and/or community rights to the land. Resource management is a question of rule-making governing the use of resources if we define “management” as “the right to regulate

internal use patterns and transform the resource by making improvements” (Schlager and Ostrom 1992, p. 251).

Increasing security of tenure to individuals and groups of people is one of several incentives to promote economically and ecologically sustainable rural development. By augmenting tenure security, it is anticipated that farmers will reap returns from investments in land. Increased security of tenure for individuals or groups may also improve the creditworthiness of farmers and enhance chances for receiving credit from banks and other lending organizations. Improved tenure security should encourage rural populations to use soil and water conservation practices provided that other economic incentives are in place (for example, markets for farm inputs and outputs, extension services, credit facilities, infrastructure, sufficient labor, and so on).

The vast majority of rural households in The Gambia have access to land under indigenous, customary, land tenure arrangements. This report considers the issue of whether customary tenure provides sufficient security to encourage investment in the productive and ecologically sound use of the land. General questions addressed in the research by the Working Group and the Law Reform Commission are:

- ◆ Do landholders maintain rights to the land long enough to invest in its protection and sustainable use?
- ◆ Are individual and group rights protected adequately so that they will not be overridden by other individuals or the state?
- ◆ Or do customary tenure systems contribute to tenure insecurity and the degradation of natural resources?
- ◆ If so, what type of policy reforms are required to increase tenure security for rural populations?

2.2 RESOURCE TENURE AND LEGISLATION IN THE GAMBIA

2.2.1 Legal foundations of resource-tenure arrangements

The land tenure systems of The Gambia are complex and constantly changing norms and practices influenced by western judicial concepts, Islamic religious values and jurisprudence, and traditional beliefs and practices of the various ethnic communities in the country. These legal traditions coexist and interact to shape tenure arrangements to land and other natural resources. Tenure relations are dynamic and flexible in The Gambia due to the constant testing and revision by rural populations of legal precepts through the court system and administrative practice.

English common law tradition

The Gambia inherited the common law tradition from English. In general, this is a body of law that develops and evolves through judicial decisions, as distinguished from legislative enactments enforced through administrative fiat. When points of law have been settled by court decision, they form precedents, which are not afterward to be departed from except when the

decision goes against obvious principles of law.¹ Legal precepts of justice are thus a complex amalgamation of western norms with beliefs and practices influenced by Islam and other belief systems of the populations of The Gambia.

Customary land tenure arrangements are recognized by law in The Gambia. The Land (Provinces) Act clearly states in the preamble that “it is expedient that the existing customary rights of the indigenous inhabitants of the Provinces to use and enjoy the lands of the Provinces and the natural fruits thereof should be preserved” and that “existing customary law regarding the use and occupation of such land should be as far as possible preserved.” The act states that “the occupation, and use of Province’s land by indigenes shall be governed and regulated by the customary laws obtaining in the localities in which such lands are situated” (Cap 57:03). This section acknowledges explicitly the existence of a multiplicity of tenure arrangements in the country.

The Land (Provinces) Act vests authority over customary tenure systems in district authorities.² The function of the district authorities has long been the subject of considerable contention and confusion. The British colonial power vested in chieftaincies the authority to administer and allocate land. This was a strategy designed to strengthen their traditional authority and construct alliances with a rural power block. It was hoped that these chiefs could also serve as modernizing agents and press the population to employ more efficient techniques of agricultural production favored by colonial officials. Colonial policy accepted African rights to land, but generally not claims to private ownership.

The colonial administration viewed rights to land as derived from the authority of the chieftaincy and not from the rural communities themselves. This view of land rights may have been based on romantic and illusionary views of African communal tenure rather than the realities of the local situation. Admittedly, the political context in the late nineteenth and early twentieth centuries in rural Gambia was confused during this tumultuous and violent period of colonial expansion. The colonial power and the Gambian rural populations were both seeking to establish new institutional arrangements in the wake of the destruction of the older social order, especially that of the former Mandinka and Fula kingdoms (Quinn 1972). Exactly what the right of chiefs was—and still is—a constant matter of discussion. To this day, the authority of the head chief (*seyfo*) and village chiefs (*alkalolu*) to distribute land is often called into question by the heads of extended families or lineages. The British common law tradition has led to a delicate political balance between these institutions over the question of who controls the use and administration of land.

¹ “The influence of the British common law is clearly spelled out in the Application Act (Cap. 5) of the 1990 *Laws of The Gambia*. Section 2 notes that the “common-law, the doctrines of equity and the statutes of general application in force in England on the 1st day of November, 1888, shall be in force in The Gambia.”

² “All Provinces’ land are hereby declared to be vested in the Authorities for the Districts in which such lands are situated, and shall be held and administered for the use and common benefit, direct or indirect, of the communities concerned” (Cap. 57:03, Part II, 4). As defined in the Local Government Act, district authorities are “in every district...the Head Chief, as advised by the Headmen of the District and such elders and advisors as by tradition advise any Head Chief and are available and willing at any time to advise” (Cap. 33:01, Part XII, 45).

The legal system clearly recognizes the customary traditions of the populations of rural Gambia. However, very few of these traditional legal precepts have been written down for the use of the legal profession or the general public. In the common law tradition in England, many of the customary tenets of land law were codified or written down. This has not yet occurred in The Gambia, with the important exception of the Law Reform Commission's publication, *The Customary Laws and Usages of The Gambia* (Law Reform Commission, 1991).

Islamic legal traditions

Islamic legal principles apply to civil law, status, marriage, succession, divorce, dowry, and the rights and authority of parents and guardians whenever the contesting parties are of the Muslim faith and when the principles are "not repugnant to justice and morality or inconsistent with the provisions or other law in force in the Provinces" (Cap. 52, Section XI(b), District Tribunals Act). This same clause holds equally to principles guiding non-Muslim customary law. The district tribunals administer Islamic precepts whenever all the parties are "Mohammedans" as well as Africans residing in the jurisdiction of the tribunal. Koranic rules of inheritance (Sura IV, verses 12 and 176) determine the transfer of property though generally not that of land.

The Islamic legal traditions are upheld through the Cadi courts, of which there are two in The Gambia. Investigation of recent court records of the Kanifing and Banjul Cadi courts by the Law Reform Commission showed that these courts rarely deal with land cases yet judicial authorities are often invited to provide opinions on difficult legal matters pertaining to customary law.

The primacy of customary legal traditions and Islamic law is challenged frequently by legislation enacted by Parliament, national policy statements, administrative regulations, and development practice. These are laws and associated regulations that govern the use of forests, wildlife, mines, minerals, and water resources.³ At times these laws fill judicial voids not covered by customary legal traditions, but in other instances they serve to amend provisions of the Lands (Provinces) Act.

2.2.2 Gambian legislation

The recent Lands Act and the Physical Planning and Development Control Act create new institutions of land-use control in rural areas. The initiative challenges the role of not only *seyfolu* and *alkalolu* but also of district authorities. Customary precepts are also challenged by rural development projects. For instance, irrigation schemes often create the "law of the project" by establishing new land-allocation practices based on various criteria of equity and efficiency rather than on customary land-allocation practices. Nongovernmental and governmental projects create village development committees of various names to manage gardens, village woodlots, and forested areas. These committees construct rules of resource use on the lands under their immediate supervision.

³ The Lands (Provinces) Act itself grants authority to the state to regulate the use of "protected" trees of economic value. "The Minister may make regulations prescribing that trees of any specified species shall be protected either through the Provinces or in any part thereof; prohibiting or regulating the felling, cutting, taking, working, burning, injuring or removing of any protected tree; prohibiting or regulating the sale, offering for sale, purchase or export of any tree, timber, rubber, gum, or other forest produce" [Cap. 57:03, Section II (6)].

The land tenure situation in The Gambia is particularly complex because changes in land policies and administrative practices are occurring at several different levels.

Conversion of customary tenure to leasehold tenure: The 1990 Lands Act and associated legislation encourage conversion of customary land-tenure arrangements in urban and peri-urban “designated areas” to a leasehold system. The Land Acquisition and Compensation Act expands considerably the power of government to acquire and control development of land for a wide variety of purposes.

Centralization of planning powers in the state: Government control over physical planning is being increased substantially through the establishment of planning boards and planning authorities with considerable legal powers to shape urban and rural growth patterns and the use of the environment.

Devolution and decentralization of resource-management control: Development projects sponsored by both governmental and nongovernmental agencies are encouraging the transfer of resource-management control from various centralized state institutions to local-level rural institutions. Participatory planning at the village level is being strongly encouraged. New local-level development institutions engaged in village and intervillage planning are being created that both complement and compete with the authority vested in district councils.

Reinforcement of customary tenure: Some actors within the legal profession are seeking ways to reinforce the foundations of customary tenure arrangements by recording customary land-use precepts of rural populations and reforming the court system.

These parallel policies and practices at times generate contradictory and unforeseen results explored further in this report. While in theory there is no inherent problem with a multiplicity of tenure regimes and practices coexisting in The Gambia, in practice their respective roles are unclear. Divergent policies contribute to tenure insecurity among rural populations who do not understand what rules apply to various situations. The sections below explore the complexities generated by the passage of four new laws affecting the use of land. These summaries may appear dry for nonlegal specialists yet overly cursory for legal professionals; nevertheless, knowledge of these laws is important, for much confusion surrounds their application in both rural and urban areas.

In late 1990, the House of Representatives enacted four very important pieces of legislation: the State Lands Act, the Land Acquisition and Compensation Act, the Physical Planning and Development Control Act, and the Surveying Act. These laws were signed by the president on 27 December 1991, and became force of law by ministerial order on 22 January 1992. Technical assistance in developing the legislation was provided by the Gambian-German Urban Development Planning Project (GTZ). Various drafts of the legislation were reviewed by the cabinet on repeated occasions.

The acts were designed primarily to resolve the uncontrolled expansion of urban centers in The Gambia. They increase the legal capacity of government to shape the physical development of urban areas not only in the Greater Banjul Area but also in and around urban “growth centers” such as Brikama, Basse, and Farafenni.

The State Lands Act replaces the previous Land (Banjul and Kombo Saint Mary) Act (Cap. 102). The Land (Provinces) Act is still valid and operative in rural parts of the country. The new Land Acquisition and Compensation Act replaces clauses of the Land (Provinces) Act, Part IV,

which deals with land acquisition and compensation. The Physical Planning Act of 1984 and the Building Act (Cap. 17) are repealed and replaced with the new and more unified Physical Planning and Control Act. The Surveys Act is an entirely new act.

Lands Act

The preface to the Lands Act summarizes its rationale. It notes that the Land (Provinces) Act was passed in 1946 with the intention of preserving the existing customary rights of indigenous populations in rural areas. The main problems with the act are believed to be extensive land disputes and the lengthy process to obtain leases in rural areas. The act is viewed as an inadequate framework for controlling urban growth. In contrast, the new legislation is “to provide a unitary title system of land in designated areas where due to population growth and economic development, pressures for the replacement of customary tenure to a leasehold tenure emerge” (p. 7). The act provides mechanisms for abolishing customary land tenure and replacing it with a leasehold system administered by the state.

Jurisdiction: The Lands Act of 1990 is applicable only to those lands deemed “designated areas.” For the time being the act applies only to Banjul and Kombo Saint Mary since it explicitly replaces the old Lands (Banjul and Kombo Saint Mary) Act. The intention of government, as the preface to the act notes, is that the law be made “applicable to the rest of the Greater Banjul Area and Growth Centers whose boundaries have to be defined and gazetted as designated areas” (p. 8).

Leases: The State Lands Act declares that “all land in Banjul and Kombo Saint Mary, excluding such land as is held in fee simple and subject to any grant which has been or hereafter be made, shall vest in the State absolutely.” Except for freehold (privately owned lands) the government no longer recognizes customary rights to land in the Banjul and Kombo Saint Mary areas. All land leases are now for a period of 99 years from the date of the original lease in both urban and rural areas.

Conversion of customary tenure to leasehold: The Minister of Local Government and Lands is granted the power to deem the land within a division a “designated area.” Customary land traditions are abrogated as of that moment. The act states that “any person who holds any land in a designated area under customary law or year to year tenancy shall, at the date on which such area is designated and subject to the provisions of this Act, be deemed to be a lessee of such land.”

A deemed lessee receives a lease of 99 years provided that the individual applies for a title within a prescribed period of time. If the individual fails to obtain a title within the specified period, the person becomes a “tenant at will of the State and may at any time be thereafter dispossessed thereof.” The deemed lessee cannot change land uses unless there is an approved development plan. The lessee is subject to rent, which may be determined by the minister.

Land Boards: Land Administration Boards are presently established in designated areas and in all divisions. The Minister of Local Government and Lands appoints the members of the board. The functions of the board are to process applications for acquisition and compensation of state land and make recommendations for approval, process applications for title deeds from deemed leases, advise on the acquisition and compensation of land for public purposes, investigate disputes on landownership in liaison with the district tribunals, assess land taxes and property premiums, and monitor the registration of properties.

Physical Planning and Development Control Act

The preface to the new Physical Planning and Development Control Act indicates that the purpose of the law, applicable to the whole of the country, is “to provide for a unified legal basis for the systematic preparation and approval of plans and control of developments (including buildings) on land and for creating a better environment and efficient utilization of land resources.” The legislation is addressed specifically to problems related to the chaotic and dispute-ridden urban development of the Greater Banjul area and other urban growth points in the country.

Development plans: The Physical Planning and Development Control Act establishes a Planning Authority for Banjul and Kombo Saint Mary and, most importantly, for each division of the country. Members of the authority are appointed by the Minister of Local Government and Lands. The central function of these planning authorities is to prepare plans for the “spatial development and effective use of land to ensure a well balanced environment and good living conditions” at the national, divisional, and district level. National plans are to spell out guidelines and policies regarding the location of urban and rural settlements, traffic and transportation routes, resource utilization and economic activities, and the preservation of national and environmental reserves. These national plans are to provide the foundation for divisional development plans, which in turn shall be the basis for preparing comprehensive local development plans.

Planning authorities: Planning authorities are granted considerable powers to enforce development plans. Any “development,” defined as a building, construction, or change in land use, requires a development permit in conformance with stipulations of a local development plan. The Minister of Local Government and Lands can declare that any “lawfully existing” land use be discontinued in the “public interest” provided that compensation is paid to the injured parties. The ministry may similarly repeal development permits if the land user does not conform to the local plan. Fines and imprisonments can be handed out for failure to comply with the land use restrictions set down by development permits.

Land Acquisition and Compensation Act

The act permits acquisition of land by government for “public purposes” though this is conditioned upon payment of compensation to the injured parties. The act applies to all parts of the country. The definition of “public purposes” is all encompassing. Land may be acquired for the following purposes:

- ◆ exclusive government or community use,
- ◆ sanitary improvements of any kind, including reclamations,
- ◆ laying out of any new government station or the extension or improvement of any existing government station,
- ◆ control over land contiguous to any port or airport,
- ◆ control over land required for defense purposes,
- ◆ control over land subjected to environmental protection and conservation,
- ◆ control over land the value of which will be enhanced by the construction of any railway, road, or other public works or convenience about to be undertaken or provided by government, and/or

- ♦ planning.

Land acquired under the act is to be designated as state land and then administered under the provisions of the State Lands Act. This provision would thereby abrogate customary land-tenure arrangements and facilitate the establishment of a leasehold system.

In considerable detail the act describes methods for notifying the public of intent to acquire land, evaluating the value of land, procedures to follow in granting compensation, and litigation measures.

Surveys Act

The act sets up a Survey Board that grants licenses to qualified private surveyors. The intention of the law is to facilitate land registration by increasing the number of qualified and government-approved surveyors. This act should remove a major obstacle to land registration and surveying in both urban and rural parts of the country. The act should encourage an expansion in the number of licensed surveyors; this in turn should facilitate the land surveying needed to apply for a lease.

Potential environmental impact

The Working Group on Resource Tenure and Land Use Planning considered the potential impact of the 1991 Lands Act on customary tenure arrangements and the use of natural resources. Several concerns are raised based on fieldwork conducted by the Working Group research teams.

The Physical Planning and Control Act, the Lands Act, and the Land Acquisition Act all increase the powers of government technical services to plan for the rational use of urban and rural space. Various mechanisms allow qualified technicians to determine sustainable uses of land, plan for rational spatial development, and coordinate development planning from the national to the local level. The acts greatly facilitate the establishment of a leasehold system of tenure, a beneficial mechanism for controlling the use of land of high economic value and intense speculation. Lands can be “designated” in almost any part of the country and leases can be granted for these territories under the auspices of the Land Boards and the Ministry of Local Government and Lands.

The Land Acquisition Act increases the power of government to acquire land for public purposes. The legislation explicitly states that land can be taken for environmental protection and conservation ends. Conceivably, the act can be used to acquire new lands for national parks and forest reserves. But it can also be used to convert the commons in a rural community to a lease granted to a village or group of resource users, a potentially useful and much-needed legal innovation. The ensemble of laws can be used to render more secure tenure rights to resources through the creation of a leasehold system of landownership. None of these options has yet been fully tested, but one would expect development projects and state agencies to employ these new legal mechanisms in the future.

The new legislation promotes more systematic planning yet does little to include the general public in the design and implementation of land use plans. Although people may comment on the designs of plans, they are not integral participants from the outset in the planning process. The National Natural Resource Policy Statement of February 1990 advocates decentralized and participatory approaches to resource management, but the new legislation lacks this orientation.

The acts vest state institutions and individuals with considerable authority to manage the land resources of the country. Government technicians are given responsibility for planning the future of rural and urban populations in provisions calling for the creation of national and local-level development plans. The law contains few mechanisms to question—and, if necessary, rescind—the decisions of the planners. This is a serious omission since there are no guarantees that the planning authorities will have adequate financial and technical support to prepare plans that are sufficiently flexible and sophisticated to deal with the diversity and complexity of local conditions.

The Minister of Local Government and Lands may “designate” any lands in a division as subject to the provisions of the Lands Acts of 1990. No formal procedure is in place to allow public comment or reaction to this unilateral decision of profound implications to rural populations. In cases where the government wishes to expand leaseholds, for example, the public needs to understand the justification for converting customary tenure to leasehold if they are to cooperate with the new provisions. Land boards and planning authorities are selected by the minister rather than by the general public. This may not necessarily generate the most representative composition of such an important body. Boards may represent special interest groups seeking land uses that do not reflect the long-term interests of rural populations. Few mechanisms are provided in the legislation for the public to shape the composition of these new decision-making bodies.

The Working Group research members are apprehensive about the new Lands Act because it could profoundly disrupt customary land-tenure arrangements, thus contributing to considerable social and political instability. The new acts are encouraging a sense of land insecurity in rural areas. While the Lands Act may be appropriate for urban areas, there is question about its suitability for rural settings. From experience elsewhere in Africa and the perspectives gained by field research, the Working Group research team is concerned that the creation of a generalized leasehold system is likely to reduce the flexibility of current customary tenure systems and threaten the borrowing arrangements enjoyed by women and secondary rights holders.

Another potential conflict is found in the State Lands Act provision that grants 99-year leases in “designated areas” to those holding customary claim to land and those borrowing on short-term (year-to-year) tenancy. This clause could generate enormous litigation since much of the land in The Gambia is loaned under complex customary tenure arrangements. Clear and unequivocal rights to land are rather rare, the Working Group team found; for this reason it would not be easy for land boards to determine the validity of applications for leases. The legal costs associated with litigation could be enormous. In addition, this provision would discourage the various forms of lending of land, with unfavorable consequences for women and borrowers.

The Working Group and Law Reform Commission researchers found that both government administrators and rural populations are confused and uncertain of the implications of the laws on customary tenure arrangements. Rumors and expectations circulate freely and openly. Some respondents worried that the new laws represent government attempts to nationalize all land and abolish customary tenure systems. Others felt that the new laws are contributing to rapid land speculation and fewer borrowing opportunities, especially around towns that may become designated areas and subject to the creation of leaseholds.

The confusion over the new Lands Act is most clearly demonstrated with regard to women's roles in the acquisition of leases. Women interviewed in the Greater Banjul area hoped that, because they had some customary inheritance rights to their father's land, they would then be eligible to lease this land in their own names. Other women, however, felt that the laws would undermine their rights and that they would be eligible for neither leases nor traditional rights. Yet other women saw no problem with this situation—they felt that their husbands or brothers would still be obliged to share land with them (Sheehan 1994).

Given these concerns, the Working Group field research members hesitate to recommend the full-fledged and unilateral implementation of the Lands Act in rural parts of The Gambia. The law and its associated legislation can go a long way toward resolving land conflicts in urban and peri-urban areas or on other lands of high commercial value. Blanket application of the Lands Acts throughout the country would be premature at this time.

2.2.3 Key environmental legislation and land use planning

The legal corpus of The Gambia contains a wide variety of legislation affecting the use of natural resources. The following legislation is a review of some, though not all, laws influencing tenure arrangements. More complete analysis of environmental legislation is found in other sources (Tolentino 1992). This summary concurs with previous studies that the legal framework is largely in place to promote sustainable use of natural resources. Sufficient provisions exist in the legal corpus to promote whatever policy government desires with regard to land use. Contradictions in the legal framework of The Gambia are evident, yet the central problem is to define consistent land policy across ministries. In some instances laws encourage participatory planning for the use of natural resources; in other instances resource-management control is vested exclusively in the state. Although most of the following legislation can be used to facilitate decentralized management of natural resources, key legal features must be tested through administrative and judicial means.

National Environmental and Management Act (1987)

The National Environmental and Management Act reaffirms the Government of The Gambia's commitment to preserving biodiversity. It sets up a National Environment Management Council and recommends that actions that affect the environment "shall be undertaken...having regard to the necessity to promote the sustainable utilization, rational development and conservation of these natural resources in accordance with currently recognized principles." Regulations for monitoring and assessing the state of natural resources should be done by the respective ministries.

Resource Management and Local Government Legislation (Chapter 33:01)

The legislation setting up and regulating area councils potentially grants these bodies a range of powers to manage natural resources. The function of the area councils in resource management is often ignored because most authority for resource-management activities passes through either departments enforcing specific laws (for example, Forest or Wildlife Conservation Acts) or projects controlled directly by these ministries. The case studies conducted by the Working Group showed that area councils in fact generally play a quite insignificant role in resource management. *Seyfolu* and *alkalolu* have a much greater say in local-level resource use than the

area councils. However, this does not preclude these institutions from playing a beneficial role in the sustainable management of natural resources.

The Local Government Act (Ch. 33:01) created the local-level governance structure of the area councils in 1963. Even though environmental preoccupations were not at the forefront of the development debate at that time, the legislation does spell out in considerable detail the ways in

Area Councils are entitled to pass bylaws on the following environmental issues:

- ◆ control of pests of all sorts, including tsetse flies and mosquitoes, and weeds;
- ◆ regulation of methods of husbandry;
- ◆ prevention of soil erosion;
- ◆ improvement of productivity of the soil and preservation of fertility;
- ◆ control of stray animals, provision and management of pounds, sale and destruction of stray animals, and regulation of payment of compensation for damage done by stray animals;
- ◆ control of the keeping and grazing of livestock of all kinds as well as their movement within, into, and out of the Council's area;
- ◆ prohibition, restriction, and control of cutting and selling trees and tree products, management of such forest parks and areas as may be delegated, and planting and tending of trees in general;
- ◆ control and protection of wells, springs, dams, and water supplies in general;
- ◆ restriction, prohibition, prevention, regulation, and abatement of grass, forest, or bush fires; and
- ◆ prohibition, restriction, and control of hunting and fishing.

which the area council can conserve and manage natural resources (see box). The strength of this legislation is that the area councils possess the power to legislate locally, an important condition to developing the rule-making capacity of the rural populace.

The democratically elected council is empowered to legislate bylaws applicable to the whole district or different parts of the territory. The council possesses powers to enforce bylaws through either fines or prison sentences. Bylaws cannot come into force until they have been approved by the Minister of Local Government and Lands and reported either in the Gazette or in some other manner. The council can raise funds through tax receipts, rates, fees, charges, tariffs, grants, and loans subject to the provision of the act.

As in many countries of West Africa, statutory structures have been put in place in The Gambia to encourage local governance of resources. Despite their potential to enhance more democratic and participatory resource management, these entities generally lack legitimacy and the respect of local populations because they are perceived as ineffectual and nonresponsive to local needs (Thomson et al. 1989; Freudemberger 1992). However, the legal and institutional structure is in place to promote participatory planning around the use of natural resources.

Forest Act (1977)

The Forest Act is a comprehensive statement of powers granted to the Forestry Service to manage the forest resources of The Gambia. The act gives the minister the power to designate forest parks through a process of specified public review. Protection, control, and management of these areas are under the jurisdiction of the minister (Forestry Department, Ministry of Natural Resources and Environment). The minister's regulatory power over the management, utilization, and protection of forests extends from prohibition to regulation of the collection and taking of

forest produce through a licensing/permitting system (Tolentino 1992).⁴ The act grants the minister considerable powers to control the use of forests, forest products, and bush fires. The most far-reaching clause of the Forest Act allows the minister to regulate taking forest produce of any type at the “disposal of the Government or on Provinces’ lands or communal lands.”

In light of the above discussion of the role of the area councils, the Forest Act parallels certain activities stipulated in the Local Government Act. For example, the minister may regulate “the kindling and suppression of bush fires in all lands and prescribing the persons who may declare the period during which fires may or may not be allowed.” Forest regulations passed in late 1978 state that bush fires are to be fought by “Head Chiefs, Sub-Chiefs, and Headmen of districts, sub-districts, town and villages” and that these people can be held liable for penalties under the law.

The legislation enumerates the state’s rights and responsibilities rather than the collective and individual rights and responsibilities of rural populations. No mention is made of participatory involvement in forest planning or of the capacity of rural communities to make rules governing local uses of forests. On several occasions rural respondents noted to the researchers that they believed that forests and certain protected species belong to the government. While no provision in the law indicates that any tree or forested area outside of a forest park “belongs” to the state, the fact that the Forestry Department enforces regulations prohibiting certain uses of trees suggests to the rural people that this resource is indeed the property of the government. This sense that forests and economically valuable “protected species” are owned by the government, rather than the community, contributes to a hands-off stance by the populace.

The Forest Act provides the Forestry Service with the legal framework to design and modify regulations as it sees fit to promote the most suitable uses of forest resources. This provision may be applied in a variety of ways. On the one hand, regulations can be developed and modified to expand the authority of the Forestry Service to repress exploitative uses of forest products. Judging from the experience with implementing forest codes in the Francophone Sahelian countries, this strategy does not engender cooperation with rural communities (Elbow and Rochegude 1990; Brinkerhoff and Gage 1993; CILSS/LTC 1993; McLain 1993). On the other hand, the alternative is to use the regulations to construct creative “comanagement” arrangements with resource users, that is, collaborative relations between rural populations and the Forestry Service designed better to use forest resources.

Wildlife Conservation Act (1977)

The conservation and rational management of wildlife, the establishment of national parks, reserves, and local sanctuaries, and the creation of a Department of Wildlife Conservation fall under the Wildlife Conservation Act. Habitat conservation and management of wildlife resources are the central intentions of the act. In general, resource use is controlled by way of absolute prohibition, licensing and permits, open and closed seasons for hunting, and regulation of hunting methods. The act also spells out the procedures for the establishment of protected areas.

⁴ The act must be read in conjunction with the Lands (Provinces) Act. Cap. 57:03, Section 6 (2), grants the minister considerable powers to make regulations for the protection of forest parks and “protected species.” For instance, the “Minister may make regulations...prohibiting or regulating the felling, cutting, taking, working, burning, injuring or removing of any protected tree.”

The act obliges the director of Wildlife Conservation to develop and keep wildlife management plans under review for the rational management of this important resource (Tolentino 1992, pp. 12–13).

The Wildlife Conservation Act places control of state reserves in the hands of the Wildlife Conservation director, who is authorized to “control, manage and maintain all national parks, national reserves, and local sanctuaries.” As with the Forest Act, neither the intent nor the provisions of the law support community participation in management decisions. Certainly the director can, and does, encourage community involvement in the decision-making process though this is not embodied in the law.

Fisheries Act (1991)

The Fisheries Act calls for the preparation and continual review of plans for the management and development of inland and marine fisheries. To ensure optimum utilization, each plan is to be based on scientific information but, at the same time, is subject to management measures for sustainable development. Certain mechanisms allow for the licensing of fishing interests. The minister may make regulations for the conservation, management, or protection of fish resources, the conduct of fishing operations, and the control of importation and exportation of live fish (Tolentino 1992, p. 13).

2.3 CUSTOMARY LAND TENURE IN THE GAMBIA

2.3.1 Characteristics of customary land tenure arrangements in The Gambia

The customary land-tenure systems of The Gambia are characterized by a multiplicity of property-rights regimes coexisting in the social and geographical territories controlled by rural communities. Various property regimes (private, common, state reserves, open access) may be found simultaneously within the spaces that communities consider to be their “own.” In any particular territory used by the predominately sedentary communities of The Gambia, property-rights regimes are constantly shifting from one status to another as a function of a range of socioeconomic and ecological factors. Tenure arrangements are site specific and defy easy generalization. In order to appreciate the complexity and diversity of tenure arrangements in any locality, one is obliged to study the settlement history, authority structures, and rights of various socioeconomic categories to land and other natural resources.

Village territories and microecologies

The Working Group found it helpful to investigate tenure arrangements in the village territory. The term “territory” is defined as the “land area...habitually used by members of an agrarian community for their livelihoods and with boundaries that are recognized by members of the spatial unit and by those residing outside the area” (*Painter 1991*, p. 11). Tenure arrangements vary from place to place within the territory largely as a function of the types of uses of microecological zones.

Just as one finds diverse ecological niches within rural landscapes, so too does one uncover complex tenure arrangements related to these different niches. Private-property arrangements, or the rights of total exclusion, are most strongly articulated around resources of high use and exchange value. In contrast, lands of lesser value are characterized by less strict tenure

arrangements and are, in some cases, either common-property or open-access resources. In most of the villages studied by the Working Group, property rights were very highly individualized around the fertile “inner fields,” “outer fields,” and valuable rice lands. Rice lands are often controlled by women, except in cases where irrigation projects have been introduced. In contrast, property-rights arrangements are less well defined and enforced around forests, watercourses, and lands bordering tidal estuaries.

The conceptualization of rural territories as subdivisions of different tenure categories corresponding to ecological variations is a useful, though at times limited, analytical tool. In reality, many boundaries between Gambian villages are poorly defined and the subject of

Farafenni was settled at least 500 years ago by four founding families. The exact origins of these *kabilo* are not known. The founders claimed ownership over virgin forestland extending north of present-day Farafenni to slightly above the present boundary with Senegal, south to the River Gambia, east about 5 kilometers, and west as far as Yallal. Today, more than twenty villages fall within this boundary, including the village of Maka Farafenni. Many of these villages claim rights of first occupation. Only the Fula village of Dutabulu is reported to borrow all of its land from Farafenni. This may be due to the tradition of mobility of pastoralist communities (Upper Baddibu Case Study).

considerable conflict. Even where boundaries are clear, people from neighboring villages may have rights to farm plots of land or collect forest products because of agreements made generations ago. Intermarriage between communities further complicates the situation because of inheritance rules in customary land-tenure systems.

Village settlements and the surrounding lands used for cultivation and forest product collection have long and complex histories. The space considered to belong to a particular village is determined by the unique background of the village. Some villages are considered “core”

villages, communities that have long-held rights to vast amounts of land. Surrounding these villages sometimes are “satellite” villages that were granted land by the older village. These satellite villages may be composed of newly arrived pastoralists, casted families, and ex-slave communities. Tenure security for the satellite villages may be quite tenuous, especially in instances where land speculation is rampant (see box).

Importance of settlement history

The settlement histories of rural communities in The Gambia describe how individuals and extended families came to reside in particular localities. The Working Group case studies of settlement histories show the importance attached to the recitation of names and events associated with those who first settled in the vicinity. The order of arrival and the social status of later arrivals are key elements in the oral histories. From these accounts it becomes clear that tenure security is a function of settlement history and membership in particular kinship or lineage groups resident in the community.

Diverse events led to the settlement of present-day villages in The Gambia. Sometimes villages were founded by hunters who discovered propitious places for settlement. One often hears that a hunter came across fertile lands, plentiful water, and abundant game. Since land was in short supply in the home village, the hunter returned with other family members to clear land, construct houses, and build a new community. The first settlers divided the land among

themselves. To this day the descendants of these pioneers often retain considerable control over the allocation of land.⁵

Rights of conquest take precedence over the claims of first settlement in other village histories. In the Foni Jarrol District, elders admitted that Bainunka were the original settlers in the area but asserted that the Jola acquired firm rights through conquest. Land use authority is then vested in the hands of the eldest descendants of the conquerors. In several cases, current settlements owe their existence to gifts or loans of land obtained from the first settlers in the area. In such instances the amount of land available to the village for cultivation is often clearly indicated and boundaries are well marked by trees, bands of grass, stones, or other geographical features.

Rights to land and other natural resources under customary tenure systems are determined largely through membership in kinship or lineage groups. Security of tenure and availability of land depend upon the aggregate amount of land available to particular extended families. In the Mandinka communities studied by the Working Group, membership in *kabilo* possessing ample amounts of land facilitated access to sufficient farmland. Membership may be inherited through birth, acquired through marriage, or forged through political alliances.

The descendants of those who first cleared the forest and cultivated the land often retain considerable authority to determine land uses. The members of founding families grant permission for outsiders to settle in the community and obtain land for the new arrivals to cultivate. Land may be given to nonresident as either gifts or loans. The nonresidents are guests of the village and for this reason may be denied access to land and other resources if they turn out to be unacceptable to the community.

Village settlement histories are vitally important to customary tenure because historical antecedents determine property-rights arrangements. Settlement histories are well known within the rural communities, though the interpretations of the history may vary considerably among those telling the story. Historical accounts are not objective, because the recounting of settlement histories serves the interests of the storyteller. Reconstructing the settlement history of a village thus often uncovers internal conflicts and contradictions within the community.

It is often hard to discern who are really the “first arrivals” because so many migratory waves—due to political crises, wars, famines, and ecological variations in home villages—have swept through The Gambia. For this reason, a public policy to convert customary rights to land into 99-year leaseholds is fraught with dangers, for numerous claims to the same pieces of land will most likely occur.

Tenure and traditional authorities

The tenure arrangements of rural communities of The Gambia are flexible and constantly changing. Village authorities create and recreate land tenure systems on a continual basis. This flexibility is possible because the authority of traditional leaders involved in land allocation issues is largely still intact. In comparison to other countries in Africa, traditional leaders (*sexfolu*, *alkalolu*, councils of elders, heads of extended families) are still actively involved in

⁵ Settlement histories recounting this line of argument were recited in the Foni Jarrol and Kiang West District case studies and in the narration recorded by Momodu Jammeh (see Jammeh and Sheehan 1993).

land use questions. Local leaders search for ways to respond to the complexities of a rapidly changing physical and social environment.

In long-standing Gambian villages, heads of extended families or lineages hold land in trust for qualified members of the family. Traditionally the lineage heads negotiate among themselves each year for the allocation of different tracts of land to members of the communities. Lands are loaned between and within lineages to facilitate bush-fallow rotations or to ease protection against marauding wild animals. However, this practice is disappearing in some areas; land shortages in some cases are so great as to preclude bush-fallow rotations.

The authority of elders remains strong in most of the case study villages visited by the Working Group. Nevertheless, signs are visible that the younger generation and newcomers to the communities are challenging the powers of the elders. Individual members of the lineage tend to assert long-term rights to discrete parcels for fruit orchards or gardens, elders complained. This gradual individualization of tenure reflects how tenure in some communities may be evolving toward better-articulated private property systems of holding land.

Tongo is a Mandinka term meaning embargo or prohibition. A *tongo* can be placed on activities such as washing dirty clothes near wells or harvesting the fruit of selected domestic or wild trees. These arrangements are found throughout rural Gambia. *Alkalolu* and *seyfolu* in a district meet to set dates for the *tongo*. Once it has been declared for such species as baobabs, mangos, and locust bean trees, children and young adults are forbidden to pick the fruit. This embargo ensures that fruit will reach maturity. Fines are charged to those who break the interdiction. In Sintet, the family of a youth caught picking fruit must buy a goat and a couple of liters of oil and prepare a meal for the village. After the feast, the offending youth is taken into the bush and thrashed. In other villages, parents pay cash fines to a fund kept by the young people of the village.

The Working Group research team found that land use controls are vested primarily in the heads of lineages. The largest land-owning lineages fill the position of *alkalo* in a village and possibly *seyfo* at the district level. District tribunal members are often members of the oldest and best-established lineages in the communities. These influential representatives may grant land to newcomers by the consent of other family members, contradicting the tenet embodied in the Land (Provinces) Act that land use control is vested in district authorities. From the perspective of respondents interviewed for the case studies, district authorities do not have the right to allocate land unless they obtain the consent of the land-owning lineages.

The Working Group research teams found that *alkalolu* usually respected the principle that control over land is vested in those lineages that first settled the communities. However, considerable ambiguity concerns the authority of the village headmen over the territory of the commons. Some *kabilo* heads interviewed consider parts of the forested commons to be under their domain while other village leaders feel that the forests “belong” to the state’s forestry department. *Seyfolu* often argue that since the commons are the domain of the district authorities, they have the prerogative to determine uses for the land. Government can play a key role in clarifying rights to the commons; this would help create the foundation for improved management of these important resources.

Despite these ambiguities, traditional rural authorities continue to exercise major influence in deciding the use of natural resources; for this reason they must be incorporated into the

programs and plans of resource-management projects. Traditional authorities set and enforce a range of rules governing the use of resources, and it is possible to build on the environmental knowledge and organizational skills of these individuals. At the village level, for instance, *alkalolu* and village elders control the use of rainy and dry-season pastures. They tell livestock owners, who hire herders for the rainy season, where livestock may be grazed. During the dry season, village authorities set the dates on which livestock may be set loose to graze freely on crop stubble. Various fines and sanctions enforce the rules devised by the community. Traditional authority structures enforce the practice of *tongo*, determining the use of particular resources (see box).⁶

Development programs and projects can build on this rule-making capacity to construct arrangements for managing natural resources on a sustainable basis. Traditional authorities in The Gambia possess the means to devise and enforce rules regulating the use of natural resources, an asset critical to the establishment of, for instance, common-property regimes around forests or inland fisheries. Participatory planning should integrally incorporate traditional authorities into the design and implementation of resource-management projects.

Primary and secondary rights holders

Within the customary tenure systems of The Gambia, transfers of rights to land can be distinguished between primary and secondary rights. Primary rights are secured through original settlement of unused lands or through direct allocations of lands from the founding lineages to group members, normally the male heads of household. This is the strongest right under indigenous tenures because the rights holders enjoy more or less permanent occupation, have extensive discretion over land use, and can pass along these rights through inheritance without interference from the larger group. Primary tenure is similar to the western concept of ownership; primary access holders enjoy a high degree of tenure security (Bruce 1989).

Secondary rights to land are secured from primary rights holders according to mutually agreed terms and conditions. These rights may be granted on a short-term seasonal basis or may be long-term agreements to use particular resources. Some argue that women in The Gambia are secondary rights holders because they do not definitively control the use and allocation of land. Women's rights of access to land and other resources are determined by their marriage status; rights of use accrue through their male relatives or spouses. These rights evolve as a function of the marriage situation. Tradition dictates, for instance, that wives obtain land to use from their husbands; but, once divorced, women return to their families to seek land for cultivation.

Other forms of secondary rights holders are found throughout The Gambia. Women oyster collectors from Senegal seasonally migrate to villages near mangrove swamps to harvest oysters. Following the droughts of the early 1970s and early 1980s, however, Fula from neighboring countries settled near Mandinka and Jola villages to care for the livestock of their hosts. Eventually many of these Fula became permanent residents of the community and acquired fairly firm rights to land. A wide array of restrictions was placed on secondary rights holders. Nonresidents of a community are frequently forbidden from planting trees, an act considered the prerogative of primary rights holders.

⁶ Gray (1966) reports that *tongo* was used by groundnut growers during the early twentieth century as a producer's cartel in order to obtain higher prices from merchants. The practice was severely condemned by the colonial administration.

Transferring rights to resources

Indigenous tenure systems historically prohibit the alienation of land to persons outside the lineage since this would diminish future opportunities and equitable access for family members. The most common means of transferring primary rights in land is through inheritance. A deceased person's rights are distributed among heirs according to local inheritance rules. Inherited land can be further grouped into two categories, divided and undivided. Undivided inheritance land is typically held by a multigenerational extended family and has not been apportioned for exclusive use by smaller family units. Divided inheritance land, by comparison, has been allocated for exclusive use by individuals within the smaller family unit. The Working Group case studies showed that the present trend in areas of high population density is for land to be divided among family members for exclusive use.

A less common method for transferring primary rights in land is through inter vivos gifts, under which rights to land are permanently given to other persons. Mandinka and Jola women sometimes receive gifts of prime rice lands from their parents. These gifts may then be handed down by the women to their daughters or sons.

The sale of land has evolved as one mechanism to secure primary rights to land and other natural resources, though this type of transfer is relatively infrequent in rural areas. However, recent LTC research in the villages near Banjul indicated that a land market is rapidly developing (Roth, Carr, and Cochrane 1996). The sellers must secure the consent of relatives, whose permission is not easily obtained since inheritance may be the only effective means by which family members gain access to land in areas experiencing land shortages. Acquiring unanimous or near-unanimous consent is difficult, and purchasers may have to contend with counterclaims for years after purchasing a tract of land.

Secondary tenures are important modes of access to land and other natural resources in The Gambia. Founding families possessing firm rights to land will be increasingly pressured to transfer rights of access to secondary holders as land becomes more scarce and more valuable. In other cases, primary rights holders are transferring secondary rights in the following fashions.

Borrowing. Land is loaned out by the landholder under mutually agreed terms. Although traditionally there was often no payment involved, a symbolic payment of kola nuts or cash is usually now required. The technique is typically limited to annual crops, though it is not uncommon for such an arrangement to be inherited by the borrowers' successors. The case studies conducted by the Working Group registered the prevalence of land borrowing within villages and between villages. Borrowing of land is done by both men and women (see below for further descriptions).

Pledging. The landholder allows the use of some land in return for one lump-sum payment in advance. The understanding is that the land reverts to the landholder upon repayment of the pledge price. In the past, a landholder accepted an in-kind payment in return for letting the pledger use the land, but now usually expects a cash payment. Pledges are frequently heritable. Pledging often occurs around exotic species of trees. In the Foni Jarrol District, Gambian and Senegalese merchants pay a lump sum to the owner of mango trees for the exclusive right to harvest and sell all the fruit.

Rental. As land is becoming more scarce and valuable cash crops are introduced in The Gambia, token payments by borrowers to holders of primary rights are being transformed into cash rentals. In current rental arrangements, a cash payment is usually made to the landholder in

return for use of the land. Although rental contracts between two parties may span decades, they are generally renegotiated annually. Rental agreements often specify certain restrictions, such as bans on planting trees or constructing permanent physical infrastructure.

Sharecropping. In response to the increase in land values and the introduction of cash cropping, landholders with insufficient labor can establish cash crops (annual or perennial) by exchanging the use of a tract of land for a share of the crop produced. Although this arrangement is negotiated on an annual basis for agricultural output, the same person may sharecrop a given parcel for many years. When dividing tree crops, the sharecropper either retains a portion of the annual harvest or gains ownership rights to a fixed number of trees until the trees stop producing. These arrangements are increasingly used as a method for women to acquire access to rice-growing lands. Fula women of Kampassa, for example, go to neighboring villages in Senegal, giving the owners of rice fields D10 to D50 per field plus 10 to 20 percent of the rice harvest in exchange for the right to cultivate.

Diversity, flexibility, and resiliency of customary tenure

The case studies conducted by the Working Group and the field research of the Law Reform Commission indicate that there is no single customary tenure system in The Gambia. Variations exist between Mandinka, Jola, Fula, and Wolof tenure systems, though they generally share the common characteristics described above. The particular bundles of rights to land and other resources are influenced by such factors as geography, gender, ethnic affiliation, age, and marital status.

The existence of various types of land transfer arrangements is a testimony to the flexibility and adaptability of indigenous tenure systems in The Gambia. Tenure arrangements shift constantly: borrowing arrangements become sharecropping arrangements in some areas as a response to the increase in the value of land; farmers have abandoned groundnut cultivation and family holdings are reverting to open-access regimes in other places, like in the Foni Jarrol and Sami District, as bush engulfs the once-productive fields.

The flexibility in land transfer mechanisms helps to maintain peace and stability in rural areas. The Working Group sensed that rural landlessness is not prevalent because those in need of land for cultivation generally find ways to borrow land. Pockets of severe land scarcity do exist, as described in the Upper Baddibu and Sandu District case studies. However, for those who choose to remain in rural areas, land can usually be obtained on at least a short-term seasonal basis. Young people migrate out of rural areas on both a seasonal and a permanent basis, but the Working Group found that this movement is due primarily to better employment and revenue-generating opportunities in urban centers in The Gambia and overseas.

The Working Group research teams found that there are vacant and unused lands in some of the case study areas. This was most apparent in the Foni Jarrol and Sami District. While the land appears to be without owners, in reality many latent tenure arrangements exist. Land has been abandoned for cultivation in some parts of The Gambia (most notably on the South Bank) because economic incentives no longer stimulate agricultural production. This is especially the case with the groundnut sector. Seed shortages, lack of inorganic fertilizers, low crop prices, labor shortages, and erratic rainfall undermine farmers' incentives to clear and cultivate land suitable for groundnut growing. In these situations of land abandonment, private property arrangements atrophy. Since no one cultivates, the bush invades the former fields. The forest of fast-growing pioneer species becomes a forest commons of the community.

If for some reason the value of land increases, rights to the resource may become activated, at times resulting in conflicts. For example, when an individual or group decides to plant trees or construct a well on what they think is unoccupied land, one often finds that long-hidden property rights arrangements suddenly surface. Similarly, if farmers shift labor into the cultivation of food crops like sorghum, requiring more humid lowlands, these lands suddenly become more prized. A project may attempt to implement a fenced-off grazing zone in what it thinks is a forest commons controlled by no single village. At these times, property rights must be redefined by the community in order to avoid major tenure conflicts.

The reemergence of claims to property by contending interest groups usually leads to some procedure, sometimes led by the district authorities, to clarify the property rights status of the contested land. Expert witnesses, usually elders of land-owning lineages, are

brought in to recall the history of land use in the particular area. Through this use of history, traditional authorities negotiate new tenure arrangements that often allow secondary rights holders access to land for a specific period of time and a particular use. This process of redefinition of tenure arrangements is a positive feature of customary tenure.

The customary land-tenure systems benefit not only rural citizens of The Gambia but also vulnerable populations immigrating to the country. Refugees from conflicts and droughts in neighboring countries have obtained land for cultivation. Although these refugees may become permanent residents of Gambian villages, as outsiders they face more initial restrictions on their use of land. The history of “strange” farmers in The Gambia and Senegal shows that nonresidents eventually become permanent residents by virtue of marriage to members of the community. Through marriage secondary rights holders can change their dependent status to become primary rights holders.

The customary land-tenure regimes of The Gambia are remarkably resilient. The central precepts of the tenure system tend to remain in place despite changes in legislation or administrative practice. Rural populations maintain a certain confidence that customary tenure systems may well outlast current government policies and projects. As summarized to a Law Reform Commission team by a member of a district tribunal, “The rice fields belong to the villages of Jahally and Pacharr; however, other surrounding villages are benefiting and using the rice fields during the lifetime of the project. As a result of this the population of the area has increased twofold. But we all know that once the project comes to an end, the land will revert to the two villages which are the original owners” (1992, p. 3).

A woman in her late 40s, Mrs. X lives with her husband in the compound known as X Kunda. The X *kunda* is within the ward of the Y *kunda kabilo*. This rainy season, Mrs. X plans to grow swamp and upland rice, maize, and sesame. Mrs. X plans to cultivate five rice fields: one in an area called “Daloto,” two in the “Wulong Bango” area, and two in the area called “Manneh Koito.” The management of the fields is not carried out in the same fashion. Four fields are *suba* fields and one is a *patchico* field. The *suba* fields are cultivated by a mother, her unmarried daughters, and her daughters-in-law. Each co-wife manages her own *suba* fields. The *patchico* fields are managed by the women individually and the harvested rice is used at their discretion.

Mrs. X received her two *suba* fields from her husband at the time of marriage. Her husband inherited these rice fields from his father. Because he came from a large family, Mrs. X's husband inherited only a small amount of rice land. As a result, his fields are not large enough to support the requirements of Mrs. X's family; every year Mrs. X must borrow land for rice cultivation (Kiang West Case Study).

2.3.2 Rights of women to land and other natural resources

For the majority of Gambian women, access to land is largely conditioned by the social status of the husband or, in the case of single or divorced women, of immediate family relatives (see box). Marital status is a crucial factor in determining whether or not an individual will have access to and/or control of land. The questions of gender and tenure must be considered in light of who controls women's labor and access to farm inputs such as tools and credit.

As part of the research process undertaken by the Working Group (and by Nancy Sheehan, LTC research associate), meetings were held with various individuals and focus groups to discuss the merits and constraints of The Gambia's "patrilineal property system." The primary justification for the maintenance of this system—land should be inherited only by sons from their fathers—is that daughters would "carry away" the family lands when leaving the families of their birth upon marriage; for if they owned land, the family lands would be given to their husbands' families.

Another justification for this system (and why women should not control land) is that land is owned collectively by the family, not by the individual; in light of this collective ownership, the question of women's owning land is misguided. Contrary to this perception, however, there is a growing feeling among respondents that, in fact, women do have inheritance rights over particular parcels of land. Discussions with both men and women urban migrants indicate that they think that they possess inheritance rights over parcels of their families' lands. Therefore, the issue in The Gambia, where land rights are being progressively individualized, especially on high value land, is whether women have equal rights of access to this important resource.

Custom dictates that male relatives are obliged to make land available to women; this is one reason why Gambian men claim there is no need for women to own land. Indeed, villagers—man and women alike—often maintain that women will be cared for by their husbands, fathers, or brothers. The results of research, however, indicate otherwise. Access to land by women who do not marry into landowning families, or who eventually become divorced, is tenuous at best. While these women can borrow land from their fathers and brothers, they are frequently loaned the less fertile land or the land located far from the village settlement; the family's best lands are reserved for the sons and brothers and the wives of these sons and brothers.

Tenure disputes increasingly revolve around issues of women's access to land. Although women may try to obtain prime lowlands for dry-season gardening, they find that male heads of lineages will not loan out that land. Gender conflicts over horticultural land have been documented quite extensively (Carney 1993; Schroeder 1993). In several of the Working Group studies, women's *kafo* groups, cultivating communal fields, complained that they do not invest in the purchase of fertilizer because the borrowed land would be taken back the following season by the landowner. In another case, the women's garden was financed by a nongovernmental organization, but the land was taken back by the landowner once the well and fence were built. Women in Darisalami (Sandu District) encounter difficulty in obtaining manure for fields because the scarce supply is provided first for the fields of men. Similarly, women have difficulty obtaining access to farm implements (horses, plows). Even though many projects target women's groups for credit and farm equipment, these resources can be expropriated by men. Men will share equipment, for example, but only after all their own fields are cultivated.

Gender-related tensions are high, though often hidden from the cursory view of outsiders, because traditional social obligations and responsibilities are disintegrating. The popular

perception in many rural communities is that male relatives will always fulfill their obligation to provide land to their female relatives (sisters, daughters, wives). There have been several cases which have reached the Supreme Court where women have protested the violation of this obligation. Men sometimes view this contestation as “political” because court fees are paid for by women’s associations, nongovernmental organizations, and other undetermined sources. During interviews, women have stated that their husbands cannot and have not always provided land and food for their families. This fact has forced women to seek employment outside of the village and to purchase land as a safety valve. The exceptions to this oft-cited custom raise questions about women’s land security in rural communities.

For divorced women it is often difficult to obtain land once the women have left the former husband’s household. The norm is for divorced women to return to their father’s compound, where they may obtain land to subsist on until they become married again. In some cases, however, divorced women may face a situation where good land is at a premium in their father’s compound—the best land having been allocated already to the wives of sons and brothers. Also, the women may not choose to remarry. In some cases, divorced women may retain access to land they had been using during marriage if the ex-husbands give the land parcel(s) to their children. Court cases over the custody of children thus have a bearing on women’s access to and control of land. How district tribunals decide custody cases can be of critical importance to these divorced women. However, there are indications that district tribunals favor granting custody to fathers and not mothers. This bias has implications for not only the divorced women’s access to land but also the social welfare of the children involved.⁷

Wives contribute money to the “development” and construction of the family compound (for example, sheet roofing, cement, furniture, well).⁸ Frequently, however, only the names of the husbands appear on official documents (such as certificates of ownership and leases). Some women interviewed expressed frustration because they do not necessarily have tenure rights to household property. In the case of divorce, the wives who contributed to the compound will receive no compensation and no recognition of their monetary contributions if maintenance (that is, alimony) is in dispute. Also, women who have invested in compound development often do not have valid receipts. Lacking proof of their ability to generate revenue and make investments, these women cannot offer creditors and bank officials documents necessary for receiving loans. This situation helps preclude women from the formal banking system.

Landless women can borrow land from unrelated villagers or, sometimes, from neighboring villages. Again, it is important to consider the location and relative fertility of the land that these women receive from such borrowing arrangements, for borrowed land parcels are frequently located far from the women’s settlement area. Land shortages are so great for some women in rural areas that they are forced to pay rent for access to rice lands. Fula and Jola women in Kampassa (Foni Jarrol District) pay rent and a portion of the rice harvest to obtain land in neighboring Senegal. In Maka Farafenni (Upper Baddibu case study), Bambara women invest in alternative income-generating activities because they cannot get access to land in this area of severe land shortages.

⁷ The Department of Social Welfare has interceded on behalf of women in custody cases; it will assist women in bringing their cases to magistrate courts, though this is not legal.

⁸ This contribution, of course, does not include the monetary value of women’s household labor, which equally develops and maintains the compounds.

Since the early 1980s, women originally from Karoninka, Senegal, have journeyed to the Kiang West District to spend the dry season collecting, processing, and selling oysters. The Karoninka women lodge with families in the various villages along the *bolong*. Instead of paying rent to the host families, they exchange oyster shells for their room and board. The oyster processing places along the river serve as easy collection points for the collectors' hosts to collect the disposed shells. These shells are an important source of lime, an ingredient in whitewash, cement, and plaster. The oyster collectors and their host families fear losing rights of access to the mangrove swamps due to the presence of the Kiang West National Park (Kiang West Case Study).

The field research of the Working Group estimated that 60–90 percent of small ruminants and 50 percent of cattle are owned by women. Thus for women, who may not be able to “own” land, livestock ownership represents a significant asset and means of savings. However, the rate of small ruminant and cattle theft is high. It is not unusual, for example, for a woman to report that two out of the three goats and two sheep she owns will be stolen. While cattle theft receives some attention from law enforcement agents, small ruminant theft is relatively neglected.

Women often have different interests than men in the use of natural resources, and sometimes these views are ignored in project design and implementation. Women have been given relatively minor roles in government and NGO-initiated resource management institutions

at the village level. While women may indirectly influence community decisions regarding the use of, say, a village woodlot, there is no certainty that men will represent their views in community forums. This is particularly evident with regard to management of the commons. Since women depend on the commons for collecting a wide array of products, restrictions on their access can have severe repercussions on household incomes (see box, p. 30).

While projects often grant management control to men for forests and woodlots, women derive primary benefits from the resource. As the Working Group report from Upper Baddibu District concluded, “In Maka Farafenni, the woodlot management was charged to the men, who have less of an interest in its productivity than the women, who are responsible for firewood collection. Subsequent assistance to the woodlot should perhaps be channeled through the women rather than the men, as was done initially” (Upper Baddibu Case Study). Development projects will need to address explicitly the question of how women use natural resources and whether they have a say in their future uses.

One of the most contentious issues involves gender discrimination in sale of land administered by traditional authorities in the Greater Banjul area. Initial research indicated that many *alkalolu* in the peri-urban areas feel that divorce (which is a negative occurrence in their opinion) will ensue if they allow married women to purchase land without the consent of their husbands. They also discourage single women from buying land. If these attitudes continue to prevent women from owning land, women's future economic and social security will again be handicapped.

Women are encountering difficulties in purchasing leases. Their experience so far bodes ill for converting customary tenure systems to leaseholds. Women may be excluded from the possibility of securing title to land. There has been gender discrimination in selecting applicants for grants of land in new urban “layout” areas. Land administrators see women applicants as less able to develop a plot of land. As one responsible government official remarked to the LTC researcher, “We advise that only 3 out of 100 land grants be made to women because we think they will be less likely to develop a plot of land.” Likewise, when discussing the issue of women

applicants for land grants in one of the urban growth areas of The Gambia, one commissioner stated, “We all know that women have a minor role to play in the allocation of land and the management of land...but I am all for equal rights...but if women want equal rights they should be equally responsible for development.... (Therefore) I would need to be convinced that a particular woman is in a position to develop the land...I know most of them (women) here and they could not even afford to build a hut.... I just laugh when they come in here all sophisticatedly dressed.”

Unless precautions are taken in the near future, the process of application for leases of land will remain open to subjectivity, attitudinal bias, and discrimination. Gender discrimination could severely handicap women now and in the future. Women may find it difficult, for instance, to obtain loans from banks. This concern was voiced by the representatives of several banking and small credit organizations. One project, as a matter of fact, focuses on the improvement of women’s access to credit and loans. This project hopes that by providing loans in small amounts, women entrepreneurs will be able to build their businesses and eventually enter the formal banking system. If women do not have secure access to important collateral such as land and compounds, then this factor will surely handicap their eventual entry into the formal banking system.

2.3.3 Land borrowing and sustainable use

Land distribution within Gambian villages is not equitable. The Working Group research teams found, for instance, that the size of landholdings between *kabilo* in Mandinka villages varied considerably. Even within an extended family, size of holdings varied greatly among *kunda* or compounds. Certain families, generally the first arrivals in the community, possessed greater amounts of land. Newer arrivals generally obtained much smaller holdings from these first arrivals. A rather strange anomaly surfaced in some villages. The largest landholding families often had the smallest labor pool available for cultivation. Indeed, some of the economically poorest extended families had the largest landholdings. As a result of the inequalities of landholdings among families, much borrowing takes place. Those who loan out land sometimes profit from the venture through the receipt of gifts, cash, and services.

Complex borrowing arrangements among villagers constitute an essential feature of bush-fallow rotation systems. In the Kiang West and Sami District case studies, the Working Group teams found that villagers jointly decide to farm all of their fields together as a strategy of defense against wildlife infestation and as a way to promote soil fertility. After farming on one part of the village’s fields, the entire group of cultivators moves to another section of the territory, allowing the fallow area to be used as rainy-season pastures.

Borrowing arrangements support intricate rotational cropping systems. For example, men and women farmers borrow land in order to rotate millet with groundnut fields and to fallow other fields. This helps maintain soil fertility. Through flexible borrowing arrangements, stranger farmers and new settlers can obtain land to settle and to cultivate without paying exorbitant rentals. In return, some stranger farmers are required to work on the fields of their hosts. Stranger farmers in Dumbutu are given fields on the perimeter of the cultivation area—the result is that their fields protect the fields of their hosts from bush pig attacks. Borrowing of rice lands is an essential feature of Jola and Mandinka rice-farming systems. Land is constantly being transferred from one woman to another in order to meet seasonal demands for plots, which change as a function of household labor availability and soil fertility.

The research showed that founding families possessing surplus lands face a moral responsibility to loan out land on a permanent basis to those in need. This moral authority is very persuasive. District tribunals, *seyfolu*, and *alkalolu* constantly negotiate ways for those in need of land to obtain adequate plots for seasonal cultivation. Concepts of social justice in rural communities are premised on the requirement to loan out land to whomever has the means to cultivate. Land borrowers, be they stranger farmers or residents of the rural community, have a responsibility to be good neighbors. Land lending hinges upon the assessment of the lender that the borrower is in good standing within the village. Deviants or other troublesome individuals can lose borrowing privileges and even be expelled from the village.⁹

Conflicts often surface over the conditions of lending land. A villager may ask for an informal loan of a plot for cultivation from one of the principal land-owning families in the community. If farming the land successively for several seasons, the borrower might try to secure use rights to the land by investing in infrastructures such as a well, trees, or fencing. The landowner would consider this a major transgression and would appeal through various informal and formal adjudication channels.

Certain groups of women and men who have tenuous usufructuary rights over land (that is, who are always land borrowers) face particular difficulties in planting trees and in establishing and maintaining garden-orchards. In one village case study, for example, the women's *kafo* was lent a plot of land for a garden. After several years of the *kafo*'s gradually building the fertility of the soil and reaping better harvests, the landowner decided to repossess the land. In another village, although women are able to borrow land for a *kafo* field, they hesitate to invest in using chemical fertilizers because the landowner loans land only on a seasonal basis.

Such impediments need not be permanent. Public discussion around the problems of land borrowing in a village may remove possible tenure constraints to tree planting. Villagers can be assisted in negotiating written, witnessed contracts among each other spelling out the use of the land for specific periods of time. This is particularly important for women. Land-use contracts need to be negotiated to ensure that women can use a parcel of land for gardening yet that landowners do not lose rights of possession.

The Working Group research teams are concerned about the impact that a policy of converting customary tenure to leaseholds may have on flexible borrowing arrangements. During the transition phase from customary tenure to leaseholds, landowners may be fearful of loaning out land because of potential litigation launched by the borrowers. This could have dramatic effects on agricultural production if the rural labor force which is short of land finds it difficult to obtain short-term loans from major landowners.

2.3.4 Causes of resource tenure conflicts in The Gambia

Conflicts around natural resources in rural Gambia are a constant characteristic of rural life. Studies on the incidence, causes, and mechanisms for dispute resolution are few in The Gambia;¹⁰ for this reason, the Working Group on Resource Tenure and the Law Reform

⁹ However, what is considered a moral or a social obligation varies. Principles dictating what is just can falter—as can be seen in the Sandu District case study. Conflicts arise as these principles change (Sheehan, personal communication).

¹⁰ The Law Reform Commission of The Gambia conducted in-depth semi-structured interviews with five district tribunals (Kombo Central, Fuladu West, Niamina, Central Baddibu, Foni Bondali) to look into how conflicts

Commission focused on this sensitive issue. The study of conflicts in rural areas of The Gambia is not easy. Rural respondents often hesitate to discuss conflicts since they suggest disharmony and an inability of local institutions to adjudicate tensions and disputes within the community. People hesitate to discuss the details of what is often considered to be a rather sensitive if not distasteful subject. The Working Group case studies nevertheless interviewed key village decision-makers (*alkalolu*, imams, *kafo* leaders) to discuss the incidence and reasons for land disputes in the case study villages. Following these initial interviews, the research team conducted semi-structured interviews with members of the district tribunal of each case study site. “Conflict matrices” were developed with each of the district tribunals.¹¹

It is often assumed that conflicts are the consequence of dysfunctional customary tenure systems. For some policymakers the existence of numerous rural conflicts, sometimes very violent in nature, justifies the need for major land reforms. Leasehold or freehold tenure systems are assumed to generate fewer conflicts than customary tenure systems. Another way to view conflicts and conflict-mediation processes is to consider how dispute resolution leads to change within the tenure system. Through the mediation process, old rules governing resource use may be abandoned and new ones instituted. The resulting restructuring of tenure regimes may result in changes of the social status of the contending members, something that may or may not be judged equitable and fair. The outcome of the dispute-resolution process must be judged on a case-by-case basis.

The Working Group case studies suggest that tensions between individuals or groups leading to either informal or formal adjudication is the result of a rapid change in the value of a particular natural resource. The resource in question may suddenly increase in value due to external economic demands. This is certainly the reason why lowland depressions useful for horticulture and fruit-tree orchards are presently the source of numerous conflicts between contending interest groups in many parts of The Gambia (Carney 1993; Schroeder 1993). As the value of the resource increases, various interest groups try to claim it. Previous tenure arrangements are often called into question as the interest groups vie for access to the resource and its benefit stream. Various legal traditions (western, Islamic, customary) are brought into play to defend the competing groups’ rights to the resource.

The causes of disputes over natural resources are varied and difficult to interpret. For purposes of analysis, disputes over natural resources may be categorized in the following fashion.

Conflicts within villages

The review by the Working Group research teams showed that conflicts within rural communities occur around a range of resources. Often confrontations occur between those who hold “primary” rights to natural resources and those who have “secondary” rights such as borrowers or sharecroppers. Tensions often surface when holders of secondary rights try to

reaching the court were handled. This rural study complemented a review of all the court cases pertaining to land matters handled by the Supreme Court and the Appellate Court between 1988 and 1993. This study of court records was complemented by a review of the Kanifing and Banjul Cadi courts (Law Reform Commission 1994). A final report is being prepared by the Law Reform Commission.

¹¹ This is a tool of the Rapid Rural Appraisal research methodology in which a focus group is asked first to list the main types of conflict in the community and then to rank them in terms of their frequency.

render more secure rights to a particular resource. Conflicts span across many social categories. Men and women are sometimes pitted against each other over the control of land for horticulture or irrigation. Conflicts over resources can also be a source of, or a result from, marital problems. Thus, the amicable resolution of marriage, custody, and divorce cases also contributes to change in tenure systems and/or the maintenance of tenure systems. Conflicts are generated when the elderly leaders of communities want to sell land in peri-urban areas whereas the young, fearing permanent dispossession, oppose the sale.

Disputes occur around trees for many reasons. Traditionally planted trees indicate ownership of the land on which the tree grows. When uncertainties over inherited land are being investigated, the act of tree planting by predecessors is an important element in determining who “owns” the land. Long-term residents of a village might try to plant a mango orchard on what they consider to be their land, but they find that traditional landowners consider it to be borrowed

Darisalami (Sandu District) consists of three sections: Serahuli communities live in Taxotala and Bulembu Mandinka live in Sandu Darsilami. In 1976 the village decided to bury their dead in the same cemetery. This arrangement worked for only a short time. Many Serahuli died in rapid succession. It was thought that the communal graveyard was the site of evil spirits. The Serahuli decided to bury their dead in their backyards. Eventually, the Serahuli decided to ask the Mandinka of Sandu Darsilami for land for a new cemetery. Land was allocated by the *alkalo* but the customary owner refused to cede the land. This refusal caused a major dispute. The Commissioner entered into the fray and used his powers to grant the disputed plot to the Serahuli. Tensions are now very high. The Serahuli and Mandinka no longer pray together, Serahuli do not draw water from the Mandinka side of the village nor use the village dispensary found there, and most seriously, Mandinka lending of unused land to Serahuli has come to a halt. Community development has reached an impasse (Sandu District Case Study).

land. The traditional owner of farmed land may allow anyone to pick fruit and gather leaves from a valuable species for home consumption, but when someone picks fruit for sale in the market, the owner steps in to forbid harvesting. This may lead to a major conflict between the landowner claiming exclusive, private rights to the tree and the picker claiming that trees are public property and hence open to use by all.

More serious conflicts surface between owners of livestock and cultivators who suffer livestock damage. Damage to field crops or gardens may be considerable, especially during the harvest seasons. Disputes rise not only in frustration over the damage caused by livestock, but also with regard to compensation for crop loss. Women in Karantaba (Sami District) feel greatly aggrieved because a cattle track passes

near their rice fields and cattle enter into the fields during market days, when herders sneak to the market rather than watch the cattle. Despite numerous appeals to the *seyfolu* and the district tribunal, women rice farmers have not been able to obtain adequate compensation or halt the intrusion of cattle.

The variety of easily identified conflicts often reflects a history of latent hostility among resource user groups. What would appear to be a straightforward dispute over conditions of compensation for livestock damage may really reflect deep-seated conflicts reaching back many generations. A dispute over the location of a cemetery reflects more profound land problems (see box). A lineage which traces its origins back to initial settlement in an area hundreds of years ago may still possess considerable control over the use and allocation of rights to large expanses of land. Interests of first-settler families may be quite different from households of farmers who

migrated from Mali during the height of the groundnut-growing era and who now seek to make permanent claims to land.

Conflicts between villages

Conflicts between villages surface for a variety of reasons. The boundaries of village territories are sometimes vague, deliberately left so to avoid conflict over territorial limits. Forests and bush lands between villages are sometimes left uncultivated because they have been objects of conflict in the past. As pressures to expand land under cultivation rise in many parts of The Gambia, these remaining open spaces become increasingly valuable for field-crop cultivation. Rural institutions encounter difficulties in determining territorial rights of access to these commons.

Tensions between the villages persist to this day over lands highly valued for rice cultivation. Some of these disputes reach far back into the past. The conflict over loans of land between Jattaba and Sankandi (Kiang West District) was one of the central factors leading to the village attack by British colonial forces in the late 1800s. The wounds of this battle are still evident in the communities (Jammeh and Sheehan 1993). Conflicts over rice lands continue in many other villages. The various sub-sections of Karantaba (Sami District) contest the ownership of rainy-season rice fields converted to year-round irrigation by development projects. Project management imposed new tenure arrangements that turned out to benefit land-scarce households. Now that the irrigation project has failed, these project tenure arrangements are being called into question. Tensions run high, even though the contesting parties succeed admirably in hiding the dispute from outsiders.

Villages are often divided into separate administrative entities headed by different *alkalolu*. Relations between the different village sections are sometimes extremely divisive and threaten to explode into violent confrontations. The dispute over the location of a cemetery in the village of Darisalami (District 7) reflects not so much the question of where to bury the dead but, more importantly, a very deep conflict over the use of lands needed for cultivation. This conflict pits the Mandinka first settlers against the newer arrivals, the Serahuli. A dispute in the village of Sintet over the level of water allowed to flow into a rice field may be traced back to tense relations between lineages that have long contested political authority in the village (Foni Jarrol Case Study).

Conflicts between villages and nonresidents

Tensions often exist between long-term residents of rural communities and nonresident resource users. Communities studied by the Working Group exhibited a common characteristic of fearing the loss of territorial control over the exploitation of natural resources. In most villages, the complaint was voiced that nonresident woodcutters were invading the village territory and cutting down valuable species of trees. Fula, who use the leaves of the keno tree for livestock forage, view with alarm the woodcutters' cutting down live trees for firewood and termite-resistant poles for the urban markets. Villagers felt helpless to combat the problem because they feel they have no legal authority to halt the use of forests by woodcutters, who often possess permits issued by the forestry service (see "sacred forest" box, p. 6).

Similarly, cattle theft is a major problem in some districts. It is often difficult for villagers to protect cattle from theft by both Gambians and non-Gambians. This insecurity generates suspicions against outsiders. Transhumant herders from Senegal, who lead their cattle to better

grazing grounds and water sources along the River Gambia, generate considerable animosity because the cattle sometimes enter into Gambian fields and damage crops.

Conflicts between village and state

Rural communities are often pitted against the state over the control of natural resources. Communities may have sorrowful memories of the reduction of rights of access to land following the creation of forest reserves and national parks. Tensions around the Kiang West National Park are tight because some villages have lost rights of access to certain resources in the park. Hunters, for example, can no longer hunt and thus have lost a source of livelihood. Livestock owners in Dumbutu resent their loss of access to prime grazing lands to the three fenced-off forest parks and Kiang West National Park. Women oyster collectors in Dumbutu fear they will lose access to mangrove swamps, a fear magnified by their loss of access to oyster shells now used by government to make whitewash for the park headquarters.

Tensions between the state and rural communities are emerging over the creation of the new Kiang West National Park. Villagers resent the fact that bush pigs, which proliferate in reserves, venture into nearby fields to decimate crops. No compensation is offered for the destruction of crops despite the fact that national parks can generate considerable tourist revenue for the state. These tensions must be addressed soon or rural populations will sabotage the park. Poaching and setting of forest fires are some of the tools of resistance used by rural populations throughout Africa.

The most overt form of conflict between rural populations and government involves bush fires. Villagers are frequently fined and imprisoned for setting fires. Catching and bringing the perpetrators of fires to justice is difficult. Fires are deliberately set for a number of reasons. Sometimes fires are accidentally caused by a farmer clearing a field, but at other times bush fires are expressions of political complaint.

Other types of conflict between rural communities and the state are more subtle. On several occasions members of district tribunals remarked to the research teams that government policy prohibiting the creation of new villages and the expansion of fields into woodlands is seriously compromising agriculture. Without access to inexpensive sources of fertilizer necessary for maintaining soil fertility, farmers are forced to return to bush-fallow systems; yet there is not enough land to allow for adequate rotations.

Conflicts between rural user groups and the state take many forms. These conflicts are often the reason for mistrust that undermines initiatives to build cooperative resource-management arrangements. Government must acknowledge the source of these misunderstandings and respond to the complaints. Otherwise, it will be difficult to build the cooperation needed to protect and ameliorate the use of natural resources.

2.3.5 Tenure conflict-resolution mechanisms

Conflicts around natural resources are resolved at different levels depending on their complexity. They are often settled by “first order” conflict-resolution bodies—*alkalolu*, councils of elders, religious figures (imams and clergy), *seyfolu*, traditional conflict-resolution bodies (*saltigi*, *farba*, *nyasingba*), political leaders, and respected merchants. When conflicts fail to be resolved at this level, they rise to “second order” instances—the commissioner and/or the police. When these institutions either fail or refuse to clear up the controversy, the contending parties may take the

dispute to more formal bodies or “third order” dispute-resolution institutions—the courts. In ascending order of importance, the path of litigation goes from the district tribunal, to the group tribunal, to the Supreme Court, and to the Court of Appeals. It is a somewhat false distinction, however, to separate the role of village institutions responsible for resolving disputes from district and divisional institutions. In reality, the people involved in resolving disputes informally at the local level interact constantly with the more formal dispute-mediation institutions of Gambian rural society.

First-order conflict-resolution institutions

The review of the case studies conducted by the Working Group and the Law Reform Commission suggests that the vast majority of disputes over land and other natural resources are resolved at the household and village level. Relatively few disputes are formally tried through the district tribunal and even fewer resource-related cases reach the Supreme Court and the Court of Appeals. Those that do come to these latter levels are primarily cases regarding land disputes in the Greater Banjul area. This suggests that dispute-resolution institutions in The Gambia are working effectively to resolve an array of tenure disputes.

The majority of conflicts within villages are considered by the *alkalo*, councils of elders, imams, highly respected women (traditional birth attendants, *ngansimba*), and highly regarded men. Some villages, like Kampassa (Foni Jarrol District), have set up dispute-mediation committees, composed of elderly gentlemen, to resolve conflicts that break out in such a contentious village. In Sandu Darisalami there is an elder women’s association that helps to settle quarrels among women. These individuals and organizations are highly successful in enforcing rules, defining customary and religious precepts of justice, and seeking conciliation between injured parties. Respected elderly women resolve disputes over *kafo* membership fees, administration of *kafo* activities, marriage problems, arguments around wells, and livestock damage caused by women’s animals.

The success of resolving disputes at the village level depends to a large degree on the public respect accorded to the *alkalo*, imam, and *seyfo*. The posts of *alkalo* and *seyfo* have become progressively politicized over the years. The democratic practice of majority voting rather than consensus building in the choice of *alkalo* and *seyfo* contributes at times to divisiveness within a community. Elected village leaders may hold quite limited respect if they won their positions through narrow majorities.

Second-order conflict-resolution institutions

The state sometimes becomes enmeshed in resource disputes. At times this helps to resolve the tenure dispute; in other instances it exacerbates the problem. New actors are brought into the dispute, ranging from the commissioner and the police to political leaders. The introduction of these actors renders the situation more complex because commissioners and police may resolve the dispute using an amalgamation of customary and western judicial concepts enforced by their positions of power. Commissioners are often contacted by disputants before cases are taken to the district tribunal. The commissioners interviewed by the Working Group referred cases directly to the district tribunal rather than entering into the complexities of the situation.

The commissioner oversees the application of customary laws of the district tribunal by reviewing decisions taken by the various tribunals in his division. He also considers the appeals of any disputant who contests the decision of the district tribunal. The commissioner either

upholds the decision of the court or refers the judgment to a higher court for appeal (either the group tribunal or the Supreme Court). Some commissioners avoid passing cases to the group tribunal because they feel that this encourages appeal in the lower courts where costs are lower. Since it is more costly in terms of time and money to appeal the decision to the Supreme Court, contestants generally prefer to resolve the dispute at the district tribunal.

Third-order conflict-resolution institutions

When first- and second-order institutions fail to resolve conflicts, the contending parties may find that their dispute enters into the third-order dispute-resolution body of the formal court system. Conflicts over natural resources often start in the district tribunal. District tribunals deal with landownership and inheritance issues and boundary disputes, prosecute people who have lit bush fires, assess compensation for livestock damage to crops, and enforce *tongo* embargoes on fruit-tree picking. Resource tenure disputes are a minor element of the caseloads of most district tribunals studied by the Working Group. District tribunals consider cases involving divorce, theft, adultery, fighting, and defaults on loan payments (see box).

The customary legal traditions of The Gambia are enforced by the district tribunal and the commissioner. The district tribunal administers:

1. customary law prevailing in the area of jurisdiction of the Tribunal insofar that "it is not repugnant to justice and morality or inconsistent with the provisions of any Act or other law in force in the Provinces";
2. Islamic law relating to civil status, marriage, succession, divorce, dowry, the rights and authorities of parents and guardianship whenever the parties are Muslim;
3. the by-laws and orders made by a council, minor council, district authority, or the commissioner; and provisions of any act including any regulation, rule or order made there under which the tribunal is authorized to administer (Chap. 6:03, *The Laws of The Gambia*).

The case studies indicated that the *seyfolu* and district tribunals believe that their major role is that of mediators in conflicts. These authorities intervene frequently at early stages of a dispute to maintain the peace. The *seyfolu* and tribunal members go to considerable lengths to divert disputes from the court system. Through informal arbitration and negotiation, these authorities try to resolve disputes amicably.

Throughout the dispute-resolution process there is an attempt by *seyfolu* and *alkalolu* to consult with specialists knowledgeable in land issues before taking a decision. Considerable effort is invested in conciliation. Witnesses are brought in to recall land histories; negotiation between the contestants is conducted. If this fails, the *seyfo* is empowered to request that disputants and witnesses swear on the Koran when presenting testimony. This helps to reduce the escalation of disputes.

The magistrate's court is a parallel court to the district tribunal. This court presides primarily over criminal cases. Usually magistrate's courts refer land matters to the district tribunals. Sometimes criminal cases can involve natural resource matters such as illegal logging, bush fires, cruelty to animals, and illegal hunting. Land disputes can turn into criminal cases if contestants are injured. Magistrate's courts play an important role in dealing with cattle thefts. As it now stands, district tribunals can impose fines of a maximum of only D1,000. This is too low, for a cow can cost between D1,500 and D2,500. To circumvent this limitation, district tribunals first

establish rulings on a case and then refer the matter to the magistrate's court for the imposition of a more severe fine.

The Cadi courts play a role in settling land dispute cases, especially as they pertain to inheritance. There are only two Cadi (or Muslim) courts in The Gambia. These courts deal with six types of marriage cases: legitimacy of marriage, fighting between husbands and wives, divorce, custody of children, and child maintenance. The Cadi also deals with inheritance cases of the following nature: intestate succession, inheritance rules, and legality of wills. While the jurisdiction of the Cadi courts covers Banjul and the Kanifing municipal districts, their jurisdiction, in reality, extends to the provinces. *Seyfolu* and/or commissioners refer cases to the Cadi courts from the rural areas. (Referrals are made after a district tribunal hears a case and the commissioner decides that the judgment needs to be reviewed by a more learned Islamic scholar and when one of the litigants files an appeal. All referred cases must involve some aspect of Islamic inheritance or marriage law.) However, some legal practitioners and the Cadis themselves think that two Cadi courts are insufficient to deal with the caseload.

2.3.6 Role of judicial system in customary land tenure and conservation of natural resources

In the common law tradition of The Gambia, the courts are a key institution for protecting and modifying the precepts of customary tenure. District tribunals are important because they embody the essence of the customary tenure norms and practices used in a particular district. Each district tribunal constantly tests, affirms, and modifies the precepts of the customary tenure system in its territory. Although this feature may simply uphold a system that is beneficial to district tribunal members, it does recognize the validity of the tenure systems of different ethnic groups in The Gambia.

The study of five district tribunal court records was undertaken by the Law Reform Commission of The Gambia. The Working Group also reviewed some of the cases. Not all disputes heard by the district tribunal are tried in a formal court hearing; many are settled out of court. The range of cases considered by a tribunal are vast: divorce, disputes over rice fields, debts, fighting, slander, child custody, forest fires, inheritance, crop damage, tree ownership, breaking of *tongo*, unauthorized cultivation, defaults, and nonpayment of taxes. The tribunals often sit each week, though formal court decisions which are recorded by the scribe are rather rare.

For offenses against customary law, subject to the provisions of the District Tribunal Act and the Criminal Code, a district tribunal may impose a fine or order imprisonment with or without hard labor, may call for both a fine and imprisonment, or may inflict punishment authorized by customary law.¹² This gives tremendous weight to the tribunals' judgments.

The judicial system of The Gambia places district tribunal members in the center of environmental debate. Court members possess the power to modify tenure arrangements to

¹² Punishment must be tempered in that it "shall not be repugnant to natural justice and humanity and the fine or other punishment shall in no case be excessive but shall always be proportioned to the nature and circumstances of the offence" (Cap. 6:02, 13). No sentence imposing corporal punishment or imprisonment of more than 14 days is allowed unless it is reported first to the Commissioner. No sentence of corporal punishment shall be executed unless it has been confirmed by the Commissioner and Supreme Court and it shall be executed in accordance with Section 30 of the Criminal Code.

reflect changing social and economic conditions. The Working Group and Law Reform Commission research teams observed how the tribunals respond to a host of resource use issues. For example, the district tribunals enforce the *tongo* regulating the dates for picking fruit on specified trees. The district tribunal of Kiang West District frowns upon tree planting by land borrowers because this practice can later become a source of dispute. Yet the tribunal members of Foni Jarrol recognize the importance of accommodating the needs of land borrowers. Tribunals are deeply implicated in trying to control forest fires through their administration of fines and prison sentences against those caught setting fires. Courts also assess compensation and determine fines for livestock damage to crops; yet at the same time they advise on ways to minimize entry of livestock into fields. District tribunal members try to enforce respect for cattle tracks and corridors to water and pastures.

Land disputes constantly surface. The court case summary of Yarbou versus Jawara (see box) provides a flavor of how tribunal members balance the needs of primary rights holders by protecting their rights to land but also allowing borrowers rights to cultivate.

Ultimately, after a full day of deliberation, the Group Tribunal members decided in favor of the plaintiff, Yarbou (which concurred with the decision of the District Tribunal). Their decision was based on the principle of just settlement. Since X was the original founding village, X was the “landlord” of the more recent settlement Y. Thus, the farmers of Y were indeed land borrowers and had to return land at the request of their “landlords.” However, in issuing their judgment, the Group Tribunal members stated a concomitant principle—if a person is in need of land to grow crops for his/her survival, then it is the obligation of the “landlords” to provide him/her with land. The following quote from the court records illustrates these aspects of the judgment:

“Any land you see belongs to somebody. If you are using somebody’s land and he or she needs it back, please return it to avoid conflict. The defendant and his witnesses did not give any good evidence here. If at all the defendant is [looking] to farm so as to feed himself, one could understand. In reality the land belongs to Yarbou... Villages settle one after another. You, the defendant, stated here that the plaintiff is your landlord because he settled before you. It is obvious that the said land is his. Everybody has land, but if you leave your place and go to another place, then your landlord owns the land. He, the landlord, has the right to give you where to work and feed yourself. It does not necessarily mean that you should own it. Anybody who allows someone to settle in his place, should give the individual a place to farm. You should return this said land...” (*Yarbou versus Jawara*, LRD Group Tribunal, Saturday, 22 February 1992).

The district tribunals are key resource-management institutions; they can and do create local-level environmental law by judging the cases before them. The tribunal members employ a range of customary precepts, mixed admittedly with sometimes ill-informed views of national law, to mediate and resolve resource disputes. Higher courts primarily are considering land disputes in peri-urban and urban areas of the country.

2.4 TENURE “PRESSURE POINTS” IN THE GAMBIA

The tenure debate in The Gambia is largely centered on the rather unique land tenure dynamics unfolding in the Greater Banjul area. When the topics of tenure and property rights are brought

up in governmental and nongovernmental forums, the discussion usually focuses on the problems of urban land speculation, conflicting ownership claims, and contentious court cases taking place in the peri-urban areas surrounding Banjul. Disputes around the use of land in the Kombo Saint Mary region are indeed rampant. The research led by Mike Roth of the Land Tenure Center deals principally with this part of the country (Roth, Carr, and Cochrane 1996) and thus the subject is not dealt with extensively in this study.

2.4.1 Tenure constraints and opportunities in the holdings

Even though private property is an integral element of the tenure regimes of The Gambia, traditional norms usually put restrictions on the sale of land to nonfamily or nonresidents of the community. Nevertheless, this interdiction is rapidly breaking down. A recent study of peri-urban land tenure attests to the flourishing land market in the Greater Banjul area (Roth, Carr, and Cochrane 1996). This growing land market may be leading to a highly mobile and politically frustrated landless class.

The Working Group found that land is not the key factor of production in generating wealth in many of the rural communities studied. The research shows that rural individuals become wealthy through diversification of sources of income. Those who are wealthy tend to earn income off the farm. Wealth is generated through work in cities and overseas, remittances, government employment, and sales of cattle and small ruminants. The wealthy in rural communities tend to be those who have access to sufficient labor (family or hired labor). The indicators of wealth in Karantaba (see box) are good illustrations of how land is not seen as a critical constraint in some communities.

The case studies demonstrated that, except for some “secondary rights” holders, tenure on the holdings is fairly secure. A variety of arrangements exist to assure security to field-crop parcels for cultivation by lineages and households possessing “primary” rights to land. Primary rights accrue to descendants of founding families or to those closely associated with these lineages through marriage or political alliance. People with firm primary rights to land meet no constraints in planting trees, constructing soil conservation devices, or otherwise making permanent investments in the land. Customary land-tenure arrangements in our case studies are still strong, and they are protected by the legal system. National land law in The Gambia

Wealthy

Signs: Corrugated roofing; iron beds; mattresses; able to feed the family year-round; cash available to purchase fertilizer and seeds; nice clothes; being able to have more than one wife; ability to lend food and money.

Sources of wealth: Large herds of cattle, sheep, goats; horses and donkeys; guns and ammunition to kill bush pigs; remittances from relatives overseas; remittances from civil servants; inheritance; trading activities; stinginess.

In-between wealthy and poor

Signs: Occasionally corrugated roofing; no cattle; few or no sheep; a donkey; not enough farm tools; no money to hire labor or rent farm equipment; a little bit of remittance; no need to borrow money or food; can just barely feed family throughout year; large labor force but mostly women and children.

Sources of livelihood: Farming; large fields but little available labor.

Poor

Signs: No sheep, no donkeys; maybe corrugated roofing on house; cannot feed family year-round; need to borrow food and money; lack of nice clothes.

Reasons for poverty: Not ambitious; do not always farm; lack of able-bodied persons; “many little mouths”; migrant workers; frivolous with money; lazy.

currently respects customary land-tenure traditions; the district tribunals play a critically important role in maintaining those systems.

People possessing “secondary” rights to land encounter varying degrees of tenure insecurity and limitations on what they can do with the land. Women and men from land-borrowing families may not have the same security of access to resources as persons from the founding families. A variety of arrangements allow borrowing and lending of land between founding families and newer arrivals. Founding families retain the right to revoke loans of land, and, as one case study near Farafenni showed, this may apply even to lands lent hundreds of years ago. As a market for land emerges around Farafenni and as founding families put up land for sale, families and entire villages that borrowed land from major landowners are fearful that their rights will be revoked. A similar problem was noted in the Sami District case study. World Bank and Chinese rice-irrigation schemes had redistributed land on a random basis during a project period, and sometimes-landless households acquired rice lands. Now that the projects have been abandoned, the once-dispossessed traditional landholders are trying to regain control over their land.

There is a concern that land speculation around points of urban growth dissuades landholders from lending land for agricultural purposes. Conversion of rural lands to leases might similarly reduce opportunities for borrowing.

Land borrowers face restrictions on their right to plant trees and make other permanent investments in soil fertility. This tenure practice has profound implications for agroforestry programs. Land borrowers may not be free to participate in tree-planting programs due to these constraints. However, our research suggests that flexibility does exist in the land tenure systems and that, through protracted negotiation, borrowers can arrange to initiate certain land-improvement measures in exchange for the right to plant trees.

Tenure problems in the holdings are particularly acute when land suddenly acquires new value. At that particular moment various interest groups struggle to control the land allocation process. The process of jockeying for exclusive control and renegotiation of the rules of the game is often conflictual. This dynamic is evident in the large-scale irrigation projects in The Gambia. Often the conflict pits men against women, as in the case of the Jahaly Pachar project, or new arrivals against first settlers, as in the Sami District case study. Yet the same types of conflict can surface around small-scale water catchment and salt intrusion projects.

2.4.2 Tenure constraints and opportunities in the commons

The Working Group case studies and other literature suggest that one of the central tenure and natural resource problems in The Gambia is management of the village commons. Village commons in The Gambia serve as important sources of firewood, construction materials, thatching materials, fruits and nuts, medicinal plants, fish and wild game, and pastures. Women and economically marginal populations are especially dependent on collecting forest products to sell in urban and rural markets. Particular economic interests profit considerably from collecting and marketing fuelwood for urban centers. A range of tree crop products is sold by an extensive commercial network which earns its livelihood from this activity. Certain resources of the commons, such as the mangrove swamps lining the estuaries of the River Gambia, are breeding grounds for fish, shrimp, and shellfish.

The commons are often heavily degraded resources for an assortment of reasons. Various studies have documented the history of the decline in the diversity and extent of the forest commons, attributing the changes to conversion of forested lands into agricultural and residential uses, recurrence of drought, and excessive extraction of food and fiber products for commercial purposes. The field research indicated that while the extent of forest cover may not be declining uniformly across the country, the diversity of useful forest products indeed may be. For instance, bamboo is nearly extinct and *rhun* palm tree populations have declined severely the Karantaba case study area. Bamboo is also nearly extinct in the Kiang West and Foni Jarrol districts, where it used to be extensively harvested. Thatch grasses once prevalent in lowland areas have similarly declined. Wild game, once so widespread throughout the country, is now very scarce.

The rural communities studied attributed the decline in the diversity of the forest commons to a complex interplay between drought, fire, and excessive exploitation. In the more humid past bush fires served as a management tool. In the Kiang West District, for instance, fires were set during the dry season to help control the bush pig populations. Intervillage associations together hunted pigs and other wild game to control excessive numbers. Following the arrival of prolonged drought in the 1970s through the 1990s, fire setting continued, yet the trees were weakened by both drought and burning. Exploitation of the forests for firewood, forest products, and medicinal products continued unabated. Today, many species of flora and fauna are no longer found.

In contrast to the land controlled by households and lineages, the commons are often managed under poorly articulated and enforced property rights. In some cases an open-access situation exists in which few if any rules regulate the use of the natural resources. At times the government and rural communities insist that particular resources of the commons are regulated by statutory or customary laws, but in reality no authority exists to enforce the statutes or traditional covenants. For this reason, many resource user groups may have free reign to extract the products of the commons.

Rural communities often have great difficulty controlling the use of the commons. Exclusion is highly problematic if not impossible in many cases. Forest resources may be too distant from a village to merit constant surveillance, for instance, or it may be nearly impossible to exclude outsiders from using good fishing spots along an estuary. The case studies indicated that while rural communities value the utility of various types of commons, they lack the legal means and the technical information to protect and regenerate the resources. The case studies showed that most rural communities were very concerned about the future of forests and found it difficult to control excessive cutting by nonresidents. Forests are places where cattle theft is rampant, for example, yet no authority effectively responds to the problem. In some cases villagers said that local authorities do not adequately respond because of collusion with major cattle thieves, often those from neighboring countries.

Management of the commons often requires intervillage cooperation to enact new forms of resource use. Bush fires are set in the forested commons, a source of much consternation to rural communities. Controlling forest fires is extremely difficult unless there is intervillage cooperation. Research indicates a relative paucity of indigenous, intervillage institutions capable of establishing and enforcing arrangements regulating the use of resources. We are intrigued, however, by the apparent authority of the district tribunals and their current role in adjudicating a variety of resource disputes. We are impressed by the capacity of “conservators” of sacred forests to protect and nurture these unique and diverse habitats.

The commons provide vital resources for rural communities. Various user groups depend on the commons for survival and thus are interested in their maintenance. Most villages have rainy-season commons for livestock grazing; since livestock production is so critical to the survival of the household, there is an interest in deriving maximum benefit. Villagers are interested in maintaining sacred forests, especially the Jola. In many of the case study villages, the populations expressed interest in the Gambia-German Forestry Project initiatives in Foni Brefet and hoped that similar initiatives would be extended to them. Several communities had explored ways to set up forest patrols but were discouraged by the legal, administrative, and organizational difficulties encountered.

Sustainable management of such degraded resources as the commons may be facilitated if both state and local community authority structures clarify the multiple and overlapping rights and responsibilities of the many resource user groups depending on these forest, range, and water resources for their livelihood. This most often entails the creation of common-property regimes out of open-access situations. Yet in several cases the issue is to clarify the respective roles of the state and the local communities over the use and sustainable management of the commons.

Rural communities may need assistance from government to design viable common-property regimes—arrangements in which rules and responsibilities regulating the use of resources are defined and jointly enforced by both the community and the state. Neither modern legal corpus nor current administrative practice facilitates the construction of new common-property arrangements out of open-access situations.

The Working Group looked at ways to increase the capacity of rural communities to better manage the commons. We are sobered by the complexity of the question. It is abundantly clear that rural communities are rarely homogeneous and that the interests of the various users of the commons are often opposed to one other. Despite this reality, rural communities have succeeded remarkably in devising and maintaining certain collective resource-management practices. These are the foundation upon which the commons may be better managed in the future.

The traditional rural leadership of The Gambia continues to exercise considerable control over the use of resources. Our case studies indicated that the *seyfolu*, district tribunals, and *alkalolu* play a critical role in defining and enforcing rules governing the use of the commons. Often these local authorities are effectively supported by the government. This is no more evident than in observing how effectively the government enforces the ban on creating new villages and clearing forests for new fields. Throughout The Gambia everyone knows that local authorities and government will harshly sanction attempts to contravene these policies. This suggests that traditional institutions should be fully incorporated into any and all initiatives to construct and enforce common property regimes.

Government and donor agencies should look at ways in which the legal corpus of The Gambia can be adjusted to increase the control exercised by rural populations over their own resources, yet, at the same time, provide checks and balances against abusive exploitation by the local residents themselves.

2.4.3 Tenure constraints and opportunities in the reserves

The colonial and postcolonial governments have created forest parks and national parks with the intention of protecting the diverse and valuable flora and fauna of The Gambia. Management control for these state reserves has been vested in the Forestry Department and the Department of

Natural Resources. The Forest Acts and the Wildlife Conservation Act constitute the legal foundations for restricting use of the reserves. Use rights are often granted to the communities living around these state-controlled lands to collect certain forest products for noncommercial uses.

The case studies completed have looked at the impact of state reserves (forest parks and the Kiang West National Park) on local populations. The studies demonstrate the technical and organizational difficulties that government agencies encounter in managing state reserves. The case studies also vividly demonstrate the high costs born by villagers because of destruction of field crops by bush pigs and other wild game. This problem is especially acute around Kiang West National Park.

The research teams support participatory forest-park management models such as those being tried in other parts of the Sahel. But, as the Maka Farafenni case study showed, villages surrounding a forest park do not always share similar interests. Maka Farafenni adamantly insists on converting a large part of the forest into cropland while a neighboring village recognizes the importance of the forest for providing an assortment of forest products. Intervillage negotiation must take place if participatory forest-park management is to be encouraged (for example, the Guesselbodi or Baban Raffi model in Niger); but this is a very long, delicate, and time-consuming process requiring considerable bargaining skills by a variety of parties. The government and donors will need to take a close look at the successes and setbacks of participatory forest-reserve projects and focus attention on the complex institutional/organizational issues involved. But analysis should not stop there. Village-initiated efforts to manage forests should be investigated in other parts of the subregion, most notably in the peanut basin of Senegal and other parts of The Gambia.

Populations living around forest parks have little sense of ownership or stewardship of the state reserve. In the Kiang West and Upper Baddibu case studies, the forest parks are perceived to be state-owned and -managed and thus not worthy of care by local populations. Villagers are certainly aware of excessive exploitation of the park (and they partake of it in many cases), but they do not try to stop abusive practices; they believe that this enforcement responsibility lies with the Forestry Department or the Department of Wildlife Conservation.

The Kiang West District case study looked at the impact of the Kiang West National Park on the adjoining village of Dumbutu, raising concerns about a number of issues, most notably the question of who must bear the social and ecological costs of the park. As the park becomes operational, we fear that it may generate not only financial benefits through tourism but also a series of adverse costs that will be borne by surrounding communities. The most serious problem concerns damage from wild pigs and from baboons which live within the park consuming field crops of the villages surrounding the park. The communities around the park are facing an increasingly desperate situation. Some type of culling program may need to be established to control the exploding populations of bush pigs and baboons. Unless the bush pig problem is squarely confronted by the government, similar efforts to restore wildlife and woodlands in other parts of the country will be met with resistance by rural populations.

The Kiang West National Park is operated by the National Park Service but is advised by a technical advisory committee (TAC). From our initial findings, we feel that efforts should be made to grant this advisory board more power to influence decision-making on the use of the park. The ANR project may wish to focus some of its efforts on the institutional capacity

building of the TAC as part of an initiative to learn what type of training is required to serve the needs of rural populations involved in the management of resources.

Research in other parts of West Africa suggests that communities have the capacity and willingness to manage resources when they view them as their own and when they derive appreciable benefits from time and investment in conservation. The experiment by the Gambian-German Forestry Project in Foni Brefet suggests that communities are indeed interested in managing forests for the benefit of the broader community.

2.5 TENURE POLICY OPTIONS IN THE GAMBIA

In response to the tenure constraints and opportunities identified in this report, the Working Group presents an array of policy options with the intent of promoting informed debate within government and public circles on the tenure dilemmas facing the rural communities. The Working Group is confident that informed public debate will generate the requisite clarification for the rationale and objectives of government land policies.

The merits and constraints of the following policy approaches are discussed below:

- 1) replace customary tenure (replace customary tenure with freehold or leasehold systems administered by the government);
- 2) comanage natural resources (establish collaborative arrangements between resource users and government to jointly manage natural resources);
- 3) adapt customary tenure (build on the strengths of customary tenure to better manage natural resources); and
- 4) laissez faire (allow no government interference in tenure arrangements).

The Working Group believes that the first three options can coexist within The Gambia, though clear choices must be made by government to promote particular approaches within specific parts of the country. Tenure systems applied uniformly across the country are not required at this time in The Gambia.

2.5.1 Replace customary tenure regimes

The replacement of customary tenure entails the abolition of traditional regimes and the substitution of state-supported freehold or leasehold systems in their place, with the government enacting legislation to facilitate the conversion of customary holdings to some type of registered landholding. In either a leasehold or a freehold system, transactions should be recorded in a comprehensive manner to avoid multiple claims to the same pieces of land. In most cases, land is registered in the names of individuals or households; in other cases (national parks and forest reserves), land is registered in the name of the state. The state takes an active role in promoting a market for leases or privately owned lands.

Assumptions

The central precept of the replacement approach is that the state should control the direction and content of rural development. State promotion of private ownership of land and other natural resources is presumed to lead to greater agricultural productivity and improved management of natural resources. Many central state planners favor leasehold tenure systems because they provide the opportunity to control the patterns and rates of change through stipulations and

conditions in land-lease agreements. It is assumed that state technocrats have sufficient knowledge and administrative power to plan the use of land. The role of rural populations is to counsel the planning activities of the technical advisors.

Legislative framework

The state enacts legislation that facilitates the abolition of customary tenure systems and their replacement with leasehold or freehold. Legislation establishes land registration systems to transform customary holdings to titled holdings as well as judicial processes to resolve land disputes during the conversion process.

State administrative practice

The state enforces its legislation, making possible the establishment of leasehold or freehold tenure systems, by assisting in the surveying of landholdings, maintaining the registry of title deeds, intervening in land disputes, and actively participating in physical planning.

The state's bureaucracy also plays a central role in maintaining the leasehold or freehold system. Government bureaucracies, such as departments of lands and surveys, are critical to the upkeep of the leasehold system.

Rural development practice

Government administrative and technical services are indispensable for developing rural areas. The government not only promotes planned economic growth but also regulates land use consistent with its national environmental policies. Government takes an active part in land utilization, as envisaged in The Gambian 1990 Physical Planning and Development Control Act, by establishing planning boards, approving applications for leases, and drafting national, divisional, and local development plans.

Judicial practice

The court system is strategic in the replacement approach, especially during the period of converting customary tenure to registered title. In Kenya, for instance, an extensive land registration program produced considerable litigation during its initial years. Western legal concepts may be applied to the resolution of disputes once they enter the formal court system. Litigation costs are often high because rural populations must engage lawyers to resolve disputes over multiple claims to land.

Financial costs

Although exceptional, the financial costs of the replacement paradigm are difficult to estimate. Public funds can pay the salaries and operating costs of administrative, judicial, and technical services. Tax revenues, though variable, provide the wherewithal for maintaining the state bureaucracy. Costs to the public for litigation and transfers may be extremely high.

Experiences in Africa

The replacement approach has been used selectively in The Gambia. The 1990 Lands Act represents an attempt to replace customary land-tenure systems with state leasehold. The government envisages applying the act to urban and peri-urban areas (that is, Greater Banjul and

“growth points” such as Basse or Farafenni) and also to “designated areas” in other parts of the country.

The replacement model has provided the basis for many irrigated agricultural projects in The Gambia. When establishing irrigation projects government planners in many cases impose changes in the customary tenure systems. As this study has shown, however, customary arrangements resurface if the project fails and land reverts to its original uses.

The replacement paradigm has served in land tenure reform efforts throughout Africa. National governments undertake land registration programs for different reasons: to establish a single, uniform system of national land tenure; to resolve problems of underutilized landholdings and land concentration; and to centralize political authority by diminishing the allocation rights of local, customary regimes. Such diverse government as those of Senegal, Kenya, Somalia, Nigeria, Malawi, Zimbabwe, and Uganda have instituted registration programs. Registration has been the vehicle not only for granting individual freehold title but also for creating and recording leasehold titles and rights of occupancy from the state and for groups and individuals (LTC 1990).

Experience in Africa has shown that government efforts to create security of tenure through promoting leaseholds and land registration systems rarely serve their intended purposes (see box). Enhancing smallholder productivity via land tenure reforms is likely to be ineffective if conducted in a vacuum: title status appears less important in determining farm productivity than do other mediating factors such as access to markets, nonfarm income, and wealth.

Studies in many parts of Africa have shown that customary tenure regimes are remarkably resilient. National legislation on tenure reform has a limited capacity to abolish customary tenure. World Bank and LTC studies in both East and West Africa have shown that in most cases titling and registration programs have not succeeded in changing the land transfer behavior of

Security of tenure and land markets. Studies from Kenya suggest that registration of title by itself may not always significantly increase a farmer's security of tenure or enhance a smallholder's access to credit. Benefits of titling appear to be unevenly distributed, with some farmers more able to take advantage of title than others. Land markets remain constrained in important respects; they produce increased land concentration in some circumstances and reduce it in others. Production in the short or intermediate term is often not the motivation behind purchases, but rather social security considerations and the potential profits from appreciation in value.

Land disputes. Although rising incidences of land disputes often provide a motivation for registration, the evidence on whether registration actually diminishes disputes over the long term is mixed. A decline in disputes following registration may only be temporary, and registration may engender new kinds of disputes: instead of quarreling over boundaries, the most common subject of disputes on customary holdings, suits over actual ownership may become more prevalent.

Intrahousehold impacts. Registration has even been the vehicle for extinguishing subsidiary, derived rights to land of women and junior male household members while granting the head of household the title and thus the right to mortgage or sell the land without the consent of other family members.

Failure to maintain land records. In Kenya, Uganda, and elsewhere, successions and other transfers of title have gone unregistered, resulting in records that are increasingly unreliable, with negative impacts on land markets, numbers of disputes, and access to credit (LTC 1990).

rural populations. Farmers continue to comply with community tenure arrangements despite the existence of leasehold regimes. Similarly, World Bank research in Rwanda and LTC research in Senegal have found that laws forbidding lands sales without government authorization have been ineffective. Rural populations disregard the law in their interests.

Reforms designed to replace customary tenure often create greater confusion, and the powerful may take advantage of that puzzlement to augment their holdings. Titling by the state has often been abused by providing elites and dominant ethnic groups with the capacity to strip pastoralists and other seasonal resource users of access to resources. Land conflicts are often the result of land grabbing and forced removal of people claiming traditional rights to land. Titling programs designed to redistribute land have engendered so many abuses that it is important for policymakers to question whether this is a trusted tool of land reform. It seems almost inevitable that corruption will occur when valuable land is allocated and rationed administratively.

Land registration and titling programs can be viable alternatives for administering exceptionally economically valuable resources for which there is much competition. Rights to land may need to be registered in the case of irrigation schemes. Yet, as the Jahaly Pacharr project of The Gambia has demonstrated, considerable controversy surrounds the question of who should possess ownership title (Dey 1982; Carney 1988; Carney and Watts 1991). In cases where customary tenure systems provide reasonable security, some innovators may want registered titles in order to get access to credit. In these cases, voluntary registration on a user-pays basis may be a viable option. The creation of leasehold and freehold tenure regimes may be necessary in urban and surrounding areas but should be applied judiciously to rural regions. The conversion of customary tenure regimes to leasehold or freehold should be carefully planned and adequately financed.

2.5.1 Comanage natural resources

Description

The comanagement approach advocates a fundamental transformation in the roles, rights, and responsibilities of government, individuals, and communities vis-à-vis the management and control of natural resources. The cornerstone of a successful decentralized resource management approach is legal recognition by the state of the authority of local institutions to make and enforce rules regulating the use of natural resources. Certain rights and responsibilities for the use of natural resources are transferred from the state to local institutions, the state giving rural populations greater legal and administrative control over the exploitation of natural resources found within their territories.

Assumptions

The underlying assumption is that the state and local resource users are equal and active partners in promoting sustainable exploitation of natural resources. The premise is that if local people are given more authority over the use and allocation of resources, they will have greater interest in conserving and improving the resource base. Public policy should encourage the full participation of rural interest groups in all decision-making regarding natural resources. By consciously promoting involvement of all user groups in the decision-making process, local solutions to local problems may emerge.

The premise of the comanagement option is that local communities possess rights of conditional territorial exclusion. Local communities should be granted the authority to exclude nonresidents from using particular resources if not abiding by rules and regulations designed and enforced by both the locality and the state. Nonresidents who responsibly and sustainably exploit particular resources should have access to their collection, processing, and marketing within the community's territory. Yet, if locally devised rules governing the rates of extraction are countervailed, nonresident use can be terminated.

Other examples portray how one can build upon pre-existing social institutions to better management of resources. Sacred forests are ecologically diverse, productive islands of vegetation. These forests are protected and managed by "conservators," usually elderly men of mystic powers. Cultural restrictions tightly control use of these common property resources. Forestry service administrators should consider cooperating with these knowledgeable, experienced men to preserve the forests as well as creating additional community-controlled sacred forests garnished with well-defined use rights.

Legislative framework

The comanagement tenure model entails the negotiation of a series of agreements governing the use of natural resources by the state and rural civil society. This option entails active state involvement with local institutions to construct resource use agreements or covenants that define sustainable utilization of natural resources. The central assumption is that the state and local communities plan for joint management of the resources. Planning primarily comprises a process of articulating the roles and responsibilities of different actors involved in the use of particular resources. The state encourages local institutions to develop resource-management plans that specify how resources are to be utilized in the village territories.

The legislative framework for promoting the comanagement approach is largely in place within The Gambia. The legal premises of the law clearly outline the role of district councils in regulating the use of natural resources. Mechanisms must be created for rural communities to have the power to pass bylaws governing their own resources but also to share jointly with the government the enforcement of the bylaws. Although legal instruments exist in The Gambia to grant considerable powers to district councils, the capacity of these institutions to design and implement programs is still limited.

In effect, rural government and communities should be involved in a process of creating resource-management agreements, which are simply covenants between the state and the resource stakeholders defining rights and responsibilities with regard to exploiting particular resources. These agreements, protected and sanctioned within a legislative framework, should be the end result of a community planning process that defines the uses of the resources of a village territory. The agreements are a public statement of how the community plans to change or uphold tenure arrangements.

State administrative practice

The aim of central government is to work with local populations in a style that supports and encourages local initiatives rather than intervenes directly to manage resources. This requires a change in attitude among technical services and scientific advisors. The indigenous knowledge and experience of communities need to be embraced and incorporated into the actions of government workers.

The design of government is to encourage the definition of rights and responsibilities between the state and the rural civil society. This process may entail recognizing the rights of certain local institutions to negotiate the use of natural resources.

The state can harmonize legislative texts in order to facilitate local-level planning. In The Gambia this might require reviewing all legislation relating to land matters to assess whether it uniformly promotes joint government and local community management of resources.

The government must play the role of honest broker to help communities reach agreements and establish enforcement procedures regarding the use of resources, especially those of the commons. From time to time the government will need to be a mediator in local conflicts. This will involve helping the opposing sides to articulate their differences yet avoiding the advocacy of a particular point of view. Gambian government administrators and technical advisors already have considerable skill in this domain, though experiences are not widely shared. The Gambian-German Forestry Project activities at Foni Brefet illustrate the stance the government may need to take to help construct new resource use arrangements.

Rural development practice

Field research indicated that rural communities can construct and enforce arrangements to control the use of their commons. The most prevalent example of the capacity of local communities to manage resources is the *tongo*, a particularly interesting indigenous resource-management institution of rural Gambia. The *tongo* system illustrates the factors that go into creating a “comanagement” agreement between the state and the individual resource user. The village community determines which fruits should be subject to *tongo* and tries to enforce restrictions through its own means, though intervillage institutions support the arrangement. *Seyfolu* and *alkalolu* announce the embargo period for harvesting fruit trees and the types of punishments to be handed out for contravention. The arrangement is vigorously enforced and effectively controls theft of nonharvested fruit.

The Working Group research team is concerned about the long-term viability of any resource-management agreements. Arena agreements may be negotiated and “protected” throughout the duration of project intervention. Following the termination of the project, agreements may collapse. This process has occurred in The Gambia (that is, Sami District Case Study) as well as in other Sahelian countries. In effect, islands of innovative resource-use agreements are created but are of questionable durability.

It is thus necessary from the outset to work closely with traditional rural authorities in the design and implementation of resource-use arrangements. Programs designed to promote contractual agreements around the use of natural resources must obtain support from district authorities. Environmental education will be needed for all involved.

Judicial practice

The enforcement of community-crafted resource agreements should largely be the purview of local authorities at the village, district, and divisional levels. Rural communities may need help to enforce arrangements controlling the use of resources, for sanctions and fines are often difficult to apply against members of a close-knit rural community. The principle of “graduated sanctions” thus can serve as the basis of enforcing local-level resource-management agreements.

The district tribunal and the group tribunal can play key roles in enforcing the formal and informal resource-management agreements established by rural communities and resource user groups. The district tribunal already oversees many customary as well as state-inspired resource use agreements and legislation. The Land (Provinces) Act gives power to the district tribunals to impose fines on practices deemed detrimental to the environment. Case studies in the Kiang West and Sami District indicate that the district tribunal actively enforces bans on forest fires.

Financial costs

The financial cost of the comanagement approach is difficult to estimate. Experience from West African countries suggests that promoting a comanagement model encounters high costs initially due to the expense of retraining extension agents in participatory planning techniques, of engaging personnel capable and willing to work in the field, and of providing transportation to support the participatory planning process.

Experiences in Africa

The comanagement approach is the development orientation of many West African countries at this time. Development projects throughout Francophone West Africa are experimenting with the concept, known popularly as *gestion du terroir*. Most of the innovative programs are found in Senegal, Mali, Niger, and Burkina Faso. A growing literature describes the successes and setbacks of this approach in considerable detail (Painter 1993; Djibo et al. 1991; Hagberg 1992; Freudemberger 1993).

The majority of these programs and projects are trying to find ways to devolve control over resources to local communities. This entails a process of crafting new institutional arrangements between the central government and an array of local organizations and resource user groups. Initially, little consideration was given to whether or not local institutions possessed the political authority, social legitimacy, and levels of administrative and technical competence necessary to regulate local resource use. Project planners underestimated the costs that rural populations face in creating and enforcing rules governing the use of natural resources.

Gradually, this lacuna is being addressed, though it is one of the most difficult elements of the comanagement approach (Vedeld 1992). It is becoming clear that when resource user groups and village communities clearly see that benefits are roughly proportional to the costs of participation, they become motivated to work at crafting new ways of managing natural resources. People who have a stake in the program of decentralized management of resources will contribute ideas to solve the problems and will have commitment to each other and to the common good. "Design principles" for comanagement of natural resources are becoming increasingly well defined (Schoux 1993; Ostrom 1990; Freudemberger and Mathieu 1993).

2.5.3 Adapt customary tenure

Description

The adaptation model is concerned with ways to encourage progressive change in customary land-tenure systems in response to new economic, social, and ecological realities. This option presupposes that customary tenure systems are flexible and adaptable. It requires policymakers to rethink the obsolete model, which sees customary tenure systems as dysfunctional and envisages their systematic replacement with freehold or leasehold tenure.

Assumptions

The adaptation approach assumes that, though rural communities possess the capacity to devise and enforce rules governing the use of natural resources at the local level, many factors impinge upon this process. The approach recognizes the importance of allowing a wide range of unique and distinct tenure regimes to emerge throughout a country.

This precept accepts the premise that an “African democracy” generates responsive decisions and that local institutions can generate capable and representative leaders. This approach suggests that consensual decision based on protracted discussion and debate generates responsible action. Majority voting is rarely practiced. While decision-making is generally achieved by a small group of male leaders, these people can maintain power only if they retain reciprocal relations with their constituencies.

History is an important element of this paradigm. Historical information is critical to the community since it determines who has primary and secondary rights to land. Historical knowledge crystallizes political relationships. Settlement histories clarify rights of ownership. As our case-study research demonstrates, however, the historical background of a community can be quite complex.

Legislative framework

The Gambia is one of few countries in Africa that explicitly recognizes the existence of customary land-tenure systems. For this reason, it is difficult to spell out in detail the forms and functions of an appropriate legal framework. Some type of legal structure is needed to guarantee the customary rights of communities, households, and individuals to land and other natural resources. This framework should set out the broad principles of land use for the country. Land charters have become one of the mechanisms suggested to articulate public policy. Broad definitions of government land policy are stated in such documents as the new Code Rurale in Niger.

Mechanisms should be built into the legislation to allow local-level tenure systems to evolve to meet new economic, social, and ecological demands. Legislation and public policy need to take seriously customary tenure systems and local land administrators. This requires not only conducive law at the national level but also effective strategies for working with resource managers and communities in each locality.

The Land (Provinces) Act (Ch. 57:03) of The Gambia represents one element of the adaptation policy approach. The act sets out the principle that “it is expedient that the existing customary rights of indigenous inhabitants of the Provinces to use and enjoy the land of the Provinces and the natural fruits thereof should be preserved,” and that “it is expedient that the existing customary law regarding the use and occupation of such land should be as far as possible preserved” (Laws of The Gambia, 1990).

Land policy and administrative practice may need to be revised to spell out clearly the precept that local communities are the primary managers of natural resources. Control for the forests, watercourses, pastures, land, and other natural resources is vested in district authorities who should act in consultation with the village communities of a district. Legislation may be needed to clarify the definition and rights of the district authorities with regard to land use.

The field research of the Working Group indicated in most instances that the *kabilo* heads are the locus of decision-making regarding the allocation of land and not, as many assume, the *alkalo* and *seyfo*. These latter authorities, villagers believe, control unoccupied and unowned land, something that is rather rare in The Gambia.

Legislation may be needed to demarcate community boundaries and possibly even register group rights. Communities located next to urban centers may need to clarify rights to land and roles of land-allocation institutions in order to reduce speculation and corruption. Modern mapping technologies—geographic information systems (GIS) and global positioning systems (GPS)—may be a useful and cost-effective way for mapping territorial rights to land. Recent work by the LTC in Guinea-Bissau has successfully combined oral, participatory, demarcating methods with these modern technologies.

The adaptation approach can consist of national policies to clarify the rights and responsibilities of communities and individuals. Out of a public process of decision-making, a land charter can be developed that spells out national tenure views. For instance, a national land policy might articulate the view that original landholders possess priority rights to the management of the land, but that they have a responsibility to provide land to those in need. The policy could let communities decide what type of transfer mechanisms they consider adequate so long as the terms are not usurious. This legislation might articulate the precept that sacred areas (for example, forests, watercourses, particular trees) are to be managed by the traditional religious authorities in the community.

State administrative practice

Security of tenure for women may not be guaranteed in contemporary indigenous tenure systems even though traditional tenure norms may note otherwise. Critical changes in customary tenure systems may involve modification to allow land to pass by wills to women and include daughters and widows as heirs in property distribution. This process may be incremental. District tribunals could be encouraged by either legislative fiat or administrative persuasion to rule that widows retain land of their husbands for as long as they live in the community. The government might strongly encourage the nomination of women as members of district tribunals.

The national government can play a key role in encouraging national debate on tenure norms. In Niger, the government invested considerable resources in setting up regional commissions to study land problems. The process of meeting with rural groups created public interest in the new Rural Code. In some cases these codes are simply policy statements, or land charters, describing principles of land allocation, use, and transfer.

The state can also play a key role in helping communities record their histories. The National Museum of the Gambia, for instance, could help to transform the oral historical traditions on land allocation practices into written form. This would build upon the pioneering work of the Law Reform Commission of The Gambia.

Rural development practice

The Government of The Gambia and donors can invest resources in strengthening the institutional capacity of indigenous institutions to respond to changing tenure arrangements. Above all this entails careful assessment of how the state can support collaborative relations between district authorities and more “modern” institutions such as village development

committees and area council members. The purpose of central government action is to clarify the respective roles of each institutional jurisdiction. This would go far to reducing the ambiguity that characterizes the functions of many local institutions.

Judicial practice

The Gambia's common-law system is a powerful tool for guiding the adaptation of customary law. However, care should be taken not to romanticize the district tribunals, which tend to represent the interests of the first settlers and major landed interests in the community. The district tribunals are thus the bastions of tradition as represented by elder males. Concentration of power in the hands of this body may frustrate younger and more dynamic members of the communities. Women's interests may not be fully represented in these courts, though women take cases to court on a regular basis.

The district tribunals play a key role in the adaptation approach, for around this institution tenure arrangements governing the use of resources are debated, modified, and enforced. Policymakers should turn their attention to the functions and roles of the district tribunal as a resource-management institution.

The research of the Working Group suggests that district tribunals are potent local-level institutions that can, within certain parameters, contribute enormously to the enforcement of community-devised resource-management arrangements. Donor environmental programs should acknowledge the importance of these district tribunals. The Agricultural and Natural Resources program should look into ways to increase the capacity of district authorities (*seyfolu* and *alkalolu*) and district tribunal members to design and enforce various local-level rules of resource use.

This may entail strengthening the ability of the district tribunals to resolve disputes around natural resources. Important steps have been taken by improving the court scribes' recording of court proceedings, yet this mechanism continues to pose difficulties. Suggestions for further strengthening include allocating court scribes to each district, increasing allowances paid to district tribunal members and the *seyfolu*, providing bicycles to badge messengers, and improving security facilities.

Financial costs

The adaptation approach may be the least expensive of the policy options. While responsibility for strengthening management action is placed primarily in the hands of rural institutions, government personnel are engaged in bringing about incremental changes as defined by specific interest groups.

Experiences in Africa

Field research indicates that the customary tenure systems in The Gambia are capable of responding to emerging needs and pressures. District authorities, backed up by the district tribunals, enforce a wide range of customary land-use norms and devise new ways to enforce use of natural resources. These methods have been identified in the case studies (*fongo*, for example) and serve as models for how tenure systems can adapt. Few other approaches exist in Africa at this time.

2.5.4 Laissez faire choice

Although the Government of The Gambia may choose not to intervene in the rural or urban tenure domain, costs of this lack of intervention could be high. The state would be obliged to confront tenure conflicts as markets develop in haphazard and uncontrolled fashion around particularly valuable resources—for example, land in urban and peri-urban areas.

3. TENURE AND DEVELOPMENT PRACTICE

3.1 INCORPORATION OF A TENURE FOCUS INTO PROJECT DESIGN AND IMPLEMENTATION

Rural development consists primarily of planning for economically and ecologically sustainable progress. Property rights arrangements may be one of many variables that favors or impedes economic growth. The acceptance of new agricultural technologies designed to increase productivity may be hindered by the tenure arrangements favored in a particular community. Extension programs familiar with existing tenure relations in a community can tailor technologies to meet the particular circumstances of the zone.

Development programs and projects, be they designed by technical planners or community-level leaders, must take into account the potential effects of existing tenure arrangements. Tenure issues affect every stage of project activity. At first, tenure determines who has access to the resources needed to participate in the project. Once the project has started, people's willingness to participate fully often depends on the kinds of rights they have to resources, which determine, in turn, the users' incentives to invest in or protect what they have. Tenure rules may determine who benefits from the project as time goes on.

A review of tenure arrangements in different agro-ecological zones, for instance, may show that to circumvent difficult tenure problems, it is more appropriate to promote natural regeneration of trees in fields rather than tree planting by itself. Villagers might find it easier to enact and enforce rules that regulate the removal, trimming, or excessive cutting of naturally growing trees. Similarly, knowledge of tenure arrangements in a particular locale will help to assess whether benefits of intervention are likely to be distributed equitably among different social categories as well as between men and women. Project personnel should encourage recipients to determine how future benefits from a project will be distributed and to devise strategies for protecting the rights of various beneficiary groups.

The Working Group case studies indicate clearly that a wide variety of stakeholders exploit natural resources. Not only do various stakeholders have interests in exploiting an array of natural resources in a particular locale, but also many are involved in determining how these resources are used. Development programs frequently fail to identify accurately who uses the various resources of a locality. Politically and economically marginal groups are often overlooked, yet these people have an impact on the way resources are employed. Development projects need to maintain their efforts to ensure the participation of women, various castes and classes, and younger people in decisions affecting the use of natural resources.

Projects play an important role in creating the place for underrepresented groups to participate in decisions governing the use and distribution of natural resources. Applied research projects can identify groups historically marginalized from decision-making and recommend ways to incorporate these people into the planning process. Various techniques to highlight the concerns of underrepresented populations at the village level include holding focus group meetings with women, semistructured interviews with key women leaders, and separate planning

Pastures

- ◆ District Authorities determine opening and closing dates for grazing
- ◆ Owners of livestock hire herders during rainy season for cattle and small ruminants
- ◆ District Authorities enforce boundaries to cattle tracks to the River Gambia and its tributaries

Water

- ◆ Village institutions regulate access to public wells
- ◆ Village institutions devise rules to maintain hygiene around village wells

Soils

- ◆ Cereal crops are rotated with leguminous crops
- ◆ Rice fields are left in fallow
- ◆ Communal rotation of fields and pastures under authorization of landowners
- ◆ Farmers negotiate tethering contracts with cattle herders and their owners for manure
- ◆ Farmers do not cut down economically valuable trees, especially the kadd (*Acacia albida*)
- ◆ Farmers plow household residues and ashes from burned weeds into fields

Trees

- ◆ Village youth associations, *alkalolu*, *seyfolu*, and District Tribunals enforce *tongo* arrangements governing the harvest dates of fruit picked from domesticated and wild trees
- ◆ Households strictly monitor collection of fruit and leaves from economically valuable trees like baobabs (*Adansonia dig.*)

Mangroves

- ◆ Women oyster collectors rotate the harvesting of oysters in order to promote regrowth

sessions with and for marginalized socioeconomic groups. This is most important in planning for better management of the commons.

3.2 TENURE AND PARTICIPATORY PLANNING FOR NATURAL RESOURCE MANAGEMENT

Programs and projects in The Gambia can take immediate steps to promote improved management of natural resources through participatory planning approaches. Participatory rural appraisals (PRA) can be useful planning tools if properly carried out. The Working Group recommends that the Agricultural and Natural Resources (ANR) program of the Ministry of Natural Resources and Environment recruit PRA specialists to train staff and village planners in these techniques.

Rural communities are involved in various planning activities on a continual basis. The capacity for community planning is high in rural Gambia, because many villages are already engaged in numerous collective activities ranging from maintenance of the mosque and *bantaba* to participation in credit schemes. Communities deliberately plan for the use of natural resources, including farmlands, forests, water sources, and pastures. The purpose of participatory planning with external agencies and government is to build upon these experiences (see box, p. 56).

The process of participatory planning has been extensively applied in India, parts of Sahelian West Africa, and some East African countries (see section 6, Selected bibliography of participatory planning materials). Experience from India suggests that participatory planning consists of several key steps (see box, this page). The first important step, based on well-defined criteria, involves selecting appropriate sites for community planning. Following this initial exercise, the organizers conduct preliminary visits and community orientation seminars. Then a period of intense information collection follows, along with discussion and analysis of options conducted jointly by the target community and external development actors. This planning process consists of ranking development constraints and opportunities, considering alternative responses to specific problems, and preparing some type of community action plan. The community, with outside assistance as necessary, then begins to work on the priorities they themselves have identified. This may involve the creation of a covenant defining roles and responsibilities between rural communities and institutions of external support.

Participatory Learning Method (PALM)

Day 1: Introduction

History of village, village layout, village infrastructure

Day 2: Exploratory (simple)

Study of resources, livelihoods, trends, preferences

Day 3: Exploratory (complex)

Seasonality, identifying resources, wealth ranking, class and caste stratification, conflicts, causes and effects

Day 4: Convergence

Identifying opportunities, listing priorities and "best bets," identifying roles and responsibilities (defining responsibilities of various partners)

Day 5: Concluding

Operational plan, documentation, next steps

(Summary of Mascarehnnus 1992, p. 11)

The experience gained in community planning initiatives shows that rural communities can plan for their own futures so long as it is worth their investment of time. However, if concrete benefits do not emerge, villagers quickly find that participation is simply not worthwhile. Experience from both Africa and Asia suggests that once rural communities are taught participatory planning skills, they can continue the process independently if they find it beneficial. The task for the ANR program and other interested donors is to finance the costs of initial training and to set up financial and technical incentives for rural communities to prepare realistic plans and strategies.

While some PRA training has already taken place in The Gambia, there is a need to reinforce and expand these interventions. Skilled resources in The Gambia are Save the Children, Action Aid, Catholic Relief Services, and the many Gambians who have participated in various Rapid Rural Appraisals (RRAs) over the past few years. External sources of skilled trainers in RRA/PRA are: The International Institute of Environment and Development (London and Dakar); Clark University, Center for International Environment and Development; University of

Wisconsin, Land Tenure Center, and various consultants. The ANR program may wish to consider inviting the Dakar office of the Institute for Environment and Development (Director, Bara Gueye) to assess the possibility of setting up a community planning process around resource-management issues.

3.2.1 Participatory resource planning in five case study areas

The Working Group conducted detailed case studies on the tenure constraints and opportunities in four districts (Kiang West, Upper Baddibu, Sami, and Sandu). These districts should be used by the ANR program to promote pilot participatory planning to improve resource management by and for local communities. This planning initiative should complement ongoing activities of governmental and nongovernmental development agencies active in the districts. The Foni Jarrol District should also be incorporated into this initiative since it was the earlier subject of a tenure study by an interministerial group and the LTC.

The five districts represent a cross-section of the socioeconomic and ecological conditions of The Gambia. Much is known through the case studies conducted by the Working Group and the LTC about the unique problems and opportunities of each district. The ANR program should work with the various agencies and organizations in these five districts to determine how it can most effectively assist the ongoing activities of governmental, donor, and nongovernmental agencies but also further new initiatives in the environmental domain.

The participatory planning process should consist initially of an assessment to identify how the program might best contribute to the promotion of improved management of the natural resources of the district. The analysis should be conducted as a collaborative initiative of key governmental and nongovernmental development agencies active in each of the districts.

The assessment should be launched by forming an interministerial planning team (consisting of both technical services of the ministry and representatives of interested nongovernmental organizations) to conduct a participatory planning exercise with the various resource user groups in the district. A skilled facilitator experienced in participatory planning should be engaged to train this team in participatory planning approaches and techniques. The initiative might take six to eight days per village. From the outset, the interministerial team and key village leaders would be trained in participatory planning techniques so that, in the long term, village leaders could replicate the process in other villages.

The village-level planning exercise would result in the generation of village development plans and specific programs of action. The development institutions of the district would be encouraged to apply to the ANR program and other projects to secure any technical support and funding that might be necessary. Policy obstacles confronted by the rural communities through the planning process would be addressed under the aegis of the ANR program. The participatory planning process would lead to the creation of resource-management agreements outlining the responsibilities of the various actors in the planning initiative.

From the outset a monitoring system would be set up to assess the impact of the planning exercise. The data gathered through the Working Group case studies and the ANR ecological monitoring database would provide a good baseline from which to assess the impact of later interventions. The maps and other pictorial data generated by the project could also be useful for planning purposes.

The participatory planning exercise leading to the preparation of village development plans should be designed to be replicable by the villagers themselves across the district and division. If properly trained, villagers can take hold of the planning process to improve their futures. Provided with the proper institutional support, villagers can become “para-professional” planners. But this is conditioned upon the existence of a set incentives to merit the investment of the villagers’ time in planning exercises. If the planning process is useful for the rural communities in identifying problems and specific solutions and generates concrete results, experience from other parts of the world suggests that rural communities will continue to expand the participatory planning approach (Shah 1994; Mascarenhas 1992).

Most of the five sites studied by the Working Group present excellent opportunities for promoting participatory management of natural resources. This would permit full exploitation of the knowledge generated by the case studies and meet the need to turn research results into initiatives that can directly assist the community. At least one member of the Working Group case study teams should return with the planning team to facilitate sharing of information and building linkages with the rural communities.

Implementing a participatory planning exercise will certainly highlight opportunities for designing innovative resource-management projects. For instance, villagers in the Karantaba (Sami District) and Dumbutu (Sandu District) expressed interest in the regeneration of *rhun* palm trees. Farmer-to-farmer visits could be organized to Senegalese villages that have successfully embarked on *rhun* palm tree rehabilitation (that is, Fandène, Département de Thies; Bagana Serer, Département de Mbour). In both Dumbutu and Karantaba, there is much interest in rehabilitating bamboo, a once vital source of income. An applied research program conducted with the villages could look into ways to rehabilitate this important species. Villagers interested in community management of forest commons could visit the Foni Brefet project and attend workshops organized by the villagers themselves.

3.2.2 Tenure and community resource-management agreements

Development practice in many parts of West Africa currently encourages the establishment of contractual arrangements between recipients of development assistance and the government or donor agency. Through a process of negotiation, the donor indicates the nature, duration, and extent of the aid package offered. The rural community recipient similarly indicates the contributions of cash and kind that it will provide to the joint endeavor. These contractual arrangements are written down, notarized, and filed with the government and the donor agency and often have the force of law. On occasion rural communities in Senegal and Mali have taken the donors to court because obligations were not met.

The concept of contractual arrangements between the state and local communities has been extended to the environmental domain. In these cases the government/donor agencies collaborate with a range of village and extra-village institutions to establish a resource-management plan. These plans may be devised through a PRA process, as described in the previous section, leading to the formulation of a Community Resource Plan. The project serves to subsidize the transactions costs of bringing diverse interest groups together to negotiate new tenure arrangements. A resource-management plan should not be viewed simply as a map of preferred land uses; it should also be seen as a document that summarizes agreements reached within the community on the rules and regulations that will govern the use of natural resources. Since rule-making and -enforcing are conducted by various institutions, it is necessary for a wide spectrum

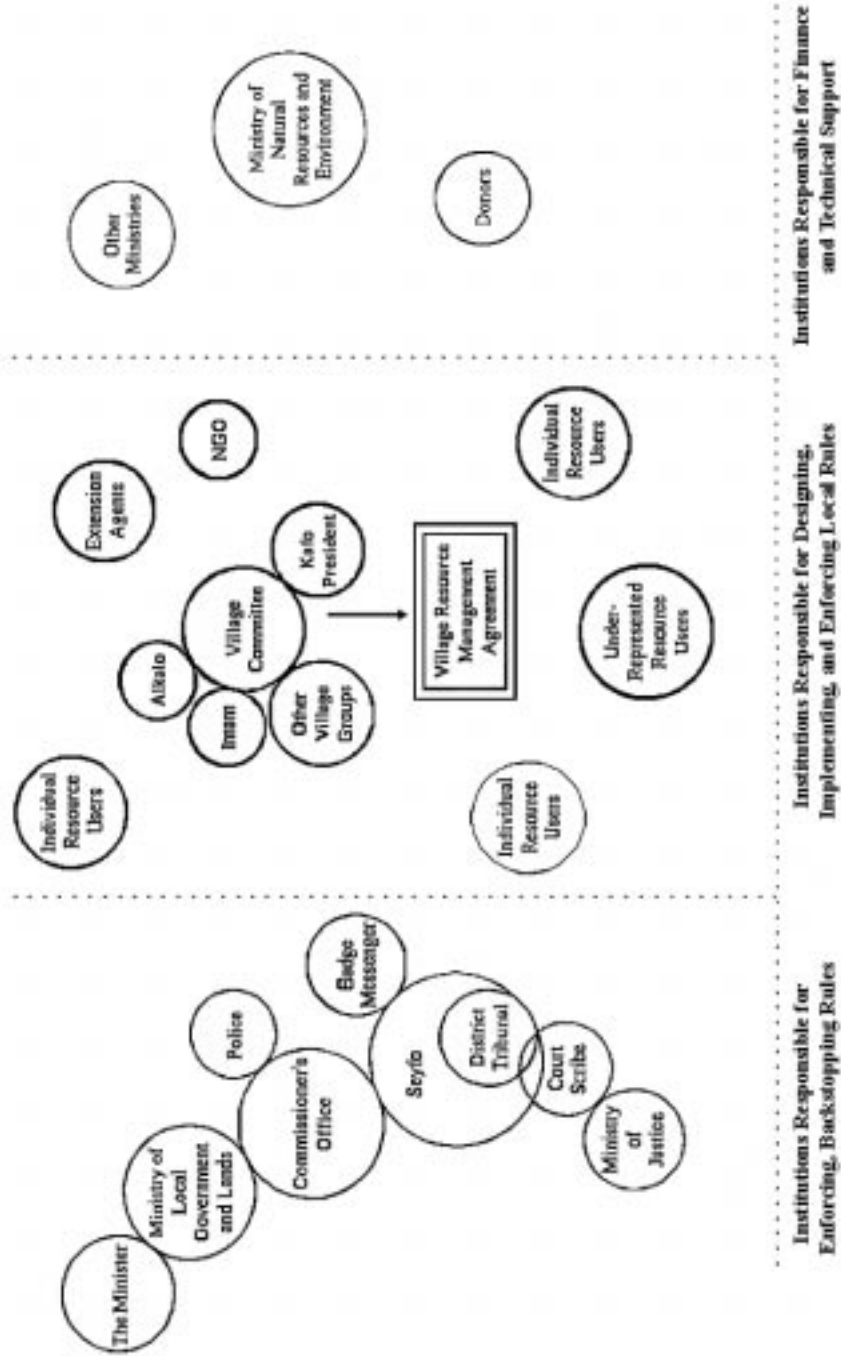
of interests to be intimately involved in the planning activity at the appropriate time (that is, *kafo* groups, representatives of defined user groups, Village Development Committees, *alkalolu*, *alkalolu* from neighboring villages, *seyfolu*, *seyfolu* from neighboring districts, district tribunal members, forestry department agents, livestock services agents, area council members, commissioner) (see chart 1, Institutions involved in designing, implementing, and enforcing village resource management agreements). From the very outset of the planning process it is critically important to identify all the resource stakeholders in a community and to avoid marginalizing women and less powerful social categories.

These plans should consider how changes in tenure arrangements might improve the use of natural resources. For instance, a resource-management plan might entail the determination of new rules regulating the dimension and location of cattle tracks. The plan might demarcate areas of rainy-season grazing and field-crop production for cattle and small ruminants and list sanctions against those not respecting the land use plan. The plan can spell out the conditions of loans of land to facilitate tree planting by land borrowers or women. The plan might indicate clearly who possesses rights to use forest products in a particular area, the rates of extraction of these products, and sanctions against abusers. The community might develop a strategy to protect seedlings of kadd (*Acacia albida*) trees growing in fields. Rules might be developed leading to the exclusion of livestock from fields on a rotational basis for a specified period of time in order to facilitate the growth of the young trees. Sanctions might be set up to prohibit excessive cutting of predetermined species of trees. Villagers in Karantaba (Sami District) suggested that the forests falling under the jurisdiction of the village be divided among the *kabilo*, who would then be vested with responsibilities for managing all resources found therein. Contractual agreements would need to be set up with the forestry department and other government agencies spelling out the conditions of devolution of resource-management control to the local community.

Based on a community resource plan, a covenant would then be drawn up between the state and local institutions spelling out the actions to be implemented by the various interested parties. These agreements should be written down, translated in Arabic and local languages, and filed with the village and appropriate legally constituted bodies. Resource-management plans represent negotiated agreements to modify tenure arrangements at the local level; thus, these plans need to be officially received and accepted by the legally constituted purveyors of customary law—*alkalolu*, *seyfolu*, district tribunals, and commissioners.

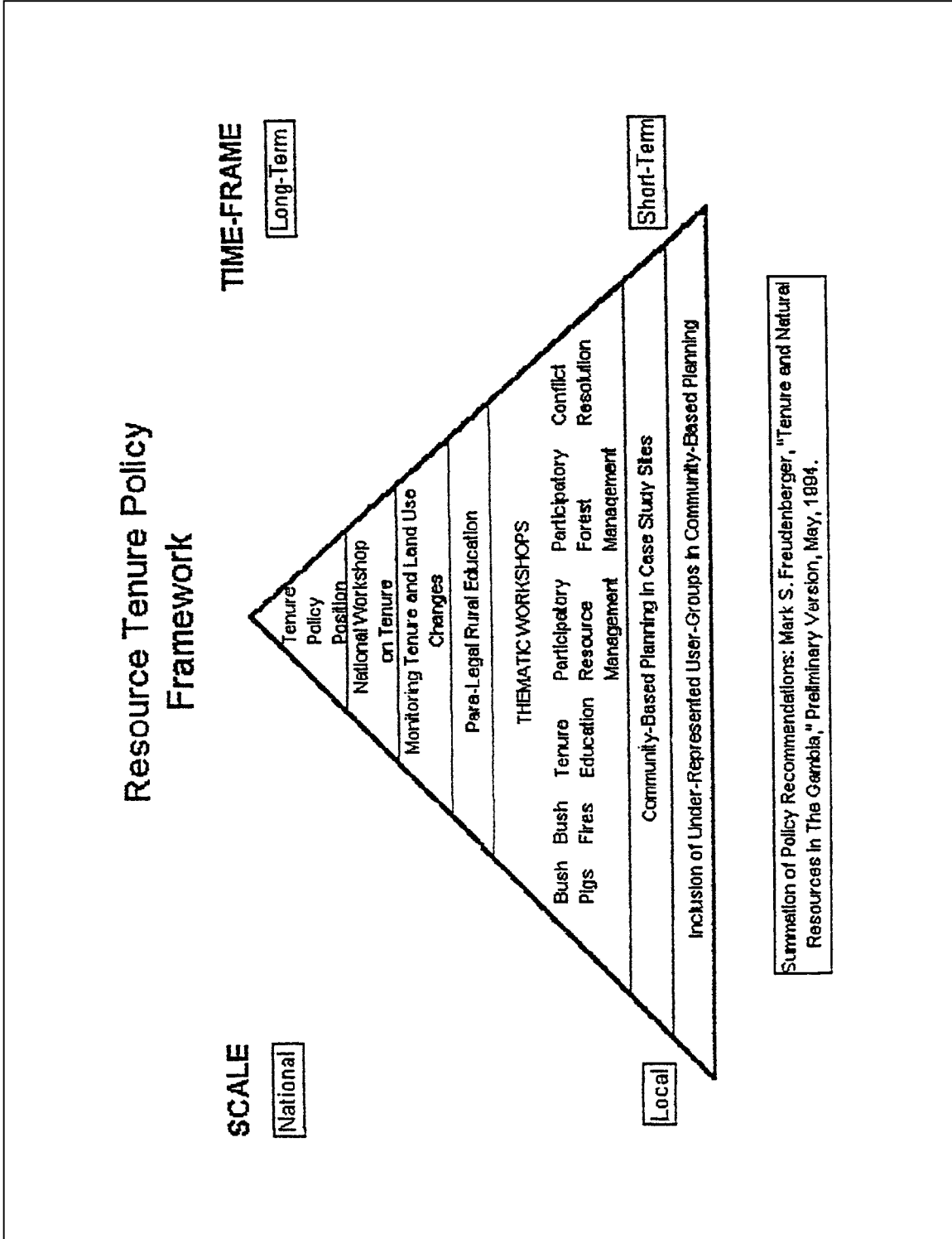
A resource-management agreement is a covenant of trust—an expectation that both the resource users and the state will carry out their promises. Covenants and social contracts are often broken, and for this reason it is necessary for communities engaged in resource planning to consider how to enforce agreements. Communities involved in participatory planning should be encouraged to develop not only new local-level rules and regulations governing the use of resources in a particular locale, but also a series of “graduated sanctions” against those (both state and rural resource users) who contravene the negotiated agreements (International Center for Self-Governance 1994; Ostrom, personal communication).

CH. 1 Institutions Involved in Designing, Implementing, and Enforcing Village Resource Management Agreements



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Chart 2 Resource tenure policy framework



The assumption in the literature on environmental planning is that an external agent is necessary to enforce contracts and rules set up through a resource-management agreement (see

COVENANTS AND RULE ENFORCEMENT

The decisive question is whether the players can make enforceable agreements, and it makes little difference whether they are allowed to talk to each other. Even if they are free to talk and to negotiate an agreement, this fact will be of no real help if the agreement has little chance of being kept. An ability to negotiate agreements is useful only if the rules of the game make such agreements binding and enforceable (Harsanyi and Selten 1988, in Ostrom et al. 1992, p. 404).

box). Evidence both from cases studies conducted by the Working Group and from elsewhere suggests that rural communities in West Africa and The Gambia have repeatedly shown their capacity to organize themselves, establish credible commitments, monitor each others' behavior, and impose sanctions on those who break their commitments (Ostrom et al. 1992). A wide variety of internal sanctioning mechanisms already exist in rural communities in The Gambia, and thus development projects should try to identify and build on these structures. The *tango*

arrangement discussed earlier is one illustration of the strength of local rule-making and enforcement capacities.

Resource-management agreements can take many forms. They may be complex tenure agreements emerging out of a community-wide planning process, or they can be much simpler contractual agreements between two or more individuals. Government and projects should encourage the public to employ written contracts to specify land borrowing arrangements, sharecropping, rental agreements, or user-group uses of particular natural resources in a village territory. These agreements should be notarized and legally recognizable in courts.

The Working Group research team is concerned about the long-term viability of any resource-management agreements. Agreements may be negotiated and "protected" throughout the duration of project intervention. Projects have a tendency to use their considerable financial leverage to force the creation of new resource-use conventions. There is, however, an implicit danger in this approach. Following the termination of the project, such agreements may collapse. This has occurred in The Gambia concerning tenure arrangements negotiated around allocations of land for irrigated plots (Sami District case study) as well as in other Sahelian countries. It is thus very important from the outset to work closely with traditional rural authorities in the design and implementation of resource use arrangements in order to avoid agreements that are ephemeral products arising from externally driven project concerns.

4. TENURE AND PUBLIC POLICY

4.1 PUBLIC POLICIES TO PROMOTE TENURE SECURITY IN THE SHORT, MEDIUM, AND LONG TERM

The recommendations below spell out several ways to respond to the tenure constraints and opportunities discussed in this report. The thrust of these recommendations is to promote greater public involvement, through various policy dialogue mechanisms, in decisions affecting resource tenure in The Gambia. They list specific ways to create opportunities for a wide array of public

interests to address pressing tenure realities encountered at the local level. Members of the Working Group on Resource Tenure and Land Use Planning and the Land Tenure Center are convinced that innovative policy guidelines and responses will emerge out of the process of informed public debate encouraged here.

4.1.1 Short-term responses

National workshops

National workshop on resource tenure in urban/peri-urban and rural areas of The Gambia. The Working Group suggests that the Agricultural and Natural Resources (ANR) program of the Ministry of Natural Resources and Environment sponsor a 4–5 day national workshop to review current research findings on tenure issues in The Gambia, explore policy options to increase security of tenure for rural and urban populations, and search for consensus on policy approaches to respond to the problems identified.

Through the presentation of papers by government, researchers, and informed members of the public, the workshop would first explore land tenure constraints and opportunities encountered in Africa and The Gambia in order to present a foundation for the subsequent review of policy options available to The Gambia. Presentations on the tenure issues of The Gambia would be complemented by presentations of guest speakers from other African countries. Following this introductory phase, the workshop would shift its attention to the likely outcomes of various policy scenarios. The advantages and disadvantages of the various policy options (the replacement, comanagement, adaptation, and laissez faire approaches) would be debated through the mediums of papers, panels, and small-group discussions. Toward the end of the workshop, the participants would propose future courses of action. The national workshop conference would lead to the preparation of a workshop paper spelling out specific policy proposals.

A national workshop should be preceded by public debate on tenure organized at the district and divisional levels. Representatives of farmers' groups, women's associations, nongovernmental organizations, entrepreneurs, and government should be encouraged to meet at selected districts and in all divisions to discuss the types of tenure issues confronting the area and list the policy options suggested by the public. These divisional and district-level seminars would be used to incorporate public input into the national workshop. Representatives of the various divisions and districts would attend the national workshop. These people would represent a cross-section of the rural and urban population of The Gambia. There have been experiences organizing such processes of public preparation for national workshops on tenure in Mozambique, Tanzania, and in some of the CILSS member states preparing for the CILSS/Club du Sahel Regional Conference on Tenure and Decentralization.¹³

The Working Group suggests that the National Environmental Agency (NEA) take the next step by helping to coordinate the national workshop with the division and district-level

¹³ For further information on the possibilities and difficulties of organizing national workshops on tenure, contact: CILSS (CILSS, B.P. 7049, Ouagadougou, Burkina Faso) for the CILSS member countries; Issa Shivji for Tanzania (Faculty of Law, University of Warwick Law School, Coventry, Warwickshire, England); and LTC/Mozambique for Mozambique (LTC/Mozambique, c/o USAID/Mozambique, Caixa Postal 783, Maputo, Mozambique).

workshops. A Task Force on Resource Tenure should be created within the NEA to further the tenure dialogue process. The Working Group has served its function as an ad hoc interministerial coordinating body designated to generate initial information and proposals. Now responsibility should shift to a more formal institution to further the tenure debate and discussion of specific policy options. Without the support of an intergovernmental coordinating body such as the NEA, it will be difficult to plan and implement a broad-based public policy debate on resource tenure options.

National workshop on the “bush pig problem.” The tenure case studies in all five districts invariably identified the destruction of field crops by bush pigs as a priority issue. Villagers feel helpless to effectively manage their resources because they cannot control invasions of bush pigs due to legal restrictions on the use of fire, weapons, and other pest control techniques. This problem may seem mundane, if not amusing, to urban-based policymakers, but for rural populations the war on bush pigs is a serious matter. The villagers of the Sami, Kiang West, and Foni Jarrol District case studies noted that the number one problem in the area was the annual invasion of their fields by a rapidly rising population of bush pigs. Despite numerous attempts (for example, fences, scarecrows, smoke, firecrackers, hunting), villagers have been unable to control the problem.

The Working Group recommends that a national workshop on the bush pig problem be convened by the ANR program. This workshop should invite villagers, *alkalolu*, and *seyfolu* to share their perspectives with technical advisors from the ministries of agriculture, natural resources, and local government. Prior to the workshop, Radio Gambia could air interviews with villagers describing the bush pig problem and possible solutions.¹⁴ The press should be invited to attend the workshop and publicize findings. Wildlife management specialists with experience in dealing with wild game pests such as bush pigs should be invited to discuss measures to control the problem. Some export-oriented entrepreneurs are interested in exporting bush-pig meat to the European market. These individuals should be invited and previous attempts at bush-pig meat export to Ghana should be reviewed. From this workshop, recommendations should emerge to guide policy and action. This workshop and subsequent follow-up activities would signal the interest of government and donors in responding to a pressing priority of rural populations.

National workshop on the “bush fire problem.” The bush fire problem in The Gambia is both a tenure and a resource-management issue. Fires play a central role, both negative and positive, in the ecology and economy of the country. The control of bush fires is a tenure issue; the central question is who should possess the authority to use fire as a management tool. Control over the use of fire as a resource-management instrument often pits the state and the scientific community against a variety of rural interest groups. While rural respondents consulted during the Working Group case studies lamented the high incidence and ecological destruction caused by bush fires, they also noted the importance of well-timed fires for promoting re-growth of pastures, controlling pests, and protecting settlements against the destructive effects of late dry-season fires. In each of the case studies villagers made creative suggestions on how to control and combat forest fires.

¹⁴ LTC researcher Nancy Sheehan and Radio Gambia reporter Amie Bojang conducted interviews with the villages of Dumbutu on the bush pig problem.

The ANR program should build upon the interest of rural communities and government in bush fire control by promoting informed public debate on the issue. This should be done in a way that taps not only the knowledge of the scientific community but also the indigenous knowledge of rural populations. Rural resource-user groups should be explicitly incorporated into the debate on the bush fire problem. This can be done in several ways. Seminars and workshops should be held at the district and divisional levels to allow villagers to present specific suggestions regarding means to control dry-season burning more effectively. As with the bush pig seminar, Radio Gambia should present a series of interviews on the causes, consequences, and possible solutions to the bush fire problem. Interviews should be held with villagers to solicit input and recommendations. National workshops on bush fire control should be timed to coincide with radio programs and press articles. Key rural leaders should be invited to these workshops.

The use of fire as a resource-management tool is the subject of much scientific and policymaking interest. Neighboring African countries have invested considerable resources in trying to understand and combat the problem. The expertise of the Centre de Suivie Ecologique in Dakar (Racine Kane) should be consulted and the experience of the Government of Mali, which instituted a national dialogue on the bush fire problem, should be reviewed.

Training programs

Training programs to incorporate new actors into the resource tenure dialogue. The Working Group is an interministerial body with limited outreach to the broader public. Other sectors of Gambian society need to become more aware of how tenure relations may contribute to or hinder the sustainable use of natural resources. Two institutional actors could benefit from greater exposure to the debate on resource tenure: women's associations/interest groups and nongovernmental organizations involved in rural development activities.

The Working Group has not succeeded in thoroughly incorporating women's interest groups into the ongoing debate on access to land and other natural resources. Donor development organizations have sometimes been reluctant to involve themselves in issues of women's land rights. This may be due to a perception that, because such issues are determined by tradition, they are somehow "off-limits" to the "culturally sensitive" outsider. In other cases, development organizations are blamed for interfering in gender conflicts that are viewed as "political" issues rather than "development."

The debate on tenure is poorly articulated within some of The Gambia's preeminent women's organizations. Urban-based professional women have ill-formed notions about rural women's tenure constraints. From the Working Group's positive experience working with the Women's Bureau, we are convinced that educational programs which create opportunities for women's interest groups to learn more about resource tenure issues will stimulate an informed policy dialogue and enhance women's contribution.

The ANR program should help provide learning mechanisms to expand informed debate on gender and tenure issues. Women's interest groups should be encouraged to conduct high-quality case studies of tenure problems confronted by women in rural and peri-urban areas of The Gambia. Rapid Rural Appraisal (RRA) research methods are appropriate for this type of field investigation. Qualified women, who are familiar with the Gambian gender and tenure debate and are skilled in field research, have worked extensively with the Working Group, and their experience should be used further in this domain.

The Government of The Gambia and donor projects should assess the interest of Gambian women in forming an association (formal or informal) to address concerns about women's landownership and access to natural resources. Seminars and other educational activities designed by and for women could be set up.¹⁵ The initial objective would be to elicit the opinions of women on issues of tenure as a first step toward designing more appropriate public policies. The ANR program could formally invite key women leaders to meet and discuss possible programs.¹⁶

Nongovernmental organizations (NGOs) were excluded from participation in Working Group research activities because they were not viewed by the GOTG as participants in policy decisions concerning land matters. This was a regrettable omission since in fact NGOs play a major role in modifying tenure relations through their project activities and as advocates.

The ANR program should promote an educational opportunity where NGOs could explore how tenure issues impinge upon project planning and implementation. The information generated from the tenure case studies could be used in the preparation of seminars on land tenure; funds could be used to train NGO staff in the use of RRA to improve their understanding of tenure relations in the project context; and NGOs could be asked by government to participate more actively in public policy forums.

Similar programs of applied research should be proposed to the nongovernmental organizations. The proliferation of NGOs active in environmental issues continues unabated in The Gambia. As this report has indicated, while projects may create new tenure arrangements, these are often not taken into account by development projects. The ANR program could propose to NGOs the sponsorship of seminars on resource tenure issues utilizing the research findings of the Working Group, applied field research and training programs in tenure, and small grants for conducting research on tenure issues within their own projects. Such grant programs for applied research have been successfully used by the Canadian Solidarité Canada Sahel to promote education on tenure issues within their own membership.¹⁷

Training program to teach participatory resource management. The Government of The Gambia and interested donors should review the successes and setbacks of government and nongovernment programs in promoting decentralized management of public resources in The Gambia. Numerous governmental and nongovernmental programs have embarked in participatory planning with villagers. Nongovernmental organizations active in the promotion of sesame presses, public health programs, and informal education have acquired experience in rural planning, as has the Community Development Department. Lessons need to be learned

¹⁵ Donor agencies should be encouraged to sponsor participation of women in LTC-sponsored short courses on tenure and resource management held in Madison, Wisconsin, as well as in sub-Saharan Africa.

¹⁶ A suggested preliminary list of interested government and NGO representatives includes: Mrs. Amie Bensouda, Ministry of Justice; Ms. Awa Ceesay, Ministry of Justice; Mrs. Cole, Ministry of Justice; Mrs. Amie Joof Cole, Radio Gambia, and president of National Women's Council; Mrs. Amie Bojang, Radio Gambia; Mrs. Michelle Sagar Mende, Department of Social Welfare; Mrs. Wilamena Sarr, Department of Social Welfare; Mrs. Safiatou Sengateh, GAMTRAP; Mrs. N'Dey Isatou N'Jie, National Environmental Agency; Ms. Isatou Sawaneh, private consultant; Mrs. Haddy M'Boge, Gambian Women's Finance Corporation; and the executive director of the Gambian Women's Finance Corporation. [Editor's note: Contact information, which was compiled in 1994, has not been updated.]

¹⁷ For further information on this approach, contact Mr. Rejean Piché, Solidarité Canada Sahel, Montreal, Canada.

from these undertakings prior to launching new training programs in participatory resource planning. Additional training or support can be provided as needs are identified through this assessment.

As indicated above, training in participatory resource planning and management should be a hands-on experience. Training should be conducted as a joint exercise involving village target groups, nongovernmental staff, and government agency personnel. The variety of planning skills and techniques developed in The Gambia should be incorporated into the design of any training program. Particular care should be made to incorporate gender-sensitive approaches into the training programs, since experiences to date have not been so oriented (Guijt 1994).

The ANR program should finance a collection of materials on participatory planning. These should be housed in the documentation center of the Ministry of Natural Resources and Environment. A preliminary list is suggested in section 6, Selected bibliography of participatory planning materials (p. 87).

Training program to construct resource-management agreements. The ANR program should sponsor a consultancy on methods and techniques to construct resource-management agreements. The study initially should consist of a literature review of the experiences of development programs engaged in crafting resource-management agreements between the state and local-level user groups in Africa, Asia, and Latin America. The study should focus on the types of institutional arrangements set up between the community and the state. The experience of the Gambian-German community forestry project in Foni Brefet should be examined closely.

Following the literature review, the ANR program should convene a workshop of field workers from various West African projects engaged in the preparation of resource-management agreements. For example, the workshop organizers should invite members of the LTC team of Labé, Guinea, who have worked extensively with villagers to construct resource-management agreements.¹⁸ Similar initiatives are being started by CARE International in Mali at the Segue Forest (McLain and Sancerre 1993) and also by the Near East Foundation in Douentza, Mali (McLain 1992).¹⁹ Again, the experiences of the Gambian-German Forestry Project should be fully integrated into the workshop.

The village planning process described above would create the opportunity to design and implement resource-management agreements. Resource-management agreements should be prepared as soon as opportunities emerge in the five case-study sites and should be registered with the appropriate authorities.

Training programs to enhance participatory forest-park management. The case study of the Kiang West National Park indicates that management problems jeopardize the long-term viability of the park. The Working Group suggests that measures be taken to increase the institutional capacity of the Kiang West Park Technical Advisory Committee (TAC) to better manage the park. This study should consider innovative ways to increase the involvement of all the communities and resource user groups who exploit natural resources in and around the park, based on experiences of participatory park management in other countries.

¹⁸ Contact Julie Fischer, USAID/Guinea, Conakay, Guinea.

¹⁹ For further information on these interesting experiences, contact Rebecca McLain, Institute for Resources in Society, University of Washington, 304 Anderson Hall, Seattle, Washington 98195.

The ANR program should take the lead in working with the Department of Wildlife and the Department of Forestry to promote more participatory institutional arrangements governing state reserves. Several models of innovative resource-management arrangements governing state reserves should be investigated closely. These include the CAMPFIRE program in Zimbabwe (Murombedzi 1991; Murindagomo 1992; Metcalfe 1993), national park management in Tanzania (Wells and Brandon 1992; Western 1993), new national parks in Madagascar (Wells and Brandon 1992), and game ranching in Burkina Faso (Fries and Heermans 1992; Wells and Brandon 1992).

Workshops should be held at the national level to disseminate the results of the study described above. Just as important, villages surrounding the Kiang West National Park should be involved in assessing the success and setbacks of the TAC. Community leaders including *seyfolu*, *alkalolu*, district tribunal members, area council representatives, and others should be extensively involved in this process. Without this, the park management project may encounter growing opposition and resistance from surrounding villages.

Training programs to develop conflict resolution around natural resources. Development projects promoting the sustainable use of natural resources will invariably confront tense and divisive conflicts in villages. The case study in the Sandu District and the village of Darisalami illustrates the terribly complex and destructive nature of these conflicts. There is always a risk that projects will exacerbate such tensions. Indeed, the participatory planning process and the negotiation of resource-management agreements are nearly certain to cause latent conflicts to surface. Unless these are resolved at the outset, they may destroy community initiatives. Rather than avoiding these situations, as is often the case, projects should actively promote dispute mediation and conciliation.

The ANR program should sponsor a study of both western and indigenous Gambian conflict-resolution techniques. Fascinating examples of successful conflict-resolution techniques abound, but these are rarely incorporated into project planning activities. For example, a project of the Free University of Berlin has successfully used role playing exercises with villagers involved in conflicts to help resolve severe tenure crises with rural communities.²⁰ District tribunal members, *seyfolu*, and *alkalolu* should be interviewed to inquire about the techniques they use to resolve conflictual situations. Workshops at the district level should be held with key community leaders to discuss how rural leaders can resolve contentious disputes over resources.

Following this initial research effort, the ANR program should offer a series of workshops on conflict resolution techniques to NGOs, community development workers, and technical advisors in the various ministries. These workshops should encourage hands-on training appropriate to the cultural context of The Gambia. The teams involved in participatory planning should receive training in conflict resolution techniques.

²⁰ Thomas Bierschenk of the Free University of Berlin specializes in this technique. Address: Free University of Berlin, Institute of Ethnology, D-1000 Berlin 33, Germany. Bara Gueye of the Institute for Environment and Development in Dakar, Senegal, has also been trained in the approach. It has been applied to the village of Fandène (Department of Thies, Senegal) with good results.

4.1.2 Medium-term responses

Monitoring tenure and land use change

The ANR program should set up a process to monitor the influence of the Lands Act and Physical Planning and Control Act on tenure and resource-management arrangements in different parts of the country. As this report has suggested, implementation of the new acts may cause tenure insecurity in the rural areas of The Gambia, especially in peri-urban zones. The creation of tenure “monitoring points” is being tried in other West African countries. Through support from the French government, Mali and Senegal have set up *observatoires fonciers* (Le Bris et al. 1991). Data generated from periodic studies of the changing tenure systems in the monitoring sites feed into the policy dialogue arena. The five case-study sites of the Working Group and the LTC could serve as one group of tenure monitoring sites. In addition, several sites closer to rapidly growing urban areas should be carefully followed.

The monitoring of the new Lands Acts and associated legislation should place particular attention on the activities of the new land boards. The studies should be designed with an aim to improving the institutional capacity of the land boards, especially in “designated areas” of the country. The Ministry of Local Government and Lands (Lands and Surveys Department) should be actively involved in the monitoring of these acts.

Regulatory reforms

The State Lands Act of 1990 grants the minister the authority to create “designated areas” subject to conversion of customary tenure to leasehold or freehold tenure. Government should consider the establishment of systematic criteria for judging when and where to create designated areas. Rural populations should have a major voice in affirming or rejecting plans to create these new tenure domains. Regulations should be put in place that require government to explain clearly the rationale and intent of creating designated areas. The option might be explored of allowing rural populations to vote by referendum on whether a particular division or district should be subject to the conversion process.

Legislative reforms

This report has suggested that legislation governing the use of land in The Gambia is contradictory, vague, and open to considerable interpretation. The intent of different legislative acts varies considerably because the laws were enacted in different periods to meet specific problems defined at the moment. The role and function of government and the citizenry of The Gambia with respect to the management of natural resources differ from one legislative text to another. Considerable confusion exists over the sometimes competing and contradictory roles of village development committees, *kafo* groups, *alkalo*, *seyfo*, area councils, district tribunals, and government technical agencies with respect to the jurisdictional limits of each institution and their roles in the use and control of natural resources.

The NEA should undertake a comprehensive review of all legislation pertaining to natural resources to determine how various legal texts may be harmonized in support of the policies that emerge from the tenure debate described above (district, divisional, and national workshops). In particular, the functions of various institutions responsible for resource management should be articulated more clearly. Special attention should be directed to unifying policy approaches in the

following legislation: Land (Provinces) Act, Lands Act, Physical Planning and Control Act, Forest Act, Wildlife Conservation Act, Local Government Act, and District Tribunal Act.

While The Gambia Environmental Action Plan identifies broad policy orientations, these briefings must be incorporated into the various texts regulating land use in rural and urban areas.

Rural para-legal education

Rural populations as well as some elements of the administration lack a full understanding of the legal system and how it can protect people's rights. Rural populations can use the law, such as the forestry legislation, to better manage village resources. But unless villagers know the provisions of the legislation, this is impossible. The "Tenure and Natural Resources" project has been financing the translation of the Law Reform Commission paper, "Customary Laws and Usages of The Gambia," into national languages as a way to generate debate on customary land norms. These translations into Fula, Jola, and Mandinka should be more widely distributed through both oral and written means of communication.

Translation and simplification of legal texts would also be useful for the forestry laws, the Land (Provinces) Act, and the Lands Act of 1990. Translation into local languages does not need to be in written form. Cassette tapes of key legal texts and oral debates on policy issues could also be prepared. Radio Gambia should play a central part in the establishment of radio programs of legal education. The Law Reform Commission and the African Society of International Comparative Law might help conceptualize legal education activities that could be carried out by both governmental and nongovernmental agencies. The experience of the Senegalese NGO, AMRAD, would be instructive; it has translated many legal texts into Fulbe and is developing a village legal-education program.

The Working Group recommends that the Ministry of Local Government and Lands undertake an awareness-building campaign to inform both divisional and district authorities about the implications of the State Lands Act, the Physical Planning and Development Control Act, and the Compensation Act along with the Forestry and Wildlife Act and the like. The ministry should work closely with nongovernmental agencies to facilitate the flow of information to rural populations. Focus group meetings organized by development organizations and key rural interest groups can be used to inform populations of their legal rights and responsibilities. These authorities and agencies should make special efforts to reach women, who have the most to lose from not knowing about the new land laws and much to gain from this knowledge.

Legal education of district tribunal members

Legal education programs are also needed at the level of the district tribunals. Tribunal members have expressed interest in knowing more about the new Lands Act and associated legislation. Government currently engages in various forms of legal education of the district tribunals, but donors should increase support for these initiatives. The Law Reform Commission of The Gambia should be more involved in these educational activities.

Government should act on suggestions of district tribunal members to improve the functions of the institution. Donor development agencies might work with the Ministry of Justice to finance joint studies on ways to improve the decision-making capacity of the district and group tribunals. Magistrates interviewed by the Working Group research teams suggested, for example, that they review district tribunal cases in order to improve the quality of decision making.

Tribunal members emphasized the need for scribes to be assigned to each judicial district and for improvements to be made in the storage of court records. All of these suggestions should be the object of concerted reflection.

4.1.3 Long-term responses

Land policy statement

The Working Group advocates the adoption by government of a land policy built upon an informed, coordinated, and inclusive national debate. The task of promoting a dialogue and creating a consensus on tenure issues might be delegated to a legally recognized task force created by the NEA and supported actively by the President's Office. The final product of this national debate could be a Government White Paper identifying the tenure issues confronting The Gambia, spelling out the policy choices available, and recommending specific legislative, administrative, and judicial reforms. The development of national consensus should be an internal matter for The Gambia. International donors should actively support the process of dialogue, but ultimately the decisions must rest with the people of The Gambia. Support of an informed debate on land and tenure issues will encourage policies that reflect the diverse interests and concerns of the Gambian population, whose well-being ultimately depends on the health of its natural resource base.

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ANNEX 1

CASE STUDY OF UPPER BADDIBU DISTRICT

prepared by

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This paper presents the findings of field research conducted between 28 May and 26 June 1993, in the Upper Baddibu District of The Gambia. This and a similar case study conducted concurrently in the Kiang West District are parts of a series of case studies financed by the U.S. Agency for International Development (USAID)/The Gambia and implemented jointly by the Land Tenure Center (LTC) of the University of Wisconsin–Madison and the Working Group on Resource Tenure and Land Use Planning of the Government of The Gambia (GOTG). The central purpose of these case studies is to investigate the relationship between customary tenure relations, statutory law, and natural resource-management practices in various locations around The Gambia.

1.1 RESEARCH OBJECTIVES AND METHODOLOGIES

The Working Group on Resource Tenure and Land Use Planning met in Madison, Wisconsin, in April 1993, to discuss the research objectives of this study and to select case study sites. The Upper Baddibu District and the villages of Maka Farafenni and Dutabulu were selected because the working group wished to explore the influence of urban growth on tenure regimes of villages surrounding the rapidly expanding midcountry trading center of Farafenni. Moreover, in order to complement both the Foni Jarrol District (see M. Freudenberger 1993) and the Kiang West District study, the team sought villages that were composed of one predominant ethnic group to allow for in-depth analysis of tenure relations within particular ethnic groups.¹ There was also interest in assessing the importance of the Pakala Forest Park to surrounding villages with claims of severe land shortages.

Methodology

The information collected for this case study was generated through the use of the Rapid Rural Appraisal (RRA), a qualitative methodology that emphasizes the importance of incorporating indigenous knowledge as an integral part of the research process. RRA relies on a multidisciplinary research team, which spends a limited but intensive time at the study site using techniques designed to promote the active involvement of the local population in the collection and analysis of information.

Throughout the study, various innovative techniques were employed to gather information. These included transect-making of villages by several village participants, territory-mapping

¹ Maka Farafenni is essentially Wolof; Dutabulu is entirely Fula.

exercises by villagers, Venn diagrams of institutional relations, semistructured interviews with groups and individuals, and matrix-ranking of frequency of resource conflicts and sources of income. To estimate relative proportions of resources, conflicts, income, or migration, the interministerial study team² provided beans or seeds for the participants to use to illustrate the relative quantities—not the exact numbers—of the amounts concerned. Participants and team members then discussed and analyzed the proportions allocated for various activities. This information was crosschecked through semistructured interviews and focus group discussions with different participants.

The time allotted for field research was limited to fourteen days, not allowing in-depth exploration of all the issues that emerged. Thus this investigation must be considered a preliminary step in the research process and not a definitive statement on the social and economic situation of the Upper Baddibu District. Moreover, the villagers visited gave their perceptions of their specific locality, with Maka Farafenni as the central point of the fieldwork. Care must be taken to avoid generalizing the findings from the Maka Farafenni area to other parts of the district or the country, though certain issues, as indicated, are believed to be applicable to a wider area.

Objectives

The objectives used by LTC in the study of the Foni Jarrol District were modified by the Working Group on Resource Tenure and Land Use Planning to serve as the framework for the Upper Baddibu study (see figure 1). The purposes were to:

- ◆ identify the range of resource management practices employed by the rural population,
- ◆ describe the tenure arrangements around the various resources,
- ◆ note any changes in tenure relations,
- ◆ posit reasons for these changes, and
- ◆ consider policy options for improved management of natural resources.

² The team comprises individuals from the Ministry of Natural Resources and the Environment, the Ministry of Local Government and Lands, the Ministry of Agriculture, USAID, and LTC: Tamsir Bobb, senior animal husbandry officer, Ministry of Agriculture, Department of Livestock Services; Foday Bojang, director, Ministry of Natural Resources, Forestry Department; Christine Elias, project manager, USAID, Agricultural and Natural Resource Management Project; Susan Gannon, consultant, RRA team leader, LTC; Tijan Jallow, planner, Ministry of Natural Resources, Policy Analysis and Planning Unit; and Abdoulaye Manneh, senior surveyor, Ministry of Local Government and Lands, Department of Lands and Surveys.

Figure 1 Research objectives

OBJECTIVE 1: IDENTIFICATION OF RESOURCE-MANAGEMENT PRACTICES

1. Describe the uses of natural resources—Who uses what resources where?
2. Identify the tenure arrangements to natural resources in microecological zones by resource user group and social category
3. Describe the evolution of natural-resource tenure regimes in microecological zones by resource user group and social category
4. Interpret the influence of social and ecological factors on the evolution of tenure systems

OBJECTIVE 2: IDENTIFICATION OF RESOURCE-MANAGEMENT INSTITUTIONS

1. Describe the settlement history of the case study sites
2. Identify social structures and the role of local institutions in natural resource management
3. Assess the adequacy of tenure regimes for meeting resource needs of resource user groups and social categories
4. Determine the knowledge of current laws on land and other natural resources by case study community
5. Assess the influence of development projects on resource tenure arrangements

OBJECTIVE 3: IDENTIFICATION OF RESOURCE DISPUTES AND CONFLICT-RESOLUTION MECHANISMS

1. Categorize resource-use conflicts at village and district level
2. Identify informal and formal conflict-resolution mechanisms
3. Identify the types of natural resource disputes that are considered by the District Tribunal
4. Interpret how conflict resolution practices may or may not be leading to new resource-tenure arrangements

OBJECTIVE 4: POLICY RECOMMENDATIONS

1. List tenure and natural-resource policy recommendations of rural resource-user groups
2. Identify tenure issues that affect the use and management of natural resources in the case study site
3. Consider how village-level policy recommendations can be incorporated into national policy, legislative reforms, and improved administrative practices

Findings

Throughout the study area residents cited a shortage of land available for agricultural production as their greatest constraint. The extent of the land shortage is not accurately known, for that requires a land survey and precise demographic data to assess the land-to-labor ratio. However, it is the perception of the villagers interviewed in Maka Farafenni and Dutabulu that the land available to them is insufficient to meet their subsistence needs. The village of Dutabulu seems to be in the most precarious position, since land speculation in Farafenni dissuades the landholders from lending land to residents of Dutabulu. The women of Dutabulu are the most negatively affected by the land shortages, for there is no longer enough land available in that village to allow them to cultivate personal fields; the women must assist their husbands on family fields.

In addition, the women, who are responsible for firewood collection, described how the degraded woodland areas no longer fulfill domestic fuel-wood needs. This provokes confrontations between the women and the Forestry Department over the exploitation of forested areas.

A few key variables were identified that influence the accessibility of natural resources to user groups:

- ◆ village settlement patterns,
- ◆ family lineage within villages, and
- ◆ availability of labor within the family.

The settlement history of villages in the study area is the most influential factor in determining rights to land and other natural resources. The families who initially clear the land acquire the most secure rights to that land. Such families are generally known as “founders,” with subsequent migrants known as “late settlers.” Founders actually demarcate the boundaries of the village and lay first claims to land within the village area. Late settlers may also acquire land through initial clearing, if such land is still available when they arrive. They would be given that land, however, through a founding family, who acts as host to the new family.

Late settlers in the study area are usually land borrowers, but they are not necessarily allocated the same fields every year. The research team believes that this system of land allocation may influence the level of investment that the land borrowers are willing to make on the fields, over which they do not have secure rights. In Dutabulu, for example, women said that although they would be willing to plant trees to help meet domestic fuel-wood demands, their status as land borrowers precludes that type of investment.

In addition, the state-owned Pakala Forest Park is perceived by villagers as the major impediment to the exploitation and expansion of agricultural lands in the villages surrounding the park. The steady growth of Farafenni may be negatively influencing the tenure arrangements between Dutabulu and Farafenni. Land speculation in Farafenni seems to be accelerating, with an increasing amount of settlement area now under leasehold. This effect is strongly felt in Dutabulu.

Conclusions and recommendations

Traditional tenure arrangements appear to be adequately flexible in responding to the needs of the populations of the Upper Baddibu District. An indication of this in Maka Farafenni is that

most land disputes are resolved at the household level, with relatively few reaching the *alkalo*. This illustrates the flexibility of the tenure system in accommodating villagers' needs. In specific cases, however, the regimes are not appropriate and do not respond to the requirements of the population; Dutabulu is a prominent example.

There are differences in the ways in which user groups perceive and utilize natural resources. Government policy and development interventions in the study area must take account of these differences in any policy reform or development project. Participants in the case study had strong ideas about how they would resolve the problems affecting their livelihood strategies. However, villagers also revealed their lack of knowledge of rights to natural resources and technical information concerning resource management. This finding highlights the need for environmental education and extension programs on all levels.

The team concludes that further research on tenure issues and the development of workable solutions to the resource-management problems facing the study population are imperative. The close collaboration of communities and government in determining resource-management plans is a critical element in the process.

1.2 SETTLEMENT HISTORY OF THE UPPER BADDIBU DISTRICT

The Upper Baddibu District is part of the North Bank Division and extends from No Kunda to Polodi. The agricultural population of the North Bank Division is estimated to be 133,245, comprising both men (49.3%) and women (50.7%). The ethnic composition is Mandinka (51.1%), Wolof (23.7%), Fula (12.2%), and sundry other groups (11.4%). In addition, there is a seasonal influx of migrant workers (strange farmers) composed of Jola (0.9%) and Serahule (0.7%).

The Upper Baddibu area was once populated predominantly by Mandinkas, as early as the mid-thirteenth century (Sonko-Godwin 1988). The movement of Fula and Wolof into the area began in the sixteenth and nineteenth centuries, respectively. The Fula merely passed through Baddibu on their way to the Senegal River Valley, known as the Fouta Toro, where they established the Denaianke dynasty. The Fula did not actually settle in the region until the 1800s, moving to The Gambia from the Fouta Toro under the guidance of Maka Ceesay. The legendary Maba Jahou was born in Baddibu to a migrant who had come during this wave of settlers (Quinn 1972).

The Wolof of the Baddibu area migrated from the Saloum region of Senegal during the mid-1800s due to difficulties with the king of Saloum. There was a tremendous influx of migrants, with most of the Wolof villages being founded between 1860 and 1865 in heavily wooded terrain (Pélissier 1966). Wolof settlements tended to be small, often located along the periphery of Mandinka settlements. As these settlements developed they were divided into *wasus*, similar to *kabilo*³ in the Mandinka system (Quinn 1972). The *wasus* eventually became independent

³ In Mandinka, the term *kabilo* refers to a group of compounds, either contiguous or spread throughout the village, which are descended from the same founder or share another relation. The *kabilo* head refers to the eldest male of the group. A compound is a collection of homes including one or more nuclear families, usually from the same lineage.

villages, moving away from the original settlement due to rivalries within the community or the need for more land.

There were periodic conflicts between the Mandinka and the Wolof along the north bank as pressure increased from the large Wolof-Serer state of Saloum. The king of Saloum managed to preserve a corridor of land extending from Saloum to the riverbank in the Pakala District. The central town in the corridor was Kaur. It was segregated into Wolof and Mandinka quarters, which are still present today (Quinn 1972).

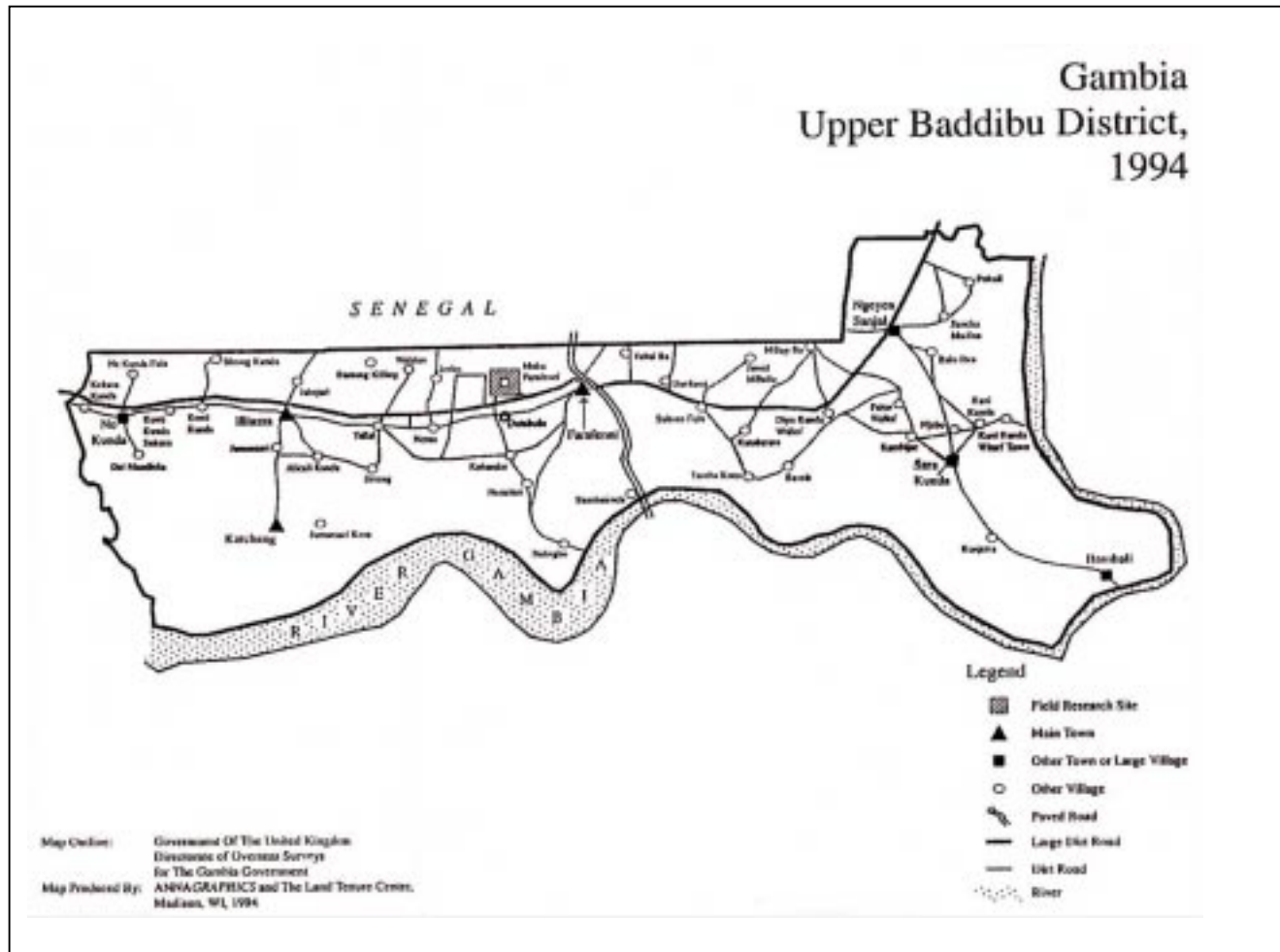
Islam in Baddibu and Baddibu War

The Baddibu was considered to be the most productive groundnut-cultivating area and remained under Soninke control well into the 1800s. The term Soninke refers to various non-Islamic peoples, not necessarily to the French term for the Serahuli ethnic group. Islamic religious leaders (marabouts) were allocated very little land, usually on less productive soils. The chief Soninke towns of Illiasa and India were completely surrounded by the main marabout towns of Suwarekunda, Saba, Kerewan, Ker Maba, and Nokunda (Quinn 1972).

Throughout the 1840s, Baddibu battled with Saloum for control over the population and access to the river. There was considerable social chaos as one *mansa* (Mandinka paramount chief) fought with another and the marabouts began to gain influence in the region. In 1860, faced with difficulty accessing the port of Suwarekunda, a marabout capital near Kerewan, traders called on the British governor for support. A blockade of the port was tried but failed, forcing all traders back to Bathurst. The port was subsequently bombed by the British and a land battle followed. The Islamic maraboutic resistance to the British invasion was far superior to the efforts of the Soninke. The villages of Saba, Kerewan, and Kinteh Kunda were completely devastated. The British refrained from moving farther upstream to spare the fertile groundnut-growing area of the Upper Baddibu (Quinn 1972).

The Baddibu War left a weakened and resentful non-Islamic population and a very turbulent economy. The marabouts were clearly stronger than the Soninke, yet they refused to contribute to reparations. The British eventually gave indemnity payments to the Soninke and began to oppose all aspects of the Islamic reform movement then gaining momentum in the Baddibu. The British began to align themselves with the Soninke in the name of protecting trade, even though they had given protection of free trade as the reason for their assault on the Soninke a few months earlier.

Figure 2. Map of Upper Baddibu District



Maba Jahou had now become a powerful Islamic revivalist. He called on all Baddibu Muslims to join the movement against the Soninke. His united front successfully drove out large numbers of Soninke from Baddibu, sending them to the Kiangs. Once across the river, the Soninke began to arm themselves and plan their strategy to reclaim the Baddibu. In 1863, they approached the Burr Saloum and the French colonial governor to design a retaliatory strike against Maba's forces in Baddibu. However, before they could even launch their attack, hundreds of marabouts crossed the river from Baddibu to Kiang. Several villages near Tendaba were destroyed. The marabouts were later supported by Maba himself but were ultimately defeated in a battle at Kwinella.

Maba began to expand his ground to include a greater part of the Saloum area. After losing at Kwinella, he enlisted the support of marabouts from each of the ethnic groups found in Baddibu. The Mandinka marabouts were led by Jatta Jagne of Njabakunda, who was actually given administrative control over Baddibu in Maba's absence. Although born in Baddibu, Maba was considered by many Mandinka as a stranger from the north. Not all marabout towns in Baddibu accepted his authority. A small uprising was organized by Usman Touray of eastern Baddibu and joined by Sheku Jobe and Manjai Horeja. They followed Maba into Saloum, where they were eventually defeated. Their followers returned to Baddibu. Maba was killed in battle in Sine in 1887.

According to the chief of Upper Baddibu, the concept of districts began during the colonial period, replacing the system of kingdoms headed by the *mansa*. The present Upper Baddibu District formerly consisted of three kingdoms, Farang Sabah, Farang Sangal, and Burr Rip. The last of the kings were Sait Kany Touray of Kataba and Gumbo Gaye of Kurnbijar, who were followers of Maba Jahou. The two fought bitterly after Maba's death, and Sait Kany Touray in due course killed Gumbo Gaye. Sait Kany Touray eventually fell to Maba's son, Sait Mati Bah, the king of Nioro, in a battle at Sabi.

The first chief of Baddibu District was Jatta Seleng Jarnneh of Illiasa. The district was later divided into two, with Biram Jammeh replacing Seleng Jammeh at Illiasa and Mamadou Chaku Sabally presiding over the Kataba area. Sabally's rule did not last long. He was removed from chieftaincy and the districts were combined under Biram Wuday Jammeh. After several years, Mama Tamba replaced Biram Wuday Jammeh, and Mama Tamba was succeeded by Kebba Jammeh. The present chief, Matarr Gaye, took over from Kebba Jammeh in 1983.

The case study area, including Farafenni, was settled at least 500 years ago.⁴ In Farafenni, there were 4 founding *kabilo*: Foday Kunda, Sansan Kono, Fofana Kunda, and Duto Koto. The exact origins of the *kabilo* are not known. These families claimed ownership over virgin forestland extending north of Farafenni to slightly above the present boundary with Senegal, south to the Gambia River, east about 5 kilometers, and west as far as Yallal. Today, there are more than 20 villages falling within this boundary, many claiming the rights of first occupation to the land. Only Dutabulu was reported to borrow nearly all of its land, including the settlement area, from Farafenni. The exact reason for the present borrowing of Dutabulu is not known, but may be attributed to the Fula tradition of herding and frequent movement of village settlements.

⁴ Family records of the Mackeh Kunda compound of Foday Kunda *kabilo* of Farafenni. Our interviewee claimed to be the thirteenth *kabilo* head since the arrival of this Mandinka family.

The Baddibu wars also affected movement within the area, which impacted on the settlement pattern of the entire district.

1.3 SOCIAL HISTORY OF MAKA FARAFENNI

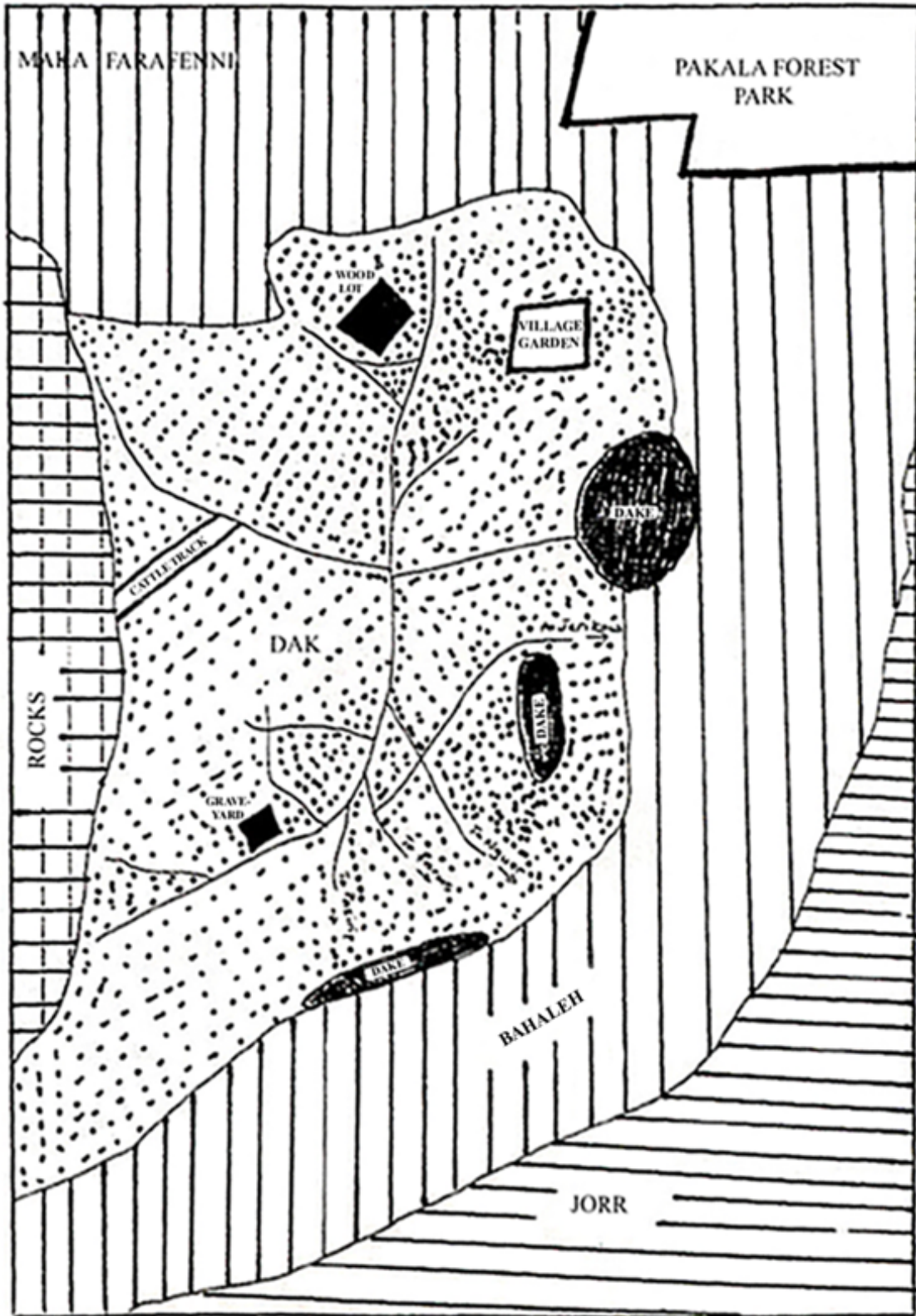
Maka Farafenni is located about 4 kilometers to the west of Farafenni. There are two versions of the settlement history of Maka Farafenni. The first states that the village was actually settled on three separate occasions. According to one elderly resident, the first settler was Mam Sait Touray, who migrated from the Saloum village of Kerr Gumbo around 1884. He cleared land and claimed primary use rights to that land. Mam Sait Touray is considered to be the founder of the village. The village remained at that site for nearly thirty years.

Mam Sait Touray died about ten years after he founded the village. Maka Farafenni remained settled for another twenty years before being abandoned in 1914 due to wild animals' destroying crops and livestock. The second settlement was headed by Musa Jainaba Touray, son of Mam Sait Touray, who came in 1944. However, the settlers stayed only five years before moving to Kataba, east of Farafenni. In 1952, Serigne Katim Touray, another son of Mam Sait Touray and half brother of Musa Jainaba Touray, resettled Maka Farafenni and the families remain there today. The third child of Mam Sait Touray, Hawa Yassin Touray, also resettled with her half brother, Serigne Katim, at this time. Upon the death of Serigne Karim Touray, her son, Amadou Tijan Touray, was given *alkalo*-ship and is still the present *alkalo*.

The village area initially cleared by Maka Farafenni extended as far north as the current border with Senegal. Subsequently, the village lands shifted somewhat to the southwest. Villagers said that the neighboring village of Ngueur Anglais had appropriated a portion of the northern section of the land during the period of abandonment between the first and second settlement of the village. Although Maka Farafenni resettled on the same site, the original rights to that land were relinquished when the village was vacated. As noted above, founders gain secure use rights to land through initial clearing. However, residence in the village is necessary to maintain those rights. If a village changes sites, it may not claim rights to the land from which it moved, even though it originally cleared that area. In addition, if the village returns to the area and finds another village has settled there, it cannot reclaim the land. The chief of Upper Baddibu explained, "When a village moves, it takes all that belongs to it—animals, foodstuffs, furnishings, and people. The village does not take the land because it does not belong to it; the land belongs to God."

The land on the southwest side of the village is bordered by the Pakala Forest Park, which has become a source of tension between the Forestry Department and Maka Farafenni. This is discussed in greater detail in the following sections.

Figure 3. Map of village territory



Social structure

The Maka Farafenni community, which is predominantly agricultural, is composed of Wolof and Bambara ethnic groups. There are 49 compounds in the village, of which 45 are Wolof and 4 are Bambara. There is no social stratification based on occupational group, as is characteristic of other Wolof villages; the reason for this is unknown.

Social status is manifested in the value attached to the position that the individual holds within the village such as *alkalo*, imam, village committee leader, or household head. Decision making is vested in the *alkalo*, who calls upon the imam and a council of elders for advice. There are several village groups, or *compins*⁵ as they are known in Wolof, based on age and gender. Each group has a representative who participates in a larger village committee. These groups are active in development projects and they organize social functions. They also play an important role in village decision making.

The only school in the village is Koranic and is open six months out of the year. The school instructs students in the basic tenets of Islam, most importantly, daily prayer rituals. The school is well attended by village children, especially girls. However, attendance is not for an extended period of time. There is a parallel informal Koranic school that operates on a tutorial basis between the student and the Koranic teacher. The informal system may be followed from childhood into adulthood, depending on the student. This route is entirely undertaken by male students. Villagers explained that the time commitment required of the students precludes the participation of female students; their household obligations always take precedence over studies.

No children in Maka Farafenni attend Gambian public schools. There has been tremendous resistance of the elders to permitting children to attend school. Out-migration of young men is seasonal, though the majority of them return to farm during the rainy season. The elders of the village seem to have a high level of control over the youth.

Village institutions

The Venn diagram revealed that villagers overwhelmingly considered the positions of *alkalo* and imam to be the most important institutions in the village. The *alkalo*'s duties include allocation, law enforcement, and village planning. Villagers described the role of the *alkalo* as that of village leader and steward. He is instrumental in maintaining harmony in the village as well as setting certain village standards. For example, it is the *alkalo*'s wish that no children attend Gambian public schools. Residents of Maka Farafenni also said that the *alkalo* had not permitted radios in the village until fairly recently.

Several village-based institutions are instrumental the management of natural resources in the study community. According to the Upper Baddibu *seyfo* (chief), the *alkalolu* of all villages in the study area play a central role in regulating use of community-owned resources. If overuse or abuse is detected, the *alkalo* may intervene. The *alkalolu* of the district are given the power to approve or disapprove timber-collection permits given by the Forestry Department. The *alkalo* is critical in resolving disputes over resources at the village level. If a conflict arises between two villages, the *alkalo*'s power is limited to an individual village. If the two *alkalolu* cannot agree on

⁵ *Compins* are village groups somewhat equivalent to the *kafo* groups found in Mandinka society.

a solution, the matter is referred to the chief. The *alkalo* cannot restrict grazing within the village or between villages.

The *seyfo* holds a very special role in natural-resource management in the district. The *seyfo* is granted judicial power to settle resource-related conflicts, which are discussed below, and controls the allocation of permits for fruit, timber, and firewood collection for commercial purposes. The chief collaborates with the divisional forest committee to decide the number of firewood permits to be allotted to the division for the entire year, currently set at fifteen. Timber-collection permits are not limited, but, if approved by the *alkalo*, they must pass by the chief for final recommendation to the Forestry Department, which may then give authorization for the cutting of the trees. The chief may override a decision taken by an *alkalo* if the latter is believed to be acting without reason. Even if the tree to be cut is one of the “protected species,” for instance, it may be duly recommended to be cut if for a valid reason. The chief is also the authority over grazing within a district.

Although the chief of the district is conferred with only for problems arising between two villages or between Maka Farafenni and the government, that position was mentioned by the residents of Maka Farafenni as being important in village affairs.

The imam holds the second-most-prominent position in Maka Farafenni, sharing the role of village harmonizer with the *alkalo*. The imam is the *alkalo*'s key advisor on planning and other village development issues. There is also a council of elders, usually comprised of compound heads, which serves as advisor to the *alkalo* and may be called upon to settle disputes or to plan development activities.

The village committee was deemed the third-most-important institution. It is a council that includes the leaders of every other group in the village. The village committee is essentially a village development organization, which coordinates all development and community-based activities. This committee serves as the initial contact point for outside institutions coming into the village. It also coordinates activities with the various groups in the village through meetings with subgroup representatives.

There are three village groups divided by age and subdivided by gender:

- ◆ the Santa Yalla *compin*, with separate subgroups for men and women;
- ◆ the Maka Farafenni Youth Federation, with a subgroup for young, for married women, and another for young men;
- ◆ the Ram Dam *compin*, for adolescents, divided into subgroups for girls and boys.

The mosque committee is another important organization, which deals with the maintenance of the mosque and preparation for religious events such as the *gamou*.⁶

There are several external organizations working in Maka Farafenni, including Catholic Relief Services (CRS), Gambia Youth Federation, Baptist Mission, Gambia Islamic Council, Gambian Opportunities Investment Center (GOIC), Chamen, Indigenous Business Advisory Service (IBAS), and Women's Bureau. Donor-funded infrastructure in the village includes a well installed by the Federal Republic of Germany (FRG) pump-well project, a Ministry of

⁶ A *gamou* is a religious event during which prayers and verses of the Koran are sung throughout the night, usually beginning around midnight and ending at daybreak.

Agriculture (MOA) milling machine, and a sesame-oil expeller sponsored by a Belgian nongovernmental organization (NGO) through the Gambia Youth Federation.

Subcommittees of the large village committee oversee the running of the sesame press, the milling machine, and the women's garden. The village wood lot is presently managed by the men's group. While the committee is successful in regulating and controlling access to the wood lot, it has been ineffectual in management and upkeep, as discussed in further detail below.

One outside agency perceived to have significant negative influence on the village is the Forestry Department. This is largely due to its demarcation of the Pakala Forest Park and the resultant limited access of the community to the area, which was once open to the village. This is explained in greater detail in annex section 1.8.

1.4 SOCIAL HISTORY OF DUTABULU

Dutabulu residents are descendants of itinerant Fula herders from Senegal. The *alkalo* of the village estimated Dutabulu to be about 487 years' old and professed to be the eighth *alkalo* since the village's third resettlement. The first resident of the village was Ndibari Juta Bah. The land on which he and his family settled was lent to them by the Makeh Kunda compound, a member of the Foday Kunda *kabilo* of Farafenni in about 1506. However, the settlement was eventually abandoned when the villagers had to flee slave raiders. Dutabulu was settled for a second time by Demba Bah, son of the original settler. The second settlement did not last long and was deserted for the same reason as the first. The village was settled for a third time by Biram Debo Bah, grandson of the original settler, Ndibari Juta Bah. The *alkalo* is uncertain of the exact dates of this third resettlement, but it is estimated to have been in the late 1500s.

Fula tradition dictates that the village must change location or at least shift settlement with every new *alkalo*. The movement may be great, relocating the village entirely or slightly shifting village infrastructure such as the *bantabas* and a few central buildings. Dutabulu is reported to have moved on six occasions, but the displacement was always within close proximity to the present site. The last two *alkalolu* actually broke with tradition and did not alter the current settlement. Dutabulu's present land shortage may be attributed to its movement within the same area and the fact that it has not remained in one spot throughout its settlement history. The shortage may also derive from the historical fact that its residents once derived their subsistence entirely from herding and did not need agricultural land, whereas now their livelihood strategy is a mix of livestock and agricultural production and they do need agricultural land.

Social structure

The social structure of Dutabulu is typical of Fula villages found elsewhere in The Gambia, with men and women engaged in a mixture of livestock husbandry and agriculture (Shipton 1993). The village is headed by an *alkalo*, who is advised by the imam and a council of elders. The *alkalo* of Dutabulu also allocates land for settlement and cultivation. He may allocate settlement land to a family without the permission of the landholders and need only then inform them of his action. The distribution of land for agricultural purposes, however, must first be approved by the landholder.

Dutabulu differs from Maka Farafenni in that nearly 85 percent of the village children attend school. Furthermore, there is a higher incidence of migration from the village. Village youth

appear to be more independent than the youth in Maka Farafenni. For example, a number of young people have changed religions. Some eleven youths have converted to Christianity and others have changed from the Tijan sect, dominant in Dutabulu, to the Ahamadiya. The young are permitted by their elders to worship as they wish.

Village institutions

The Venn diagram of Dutabulu was completed by a group of village men. The *alkalo* and the imam are central figures in Dutabulu. There are two main village groups, the women's Ndenden Peven *compin*, and the men's Kamben *kafo*. Like the groups in Maka Farafenni, they are charged with a variety of functions. Both of these *kafo* cultivate communal fields for income generation and organize their members for community events such as *gamou* and circumcision. In addition, there is the Gainako *kafo*, which was organized to survey and protect the health of the cattle, and the Christadel and Ahmodia *kafo*, which are religious organizations serving a role similar to the mosque committee in Maka Farafenni.

The women's *kafo* aids women in their various income-generating activities. These activities include the cultivation of a communal field. The harvest from the field is usually sold and the proceeds are contributed to a group fund. The money is deposited in a bank in Farafenni. As mentioned earlier, the land crisis in Dutabulu is affecting women's access to this important source of income and to the only agricultural land they can exploit.

There are two outside donors that have visible influence on the citizens of Dutabulu, the FRG and the Baptist Mission. The FRG recently provided the village with a pump well and the Baptist Mission helped to establish a village garden/orchard.

Villages within the case study were found to have committees that manage the use of particular resources. One example is the Dutabulu Pump Well Committee, which was established when the pump was installed. The entire village has agreed to a set of regulations regarding pump use. These regulations include waiting in turn for pump access as well as gentle pumping for water. The committee enforces these regulations and penalizes those found to be misusing the pump.

There is also a Dutabulu communal orchard, which was built with assistance from the Baptist Mission. The land was given to the community by a landholder in Farafenni. The women interviewed explained that an agreement was signed by the *alkalo*, with the landholder stating that the land now belonged to the community for the establishment of the orchard. These women also expressed doubt, however, over the commitment of the landholder to his promise and the validity of the signed agreement. The women currently use the site as a garden and plan to continue this use until the area is eventually overshadowed by tree canopies. When the trees are mature, the fruit will be collected and sold by the villagers. The proceeds will be put into a village fund for community use.

1.5 PATTERNS OF NATURAL RESOURCE USE IN UPPER BADDIBU

The majority of land falling within the boundaries of Maka Farafenni territory is used for agricultural purposes. As the transect indicates, these agricultural lands are classified into three distinct soil types: *jorr*, *bahaleh* (or *dek-dior* in Senegal), and *dak*. There is a fourth type of soil found in the village, *dake* (the Wolof word for lake), which is more of a locational name than a

soil classification. The nonagricultural land in the village consists of mainly *dak* soil, where the settlement area and the two *dakes* are located. In addition, the village is bordered on two sides by two woodlands each, one of which is state owned, and the other, community controlled. The state-owned and -supervised Pakala Forest Park is a mixture of *bahaleh* and *dak* soils, with some sections of rocky outcrop. It is believed to have good agricultural potential. The four soil types found in the village and the approximate percentage of land per soil type as estimated by villagers is as follows: *jorr*, 12 percent; *bahaleh*, 62 percent; *dak*, 22 percent; and *dake*, 4 percent. The microecologies and their uses are described below.

Jorr

This reddish, sandy soil forms a crescent around the other fields. It is considered excellent soil for groundnuts, if fertilizer is available, and also very good for millet. Farmers described how the sandy soil yields fuller, more robust groundnuts than the more fertile, yet firmer soils found closer to the village. Farmers appreciate this soil because it is easier to cultivate and harvest than the *bahaleh*, though it is believed to be less fertile. This section of *jorr* is the beginning of a wide band of sandy soil extending deep into the groundnut basin of Senegal. Due to the settlement pattern of Maka Farafenni, the village owns relatively little land on these soils. It is estimated that only one-quarter of all families in the village actually retain primary land rights to *jorr* fields. Families wishing to cultivate this soil type are able to borrow fields from neighboring Ngueur Anglais. The ample availability of *jorr* land in Ngueur may be attributed to its greater male out-migration than in Maka Farafenni, thus leaving a general land surplus in the village.

The *jorr* is most commonly planted in a groundnut-millet rotation, though sesame may also be grown. All fields are cultivated each year. Due to land scarcity, land fallowing is no longer incorporated into the farming regime. One farmer stated that he has not left a field fallow in nearly twenty years. Farmers believe that this lack of fallowing contributes to declining soil fertility and to their dependence on imported fertilizer.

There are various trees and grasses found on the *jorr*, though they are not distinct from those found on the *bahaleh* (refer to the transect, p. 97, for a complete listing).

The *jorr* is used predominantly by the founding families, both male and female, and seldom lent outside of this group except to “strange” farmers. Strange farmers (*navatanes* in French) come to cultivate seasonally in The Gambia, usually from neighboring countries.⁷ The land is exploited by strange farmers in cooperation with their hosts but also on an individual basis. Even though the supply of *jorr* is limited and there are members of the founding families who do not have access to this land, strange farmers are given pieces of *jorr* to cultivate as an enticement.⁸

Bahaleh

A sandy, clay loam, the *bahaleh* makes up a transitional zone between the *jorr* and the *dak*. It is generally more fertile than *jorr*, but its higher clay content makes it more difficult to cultivate.

⁷ For a full description, see David (1980).

⁸ Strange farmers are present in Maka Farafenni, but the exact number in the village was not known. It was difficult to ascertain why strange farmers are needed in a village where land is reported to be scarce, and labor, plentiful. The team was told that strange farmers are brought in to assist with mechanical land preparation and weeding in exchange for a parcel of land, food, and lodging. The strange farmers are generally expected to work three days a week on their host’s fields and the remaining days for themselves.

Bahaleh is also valued for groundnut cultivation. Farmers actually prefer the *bahaleh* to the *jorr* if they cannot fertilize the latter's soils. Farmers plant mainly a mix of groundnut and millet, with some sesame and corn. The women's garden is located on *bahaleh* soil. The garden is cultivated most intensively during the rainy season because the deep water table (approximately 40 meters) makes dry-season gardening very difficult. Women gardeners plant a combination of hot pepper, eggplant, bitter tomato, corn, okra, tomato, pumpkin, and sorrel.

The founding families hold the most secure use rights to approximately three-quarters of the *bahaleh* land. The remaining quarter is divided among the late-settler families.

Dak

Dak appears to be silty clay and is the least preferred agricultural land. Perhaps the village settlement was placed on these soils for this reason. There is some cultivation on *dak*, mainly by those unable to obtain fields elsewhere. The crops planted are millet, groundnuts, sesame, corn, and assorted vegetables grown near the compounds. Founders have acquired secure use rights to over three-quarters of the *dak* soils, with the remaining quarter occupied by late settlers.

Land for settlement is allocated by and reverts to the *alkalo* when families arrive and leave. Land for expansion of compounds is limited and negotiated both within and between families. The *alkalo* must always be notified when compounds expand, and the *alkalo*'s approval is required when families or individuals wish to reallocate their land. Land sale is prohibited in Maka Farafenni.

Dake

These are small depressions of clay soils on which water collects into natural pools during the rainy season. These depressions are used by both men and women primarily for watering animals and collecting leaves, especially *kinkiliba* (*Combretium* spp). Women gather firewood in the *dake* as well, but the wood available from this source is not considered to be high quality.

Figure a.4 Transect of Maka Farafenni

ZONE	OUTER FIELDS		INNER FIELDS		HABITAT	INNER FIELDS		FOREST
Soil	Jorr	Bahaleh	Dake	Dak	Dak	Dak	Bahaleh	Bahaleh
Land use	Agriculture - groundnuts - millet - sesame	Agriculture - groundnuts - millet - sesame	Grazing Livestock watering Wood and plant collection	Agriculture Horticulture Grazing Woodlot	Settlement Agriculture Grazing (wet season) Horticulture Tree planting Animal husbandry	Settlement Agriculture Grazing (wet season) Horticulture Tree planting Animal husbandry	Settlement Agriculture Grazing (wet season) Horticulture Tree planting Animal husbandry	Grazing Wood collection Plant products (medicinal and food)
Trees and shrubs	<i>Khaya sen.</i> <i>Cordyla afr.</i> <i>Sclerocarya bir.</i> <i>Ziziphus mur.</i> <i>Ficus spp.</i> <i>Guiera sen.</i>	<i>Khaya sen.</i> <i>Cordyla afr.</i> <i>Sclerocarya bir.</i> <i>Ziziphus mur.</i> <i>Ficus spp.</i> <i>Guiera sen.</i> <i>Bobox</i> <i>Combretum</i> <i>Parkia big.</i> <i>Baobab</i> <i>Lannea</i>	<i>Combretum</i> <i>Bridelia</i> <i>Guiera sen.</i>	<i>Cordyla afr.</i> <i>Sclerocarya</i> <i>Ziziphus mur.</i> <i>Ficus spp.</i> <i>Bombax</i> <i>Combretum</i> <i>Parkia big</i> <i>Pterocarpus eri</i> <i>Baobab.</i> <i>Guiera sen.</i> <i>Lannea</i>	<i>Mango</i> <i>Tamarindus indica</i> <i>Gmelina</i> <i>Cola cordifolia</i> <i>Orange</i> <i>Neem</i> <i>Rhun palm</i> <i>Adansonia dig.</i>	<i>Cordyla afr.</i> <i>Sclerocarya</i> <i>Ziziphus mur.</i> <i>Ficus spp.</i> <i>Bombax</i> <i>Combretum</i> <i>Parkia big</i> <i>Pterocarpus eri</i> <i>Adansonia dig.</i> <i>Guiera sen.</i> <i>Lannea</i>	<i>Khaya sen.</i> <i>Cordyla afr.</i> <i>Sclerocarya bir.</i> <i>Ziziphus mur.</i> <i>Ficus spp.</i> <i>Guiera sen.</i> <i>Bobox</i> <i>Combretum</i> <i>Parkia big.</i> <i>Baobab</i> <i>Lannea</i>	
Animals	Monkeys Hyenas Bush pigs Foxes Skunks Squirrels Rats	Monkeys Hyenas Bush pigs Foxes Skunks Squirrels Rats	Monkeys Hyenas Bush pigs Foxes Skunks Squirrels Rats	Monkeys Hyenas Bush pigs Foxes Skunks Squirrels Rats	Goats Horses Donkeys Rats Cats Dogs Chickens Sheep Cattle	Monkeys Hyenas Bush pigs Foxes Skunks Squirrels Rats	Monkeys Hyenas Bush pigs Foxes Skunks Squirrels Rats	Monkeys Hyenas Bush pigs Foxes Skunks Squirrels Rats
Tenure relations	Founding families hold most secure use rights: Jorr land used almost exclusively by these families	Founder families have most secure use rights to about 75% of these fields; late settlers use about 25%	Majority of land considered as common property; approximately 25% used by individuals	Founder families have most secure use rights to about 75% of these fields; late settlers use about 25%	Trees may be individually or communally owned; horticultural plots may be individually owned	Founder families have most secure use rights to about 75% of these fields; late settlers use about 25%	Founder families have most secure use rights to about 75% of these fields; late settlers use about 25%	State owned

During the rainy season, only those farmers who own fields within the *dake* (or who own adjacent fields) can use the area. Access to the *dake* during the rainy season, therefore, must be negotiated between the field's owners and those seeking access.

1.6 AGRICULTURAL AND LIVESTOCK PRODUCTION: MAKA FARAFENNI

Land for agricultural production among the Wolof is allocated to family members by the compound head for both personal and communal output. Men and women cultivate separate fields usually of the same crop mixture. Landholdings within the family are parceled among the male members. If land is available, fathers give land to sons on a permanent basis and cannot rescind on the transfer. Since the land over which Maka Farafenni has secure use rights is fixed, excluding borrowing from other villages, the parcellation of land within the family constrains individual production capability because family members cannot easily expand their farm size. Men wishing to cultivate larger areas than that available from their fathers must borrow land from within or outside of the village. When families need additional fields, the compound head negotiates with other landholders on behalf of the household.

Land is allocated to women through their husbands or the compound head. Women cultivate individual fields on the land given to them by their husbands or their family. In the case of divorce from or death of the husband, the women return to their original families, where a male relative or compound head is responsible for allocating land to them. Women explained that in such cases, the divorced females are usually allocated fields of equal or larger size than those which they cultivated during marriage for fear of embarrassment by the husband's family to see the women made worse off after their divorce.

The division of labor between men and women for agricultural production is clear and varies only slightly by crop. Men handle all animal-traction equipment and as such are responsible for all land clearing and mechanical preparation, including seeding and usually one weeding on both their own and the women's fields. Tasks are further divided by crop.

Individual farmers are responsible for the procurement of agricultural inputs. Women are often given their first seeds by their mothers or other relatives at the time of marriage. Ideally, farmers put aside about one-third of their harvest as seed for the following year. If cash reserves and food stocks are low, however, the family may be forced to consume their seed before the growing season. If a woman does not have enough seed for the coming season, her husband is ultimately responsible for providing it.

Decision making

The choice of crops to be planted seems to be decided jointly by men and women, though responses differed among both men and women interviewed and depended on the crop. Some women decide what to plant for a given season based on the cropping mix of the family and their personal needs. These women are free to decide how to divide their fields but seek final approval from their husbands. Other women said that men determine the cropping mix for the traditional millet/groundnut rotation, but that they decide on the horticultural crops to be grown.

The produce from the individual fields is also individually managed, though respondents varied somewhat in their description of this system. In general, men and women may sell any portion of their crops throughout the year. Women, however, first give approximately 10 percent

of their harvest to their husbands. Women explicitly stated that this is not given as compensation for the land preparation and weeding carried out by the men, but as charity. Women must also ask permission from or inform their husbands when selling groundnuts or grain. One woman said that permission is asked as a courtesy but that women make the final decision. Another added that she gives her harvest to her husband and that he decides what portion to sell; the money from the sale is kept with the husband but she may ask for it as needed.

The organization of agricultural production in the four Bambara compounds differs from the structure found in the Wolof compounds. Bambara sons share their fathers' fields and are not given separate land to cultivate. The crop mix is millet, groundnuts, corn, and vegetables. Women grow groundnuts as their main source of income and are obliged to give 10 percent of their harvest to their husbands before selling it.

Livestock production

An estimated two-thirds of Maka Farafenni residents own draft animals. The remaining third borrow animals as needed. Those who do not own animals board at least one for an animal owner. This system ensures that all families have access to animal traction and manure. The preferred draft animal is the horse, followed by oxen and donkeys.

Small ruminants are abundant in Maka Farafenni with at least half of all compounds owning an animal. At least one-quarter of all women own one or more small ruminants and another quarter own livestock (horses, oxen, or donkeys). Maka Farafenni has an organized system of tethering sheep and goats during the rainy season. A herder is hired to take all the sheep and goats to a designated point outside of the village's farming area. A bell is rung in the morning signaling that all animals should be brought and tethered outside the mosque. When the herder is ready, he guides the animals to the tethering point outside the village. The animals are returned to the village in the evening.

Income generation

The dependence of the community on agriculture is shown in the matrices that were prepared by groups of Wolof and Bambara women on separate occasions in Maka Farafenni. The Wolof women compared "bad" years with "good" years. They defined good years as those periods with plentiful, timely, and well-distributed rains. Bad years were those with inadequate rainfall or poorly distributed rains. These women give particular importance to remittances and cash from relatives as income during bad years; they did not mention this source when describing income-generating strategies during good years. This does not necessarily mean that no remittances are received during good years, but that they are relatively less important as family income.

Women assigned equal significance to off-farm enterprises as a steady source of income in both good and bad years. Craft production has been encouraged by the Chamen training center, which opened about two years ago. The proximity of the village to the Farafenni *lumo* ensures an outlet for items produced. Craft activities were simply not mentioned by the Bambara women, a fact that needs further investigation. It may be that their involvement in *netto* processing⁹ impedes their craft activities.

⁹ *Netto* processing entails harvesting the pods of the locust bean tree (*Parkia biglobosa*) and transforming them into a condiment, which is used in many local dishes.

Wolof women indicated that they derive as much as 50 percent of their income from agriculture. Bambara women derive 100 percent of their income from natural resource-based activities, the majority of which are agricultural. The locust beans, or *netto* seeds, as they are known locally, are not available in adequate supply from village *netto* trees. Women buy beans from traders and process them for sale in the village and in Farafenni. Both Bambara and Wolof women are highly dependent on the availability of agricultural land for their subsistence. They rely on their husbands or other male family members to make this land available to them. Although neither the Wolof nor the Bambara women raised this concern for their individual production, it was expressed as a potential problem for the women's group involved in the cultivation of a communal field. Due to the general land shortages in Maka Farafenni, the women's group was not allocated land until all individual villagers' needs were met. It was not certain that they would be given land for their communal field this year until just prior to the commencement of the rains. The women noted that the field they were eventually given is smaller than the ones they have cultivated in past years.

A similar ranking exercise was tried with a group of Bambara women, except that this matrix compared past sources of income (10 to 15 years ago) with current sources.

1.7 AGRICULTURAL AND LIVESTOCK PRODUCTION: DUTABULU

The Dutabulu economy is based on herding, with approximately 2,000 cattle kept in 22 herds. The settlement pattern of the village and its proximity to the rapidly expanding town of Farafenni has resulted in land shortages for Dutabulu. The cropping mix is similar to that of Maka Farafenni, predominated by a groundnut/millet rotation. The division of labor for agricultural production varies somewhat, with men responsible for land clearing and all mechanized activities. Women weed, harvest, and perform all postharvest processing throughout the year.

Cattle from several of the surrounding villages make up the herds kept in Dutabulu. It was estimated that 65 percent of the cattle are owned by outsiders, and 35 percent by village residents. Of the 35 percent owned within the village, approximately 20 percent are owned by women. The arrangements for herding are generally such that the herder takes all of the products from the animal in exchange for the supervision. If an animal dies or is lost while under the care of a herder, the owner may demand recompense. In the case of death, the herder must show the carcass of the animal to the owner for verification. Owners also maintain the right to remove or sell any of their livestock as they wish.

The herder may appropriate all products of the cattle. Manure may be collected and sold. Animals may be kraaled on fields for the herder's family or contracted out to other farmers. Milk is collected by men and marketed by women. Residents of Dutabulu ranked milk as the most important source of income for the family. The herder will allocate enough milk for the household's needs before giving it to the women to sell in Farafenni. The women take proceeds from the sale of milk to buy fish, meat, and condiments for daily meals. Any surplus milk or cash is then kept by the women. Women interviewed said that this milk surplus is also their most important source of income.

Dutabulu is also endowed with roughly 2,000 small ruminants. Ownership of these animals is divided between men and women, with men owning two-thirds, and women, one-third. Herding small ruminants is done by both men and women. It provides the second most important

source of income for women and was ranked as the third most important source for men. Herders are compensated by retaining every second birth of an animal. Women are responsible for providing water to all small ruminants in the dry season and for tethering them outside the village during the rainy season.

The land crisis in Dutabulu has negatively affected the women. When land was more plentiful, women cultivated their own millet and groundnut fields. Now, with land shortages, women are no longer able to cultivate individual fields. Women contribute labor to their husband's fields and receive remuneration at their spouse's discretion. The women's *kafo* group usually cultivates a communal field of groundnuts, millet, or sesame, if a field is available to them. As described earlier for the women's group of Maka Farafenni, the Dutabulu women's *kafo* must wait for individual and family land requirements to be met before being given a piece of land. Here, too, women claimed that the field they were allocated is much smaller than in previous years. The women plan to grow early millet.

1.8 TENURE ARRANGEMENTS BY RESOURCE

Trees

There are many species of trees found throughout the Upper Baddibu District, but participants in the study area described how both numbers and varieties have diminished over the years. Outer and inner fields are sparsely planted with trees, with those now present being older and well established. There appears to be little natural regeneration of trees in village fields. This may be attributed to depredation by animals and mechanical plowing.

Trees on settlement lands are both communally and individually owned. Trees can also be given as gifts. Fruit trees both inside and outside the settlement area are generally open to access for home consumption and are managed under the *tongo* system in Maka Farafenni. The *tongo* is a ban on the harvesting of fruit until the fruit is considered ripe enough for consumption. It is enforced to prevent pilferage by children. It also demonstrates a sense of responsibility for the trees. The children or their families can be fined if caught breaking the *tongo*.¹⁰ This system is not enforced in Dutabulu.

Naturally occurring trees outside of the compound area, such as baobabs (*Adansonia digitata*) and *netto* (*Parkia biglobosa*) or fodder trees such as keno (*Pterocarpus erinaceus*), are perceived by the community as open-access resources for domestic use and limited sale. These trees have an economic value and are well maintained and protected. Other tree species with food value, such as *Cordyla africana*, *Sclerocarya birrea*, and *Khaya senegalensis*, are left on farmlands for individual and community use. The community recognizes that the *Pterocarpus erinaceus* tree is good for animal fodder, though it does not seem to be protected in the village. Perhaps this is because other sources of fodder, such as grasses and crop residues, are available in adequate supply. Farmers may not want the trees competing with the crops in their fields.

The *seyfo*, or district chief, described how planted trees clearly belong to the individual who plants them. He cited an example where a member of a compound planted mango trees in a

¹⁰ The *tongo* system is prevalent in many parts of The Gambia; it is also recorded in the Kiang West and the Foni Jarrol District case studies.

bathing area. For reasons unrelated to the tree planting, relations between the compound head and this particular member deteriorated, and the member was asked to leave the compound. Upon leaving, he demanded compensation for his trees. The case went before the district tribunal, which brought in professional tree appraisers to assign a value to the trees. The tribunal ruled in favor of the compound head for expulsion of the member from the compound but in favor of the member for compensation for the trees. However, the compound member decided that he did not want to sell the trees and asked the court to restrict the compound members from picking fruit from the trees. The effort required to enforce such a restriction was beyond the capacities of the district tribunal. The court advised the tree owner to share use rights with the landlord.

The cutting of live trees is prohibited throughout the country unless permission is given by the Forestry Department (see discussion below). Women seeking firewood have been accused of cutting live trees instead of dead wood, which is generally permitted anywhere outside of designated forest parks. Villagers explained that there is not an adequate supply of the preferred dead fuel wood near the village and that women's time constraints preclude them from gathering wood far from the village. Women stated they have no choice but to cut live wood and leave it to dry. Further exploration revealed that women often cut live wood because it requires less labor than dry wood. The amount of time women can save by cutting live wood offsets any risks they incur by this illegal act. There was a recent arrest of a Maka Farafenni woman caught cutting live wood in a community-owned area. She was heavily fined.

The Forestry Department sponsored a wood lot in Maka Farafenni about eight years ago. It was established to provide a sustainable source of fuel-wood and construction materials for the community. It is planted entirely with *Gmelina*, which is considered to be a fast-growing, multiple-use tree. The wood lot was originally intended for Illiasa, but no land was available there. It was then decided to establish it in Maka Farafenni. The wood lot is located on the edge of the village fields, bordered by farms and the main village road. It is fenced with barbed wire and has one permanent well.

Forests

There are two wooded areas in Maka Farafenni. One extends from the village to Farafenni, and the other, the Pakala Forest Park, borders the southwest corner of the village and extends as far as Chamen. Neither of these areas is heavily wooded and both appear to be severely deforested. The Pakala Forest Park, demarcated in 1952 or about the same time as the third settlement of Maka Farafenni, has a denser cover but is still only lightly wooded.

The state of the wood lot is not impressive and it appears to be poorly maintained. Technical advice from the Forestry Department has been given to the wood-lot committee, but the recommendations have not been implemented. Villagers claim that the wood lot is inadequate to meet the fuel-wood needs of the entire village. For this reason, it is left unused, with individual exploitation prohibited. The village has harvested trees for community use, such as for fence posts for the women's garden.

Men and women exploit the wood lot differently. Men harvest timber for house and fence construction. Women gather firewood for daily use. Women explained that the wood-lot committee is made up of men, who have lesser need for the resource than do women. The women believe that this is a factor in the committee's lack of maintenance of the wood lot. They

assert that the wood lot would be better conserved under the direction of the women's group, which has a greater incentive to maximize its production.

The wood lot is fairly sizable, covering approximately 1.5 hectares, but it is located on poor soils. Consequently, yields are poor and regeneration of harvested trees is slow. If the wood lot were established on better soils, it could be more productive and possibly meet a significant portion of Maka Farafenni's fuel-wood needs. However, land shortages in the village limit the possibility of changing to a more fertile site.

The issue of firewood shortages was discussed throughout the study. Alternatives to cutting timber from the forest park and in live-wood community areas were explored by the villagers. By the end of the fieldwork in Maka Farafenni, the women's group expressed an interest in rehabilitating the wood lot, but would first have to gain some influence in decisions concerning the area. Women said that they would start to invest their own resources in the wood lot this year, which would give them a stronger voice in its management. They will need technical assistance from the Forestry Department.

The area adjacent to the park, on the southwest side of Maka Farafenni, was not under cultivation at the time of demarcation. In subsequent years villagers have encroached into the park. On at least one occasion the village actually petitioned the Forestry Department for permission to use the park for agricultural purposes. The Forestry Department agreed in that instance, but now claims that the area is too degraded to permit further usage, even on a limited basis.

While the Forestry Department claims that villagers were not removed from their land when the park was established, the residents of Chamen tell a different story. They claim that land was taken from them without their consent and given to the Pakala Forest Park. The *alkalo* cites the example of a well located within the park boundaries as testament to the presence of a village. There remains a sense of resentment in Chamen over the current boundary of the park and the Forestry Department reports unauthorized use by the village for agricultural purposes.

Forest parks are generally restricted to woodcutting, grazing, and agriculture, although exceptions to these rules can be made. According to forestry officials, villagers surrounding Pakala were allowed to collect dead wood and to graze their animals in the park until the privilege was abused. The villagers' collection of wood included wet wood as well as dry, which is strictly forbidden. The Forestry Department maintains that villagers employ destructive techniques to cut live wood rather than using methods that promote regeneration, further contributing to the degradation of the park. This prompted the Forestry Department to ban the cutting of all trees within the Pakala Forest Park unless express permission were given by a forestry official.

Throughout the study, the team was told of the profound paucity of dead wood for firewood collection. Women repeatedly stated that this was a troublesome dilemma. In both Dutabulu and Maka Farafenni, women said they must steal firewood to meet their daily requirements. The term "steal" may refer to their unauthorized use of the forest park, but the women did not elaborate. There is ambiguity surrounding the use rights to nongovernment-owned forests. Both wooded areas of Maka Farafenni are used for timber and firewood collection, leaf and root gathering, and grazing, but villagers are uncertain about their rights to these areas. The community is aware of the restrictions placed on the Pakala Forest Park and seems to believe that all forest areas have

tantamount limitations. It is not clear why villagers would have this impression and it highlights the need for community education of natural-resource regulations.

Grazing areas

Rangelands outside the forest park system are, by custom, communally owned, with no village claiming ownership. As such these rangelands do not fall under the management of any one village. The rangelands serve as grazing grounds and sources of wood and other plant products, including those of medicinal value. Despite the apparent utility of these areas, there are frequent fires and excessive exploitation of the trees. It may be that ownership of the area is not clear, and therefore no one village in particular sees itself as responsible for protecting it. In addition, the Forestry Department enforces forestry regulations in the open areas, which may further confuse the villagers' sense of ownership. This emphasizes the urgency for better understanding by the communities of their right to natural resources and of forestry regulations.

Few cattle are owned in Maka Farafenni. Even fewer people keep their cattle there. Some cattle owners of Maka Farafenni give their animals to herders in Dutabulu. Grazing in Maka is unencumbered by any restrictions in the dry season, but it is limited to delineated cattle tracks and forest areas during the rains. Access to watering holes is also becoming increasingly difficult. Land pressures force farmers to encroach on the cattle tracks and restrict passage to the watering holes. There is one pump well in Dutabulu, which has eased the water problem somewhat, but this well is also used by residents for domestic needs.

Herders in Dutabulu explained that encroachment by farmers from Farafenni on the cattle tracks between Dutabulu and the Pakala Forest Park is an annual problem. The tracks were established many years ago, when there was less pressure on the land surrounding Dutabulu. As Farafenni residents expand their cultivated lands into Dutabulu territory, they inevitably encroach on the cattle tracks. These disputes between herders and farmers are usually resolved at the village level. However, herders said that occasionally they are made to compensate a farmer for damage done by cattle in the designated cattle tracks. Herders also explained that many of the cattle accused of damaging the Farafenni crops are actually owned by Farafenni residents and only herded by Dutabulu residents. The herders claim that they are made to compensate the Farafenni farmers for crop damage by animals belonging to them. This heightens tension between Dutabulu and Farafenni.

The quality of these pasture areas is also declining. Bush fires are the main impetus for herders to change grazing sites due to poor range quality, though there are few areas left to graze. As land under cultivation increases, land available for grazing is reduced.

A fenced-off; protected rangelands site is currently being constructed about 2 kilometers from Dutabulu on land historically used for grazing. The land is currently considered a commons, belonging to the surrounding villages and Farafenni. These villages agree to allocate this land as a permanent grazing site. At present, cattle within a district may graze anywhere throughout that district. The Rangelands Project, financed by the European Development Fund (EDF), will allocate certain areas within the district to villages willing to participate in the project. Villagers not participating in the project would then be prevented from using these rangelands because the parcel will be fenced off. Therefore, the rangelands available to nonparticipating villagers would be reduced. The implications of this project for the case-study areas are not clear and the project should be carefully monitored.

1.9 FACTORS AFFECTING TRANSFORMATION OF TENURE REGIMES

The settlement history of villages in the study area is the most influential factor in determining the rights to land and other resources. The village of Maka Farafenni was settled and nearly all the land was cleared during the initial years of settlement. There has been little subsequent land distribution. Within the village, land-use rights are dependent on lineage. Founders and their descendants enjoy the most secure rights to land, which they have cleared. Later arrivals to the village may also be given land to clear, over which they, too, would have secure rights. Alternatively, they may borrow land for various lengths of time from those who initially cleared it. As land shortages accelerate in Maka Farafenni and Dutabulu, there does not seem to be any transformation of the founder/late-settler tenure pattern of acquiring rights to land. However, villagers described an increased incidence of founders having to borrow land outside the village. As such, these landed founders may be becoming less willing to lend land to landless, later settlers. This possibility could not be adequately assessed during the present study.

Development projects

There are few donor-funded development projects in the case-study area, with the notable exception of the new EDF Rangelands Project, mentioned above. This new project may change tenure arrangements within the Maka Farafenni area, though it is too early to determine if this is the case.

Pakala Forest Park

The impact of the Pakala Forest Park is perceived as negative throughout the area and is regarded by villagers as the major impediment to the exploitation and expansion of agriculture in the lands surrounding the park. The fencing of the Pakala Forest Park is scheduled to begin soon, thus further restricting access.

The precise effect on tenure regimes is less clear. The land shortage in Maka Farafenni and the system of land parcellation in the Wolof community are leading to increased borrowing outside the village. There is considerable borrowing already taking place between Maka Farafenni and its neighbors. The conditions attached to these transactions were reported as minimal with no recent changes noted.

Simultaneously the Pakala Forest Park is affecting village development on the western side of the park near Chamen. Villagers described how they would de-reserve and redistribute about 35 percent of the park. They contend that the reallocation would be equitable, with each of the five surrounding villages to be given land. Other villages, however, express a greater concern for declining soil fertility and consequent lower productivity than for needing more agricultural land. In fact, villages with sufficient land readily offered to give up existing farm areas in exchange for better soil within the park. This type of arrangement, however, would not be possible for Maka Farafenni.

Farafenni urban growth

The greatest developmental influence in the case-study area is Farafenni. The government has introduced a program of physical planning in Farafenni to shape the course of its rapid physical development. This planning may be negatively influencing the tenure arrangements between Dutabulu and Farafenni. Land speculation in Farafenni is accelerating, with an increasing

amount of settlement area now under leasehold. Landholders in Farafenni may view their land as becoming more valuable and, in turn, may reinforce their ownership of land in and around Dutabulu.

The expansion of Farafenni has differing impacts on Maka Farafenni and Dutabulu. On the one hand, land tenure relations are changing and the strain on Dutabulu is palpable. On the other hand, Maka Farafenni is benefiting from Farafenni's growing market center. The urge to expand farm sizes affects the tenure regime, since farmers become reluctant to lend land when they could put it into productive use. This is beginning to take place in Maka Farafenni. For example, the women's group in Maka, as described above, is encountering difficulties in obtaining adequate amounts of land.

Given the limited availability of land, the tenure regime for the time being seems adequate for farming needs in Maka Farafenni. This deduction is based on two pieces of evidence:

- ◆ most land disputes are resolved at the household level, with relatively few reaching the *alkalo*; and
- ◆ land is borrowed among Maka Farafenni residents as well as between Maka residents and other villages, such as Ngueur Anglais.

Land borrowers are confident that land will always be available to them. One Bambara compound has been borrowing fields from various families for the last twenty years. The compound head is not allocated the same parcel every year and is almost certainly given land on *dak* soil. This particular family also borrows land from Ngueur Anglais. Landowners and borrowers alike expressed concern for future land allocation within the families as family sizes increase. As indicated above, the larger family continues to farm the same area, with individuals allocated smaller parcels of land to cultivate.

Due to the historical background of Dutabulu the village has a land deficit. Dutabulu residents consider the present tenure relations between Dutabulu and Farafenni to be inadequate for satisfying their needs. The influence of urbanization in Farafenni results in a reduction of land made available to Dutabulu. Residents claim that Farafenni landowners could actually displace them from the settlement area if that land were needed by Farafenni. This puts Dutabulu in a precarious position as land borrower in an area where land speculation is on the rise. Farmers in Dutabulu are required every year to give cash and kola nuts to secure a field. The amount of cash required ranges from one to several hundred dalasis per season. The herders can no longer migrate to new areas.

1.10 RESOURCE USE DISPUTES AND CONFLICT RESOLUTION

Village- and district-level conflicts

Village level

In the study area, the most common resource-related dispute between villagers concerned land. Some participants in Maka Farafenni claimed that farm-boundary disputes were the most numerous, while others said that no boundary disputes had occurred in recent memory. Livestock damage to crops was another prominent dispute, followed by incidences between strange farmers and hosts over contractual arrangements.

Men and women gave slightly different answers over which disputes were more numerous, but land disputes were consistently at the top of the list for both groups. There was also consensus that most village disputes are resolved at the household level.

The matrix produced by several men and two women at the *bantaba* represents past (defined to be more than fifteen years ago) and present disputes in the village and their level of resolution. The disputes were ranked in terms of relative importance by using beans to indicate the appropriate incidence. The numbers shown indicate the number of beans placed next to each type of dispute (they do not represent the actual number of conflicts in the village and are meant only as rough guidelines to relative proportions). In addition, the ranking was done relative to the level of resolution for each type of dispute.

District level

The most numerous cases heard by the district tribunal concern land. These are either border disputes, cattle-track discrepancies, or settlement-area conflicts. Forestry cases appear to be on the rise, however; from January through June 1993, tribunal records show that seven out of fourteen cases presented were related to forestry while only four of the fourteen pertained to land. The team was unable to view court records for the previous year to make a comparison or to confirm what the tribunal had said. The district tribunal tends to hear more land disputes just before the rainy season, when fields are being allocated, than during the dry season. It is known that more trees are felled and firewood gathered during the dry season, which could also explain the higher number of forestry cases heard between January and June.

1.11 CONFLICT RESOLUTION MECHANISMS

Conflicts are resolved on various levels, beginning with the household and ending in the appellate court. In the study site, the household was seen as the most likely level on which most conflicts are resolved. This may be attributed to settlement patterns and familial relations. One of the most remarkable features of Maka Farafenni is that most of its residents are related. The village is truly one extended family sharing its territory with a few long-term guests, who have been well integrated into the community. The greatest testament to the closeness of this village is the disputes matrix. A high proportion of disputes are resolved at the household level. Both men and women are active in the resolution process, with women solving domestic complaints, and men, intercompound problems.

The imam is also a central figure in conflict resolution in both Maka Farafenni and Dutabulu. He serves as an intermediary step between parties who are bringing a dispute to the *alkalo*.

On the district level, the *seyfo* and the district tribunal formally hear cases. The district tribunals hear all cases concerning customary and Islamic law (even criminal cases). The Upper Baddibu District Tribunal consists of four men and the chief. The tribunal meets about twice a month or as needed. Its members also act as local representatives of the tribunal. When the *seyfo* is informed of a dispute, he sends a message to the tribunal representative for that particular area for intervention on the *seyfo*'s behalf. If the tribunal representative cannot find a resolution, the dispute is then brought before the entire district tribunal. The *seyfo* explained that the district tribunal members are well-respected citizens who have a knowledge and understanding of their

particular areas that the other district members do not. Therefore, these individual members are usually important figures in dispute resolution on the district level.

Cases formally heard by the tribunal are recorded and sent to the commissioner for review. The commissioner may refute a decision taken by the tribunal and demand a retrial. In the Upper Baddibu District this has occurred only once in the last ten years.

There is also a group tribunal, which is comprised of three chiefs from the district. The group tribunal is a legally constituted court that can rehear cases heard by the district tribunal. However, the chief explained, this court usually refers cases back to the district level.

1.12 TENURE ISSUES AFFECTING NATURAL RESOURCE MANAGEMENT

Five main tenure issues were identified during the course of the study:

1) Insecurity of tenure for land borrowers affects their use and management of borrowed land.

There seemed to be a lack of incentives to invest in borrowed land as opposed to land on which one had very secure use rights. One example cited by villagers is the inability for Dutabulu residents to plant trees in fields borrowed from Farafenni. Women were cognizant of the need to increase their firewood supply, yet claimed that they could not plant firewood species on borrowed land.

2) Uncertainty of ownership of common lands between villages affects the involvement of communities in the management of these areas.

The area of wooded land between Maka Farafenni and Farafenni is fairly degraded. When villagers were asked why they do not invest in making the area more productive, especially for firewood production, they said that they did not know whose land it was. The ambiguity surrounding the actual ownership of this area has also resulted in a lack of incentive to reverse the degradation.

3) Noncommunity ownership of Pakala Forest Park results in lack of concern for or misuse of the forest park.

The communities near the Pakala Forest Park have absolutely no sense of ownership or stewardship for the area. The park is perceived as state-owned and state-managed. The villagers are aware of misuse within the park, but they do not try to stop it because they believe that such responsibility lies with the Forestry Department. Examples range from forest fires to overexploitation of trees.

4) For clearly communally owned resources, traditional management systems have been created.

There were several examples of community-owned and -managed resources. In addition, the *tongo* system was seen to be functioning in Maka Farafenni. This demonstrates that communities have the capacity and willingness to properly manage resources they perceive as their own and from which they derive a benefit.

5) Different user groups perceive different uses for the same resource.

Resource-use conflicts or conflicting uses of natural resources need further exploration. Such conflicts may occur within the same user group or between different groups concerning present and future uses of a particular resource. For example, the Pakala Forest Park is a possible grazing area for Dutabulu, while it is a reserve of farmland and firewood for Maka Farafenni and a conservation area for the Forestry Department. Future settlement areas for Farafenni are the agricultural and grazing lands for Dutabulu. Any community-management plan for such resources would require that all user groups agree on the exact terms of usage by each group.

1.13 POLICY RECOMMENDATIONS

This section presents recommendations voiced by the communities studied and, therefore, reflects their perceptions. The team also added its own observations.

Public policy recommendations of resource user groups in case study sites

The recommendations herein were given by members of the study area. Different user groups highlight the perceived resource shortages or tenure pressure points affecting them. The different user groups have different concerns. As discussed earlier, the Pakala Forest Park is a central concern for all villages studied, but each village would exploit it differently. Maka Farafenni would convert the park to farmland, while Dutabulu would preserve it as a grazing area.

Farmers expressed the need for higher agricultural productivity and stated how difficult it is to procure fertilizer. Stories were told of how fertilizer distributed through the Private Dealers Network or other merchants is often sold to re-exporters before the local population has an opportunity to purchase it. Villagers recommend fertilizer subsidies and a distribution network that would ensure a supply of fertilizer at the village level.¹¹

The village of Farafenni and its rapid growth and development have an impact on local resource use and affect the surrounding villages differently. Residents of Dutabulu are concerned with the expansion of Farafenni farmlands and the encroachment of farmers into existing cattle tracks. This obstructs herders from bringing their cattle to the watering holes and increases the risk of crop damage by cattle and thus the risk of fines for the herders. In addition, the residents of Dutabulu voiced their apprehension that residents of Farafenni could actually take over the village settlement land, leaving Dutabulu without land.

The district authorities have their priorities as well, as stated by the chief or *seyfo*. These comments reflect an uncertainty of the implications of the 1990 State Lands Act for the rural populations. The chief articulated his concern that land speculation in Farafenni dissuades landholders from lending land for agricultural purposes. He fears landholders are no longer lending as much land as in the past. These landholders presumably prefer to use the land themselves or exert their strong use-right privileges. The chief is a proponent of empowering district authorities to limit farm sizes held by individuals to only that amount of land which the individual can cultivate. He believes that this would eliminate the possibility of large tracts of land being left unused while families scramble to find enough land for subsistence farming.

¹¹ While the team recognizes that fertilizer subsidies are not consistent with government policy, the possibility is mentioned here because it is a concern of the study population

The following is a list of recommendations (and their source) given to the team by the study participants throughout the course of the study:

- 1) de-reserve Pakala Forest Park for farming (Maka Farafenni);
- 2) remove grazing restrictions but maintain park reserve status (Dutabulu);
- 3) convert portions of Pakala Forest Park to plantations (GOIC);
- 4) trade existing farmland for land within the forest reserves and establish plantations on other farmlands (GOIC);
- 5) de-reserve 35 percent of Pakala Forest Park and divide it evenly among the five surrounding villages; fence the remaining 65 percent of Pakala Forest Park and turn over management of this reserve to the five surrounding village *alkalolu* (Chamen);
- 6) employ village forest scouts (Chamen);
- 7) create rural employment opportunities (all villages);
- 8) educate rural population on natural resource management (Chamen);
- 9) subsidize fertilizer prices (Maka Farafenni);
- 10) de-privatize fertilizer distribution (Maka Farafenni);
- 11) limit area landowners (customary) can own to only as much as they need to subsist (*seyfo*);
- 12) place all land not being cultivated under custody of *alkalo* or chief (*seyfo*);
- 12) ban farmland lending for cash (*seyfo*);
- 13) restrict Divisional Planning Committee membership to citizens of the division (*seyfo*);
- 14) educate population on 1990 State Lands Act (*seyfo*);
- 15) revise present laws of local district tribunal which are not commensurate with current economic situation to reflect value of resources (*seyfo*);
- 16) improve water supply for horticulture and tree planting (Maka Farafenni);
- 17) improve agricultural production techniques (Maka Farafenni);
- 18) revive old cattle tracks (Dutabulu);
- 19) protect natural cattle watering points (Dutabulu); and
- 20) ban sale or ownership of trees by nonvillage citizens, transferring ownership of trees within the village to residents of the village (Dutabulu).

Implications for national policy options

Following is a list of implications for national policy options as perceived and compiled by the team after an initial analysis of the field research. These policy reflections were born out of numerous discussions with villagers and observations made in the field. They are based on a short-term study within a relatively small sample of villages. Therefore, not all of these implications can be interpreted for a wider area. Several of the items below are particular to the study site, but others have national implications.

- 1) encourage multiple use of Pakala Forest Park, except the clearing for agricultural purposes;

- 2) revise forest regulations to involve communities surrounding Pakala Forest Park in the management of the park, including the decision-making process affecting their use rights;
- 3) revise forest regulations to reflect punishments that are commensurate with the magnitude of the offenses;
- 4) increase public education efforts for better awareness and understanding of laws on land and natural resources;
- 5) increase the availability of extension agents in those departments working with natural resources, such as Forestry, Agricultural Service, Livestock Services, and Water Resources;
- 6) train extension agents in these departments in natural resource policies and regulations, management techniques, and communication skills;
- 7) provide environmental education to all villagers, including children who do not attend school;
- 8) ensure secure access to fertilizer—lower prices, limit re-export;
- 9) create rural employment opportunities;
- 10) expand the Rangelands Development Project;
- 11) increase power of district tribunals to impose fines which reflect present resource values; and
- 12) continue research and debate on tenure issues.

1.14 CONCLUDING REMARKS

Gender considerations and user group differences in natural resource management

As this case study has shown, men and women have different patterns of use for natural resources. There is a need for further research on the gender differences in usage as well as access to natural resources. For example, Dutabulu women have lost their ability to cultivate personal fields due to the shortage of land available to the community. The women must find alternative sources of income to replace farming. In Maka Farafenni, the woodlot management was charged to the men, who have less of an interest in its productivity than the women, who are responsible for firewood collection. Subsequent assistance to the woodlot should perhaps be channeled through the women rather than the men.

There is also variance in the perspectives and practices of resource use between other user groups, such as herders, land borrowers (male and female), land holders (founding families and late settlers, both male and female), and strange farmers. Any program designed to improve natural resource management must take account of such variation and design program strategies to meet the requirements of the diverse user groups.

Community management of natural resources

The importance of community involvement in natural-resource management is believed to be paramount to the success of any resource-related development intervention. Community participation includes active involvement in decisions affecting the use of state-controlled

resources such as the Pakala Forest Park. Ideally, villagers would manage the parks nearest to them. However, communities in a land-scarce and firewood-depleted area may not be able to take over the management of a forest park very easily. There are many conflicting interests over park use and a well thought out system of checks and balances to monitor park usage would be imperative. Such a system might include management by a committee comprised of *alkalolu* from the surrounding villages as well as members of the Forestry Service. The committee could meet to discuss issues and take decisions, with each member casting an equal vote. The committee could be guided by the Forestry Department members on technical matters. Community management of Pakala Forest Park could be possible. A gradual approach, replete with educational outreach, should be undertaken.

Tree planting and technical assistance

The need to halt and reverse the environmental degradation in the communities studied is evident. Villagers, especially women, are cognizant of the need for sources of firewood near the village. In Maka Farafenni, the woodlot could be a partial solution to this problem, but it is poorly managed. This may be attributed more to a lack of knowledge on how to manage a woodlot than to a lack of motivation or concern for the trees. There is a clear need for technical assistance and education on environmental management. Some villagers would also be willing to plant trees in their fields if they knew which species to plant and how to obtain them.

Tree planting and tenure

Since land borrowing is quite extensive in Maka Farafenni and it is unacceptable for land borrowers to plant trees, special arrangements for land borrowers wishing to plant trees are needed. Such arrangements could include designated areas or plots within the Pakala Forest Park assigned to individuals for tree planting. Perhaps contracts between landholders and borrowers could be designed to promote tree planting and permit borrowers to plant trees in borrowed fields. The arrangement could be such that the land borrower plants two trees for him/herself and one for the landholder, or some variation of this idea.

State Lands Act of 1990

The implications of implementing a leasehold system in the rural areas would be detrimental to the flexible customary tenure system. The effect of Farafenni's expansion on Dutabulu is briefly examined in this study. Dutabulu is in a precarious position as a land-deficient village in close proximity to a growing urban center. Residents of Dutabulu openly acknowledged their plight in light of increasing land speculation in Farafenni. Large landholders seem to be less willing to lend land to Dutabulu residents for farming purposes than they were in the past. In addition, farmers stated that the amount of money given by land borrowers to landowners as a courtesy, often referred to as "kola money," is clearly on the rise. Further research is required to assess the potential impact in these villages as well as other villages surrounding growing centers, such as Basse.

Awareness of natural resource laws

There is an apparent lack of understanding of regulations on natural-resource use throughout the study area. Women professed to steal firewood from the nongovernment-owned forested areas. This implies either that villagers perceive that the area belongs to the state or that they believe all

trees belong to the Forestry Department. There is a need for community-level education on regulations concerning natural-resource use.

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ANNEX 2

CASE STUDY OF KIANG WEST DISTRICT

prepared by

Mark Schoonmaker Freudenberger and Nancy Ann Sheehan

with

Fasainy Dumbuya

Saul Seka

Gumbo A. Touray

Yamoundow Diallo

The findings from this case study contribute to a national policy dialogue on resource tenure in The Gambia, an integral element of the Government of The Gambia and the USAID/The Gambia Agricultural and Natural Resources (ANR) program. This study, conducted in the Kiang West District from 3 to 28 June 1993, took place concurrently with a study in the Upper Baddibu District which was also led by an interministerial team sponsored by the Working Group on Resource Tenure and Land Use Planning. These two case studies represent an initial phase of field research to be supplemented by additional case studies in different parts of the country.

RESEARCH PURPOSE AND OBJECTIVES

One component of the ANR program of the Ministry of Natural Resources and the Environment, financed by the USAID/The Gambia, is to promote a public policy dialogue on tenure and natural resource management in The Gambia. The overall intention of the dialogue process, conducted in collaboration with the Land Tenure Center of the University of Wisconsin–Madison, is to assess whether current statutory and customary tenure arrangements serve as incentives or disincentives to the conservation and regeneration of natural resources and whether public policy reforms are merited.

To initiate this dialogue, a Working Group on Resource Tenure and Land Use Planning was created by the Ministry of Natural Resources and Environment (Planning Unit). Several members of the Working Group conducted case studies to describe the tenure and natural resource situations found in various locations around The Gambia.

The objectives of the studies were originally defined by a case study conducted in the Foni Jarrol District in January 1992. This study, sponsored jointly by the Ministry of Local Government and Lands and the Agricultural Research Service of the Ministry of Agriculture, developed not only the broad design but also the research methodology (see Freudenberger 1993). The objectives were subsequently modified by the Working Group on Resource Tenure and Land Use Planning (see figure 1, annex 1).

The central intention of the Kiang West District case study is to identify the range of resource management practices used by diverse rural communities and to describe the tenure arrangements surrounding various resources. Such a description can serve as a foundation for

assessing whether or not the tenure arrangements in the study area are incentives to the conservation and regeneration of natural resources. The report notes policy recommendations of the villagers interviewed while incorporating perspectives of the interministerial research team members.¹

The preliminary findings presented in this study are complemented by more in-depth research by Land Tenure Center researcher Nancy Sheehan, who prepares for her doctoral dissertation from the University of Wisconsin.

RESEARCH FINDINGS

The central conclusion of this report is that customary tenure arrangements observed in the case study village site of Dumbutu respond to the needs of the community to regulate access to and use of natural resources. As with other villages in Kiang West District, Dumbutu does not face a severe shortage of agricultural land at this time because many able-bodied people have migrated to urban centers in The Gambia and abroad. This has reduced the demand for land for upland field-crop production. Women, however, face a shortage of arable land for rice cultivation due to salt water intrusion on lowland fields and lack of sufficient rain-fed plots in upper valleys.

Livestock production is an integral element of the farming system. Livestock owners and herders complain of lack of adequate grazing lands because of restrictions against entry into the Kiang West National Park and three nearby forest parks. Manure contracts are nonexistent in the community because available manure is monopolized by the cattle owners and applied primarily to the owners' own fields. The shortage of manure is severe; this reduces possibilities for improving soil fertility on cropped lands.

Resource tenure conflicts exist in the community, but these are generally resolved at the household, village, and district tribunal level. Customary tenure precepts are used to resolve conflicts associated with crop damage caused by livestock borrowing arrangements, inheritance, boundaries, and bush fires. The district tribunal plays a central role in the dispute resolution process by seeking informal reconciliation between contesting parties rather than formal judgment through court adjudication.

The research team questions the applicability of the 1990 Lands Act, speculating that the ruling could provoke severe tenure conflicts between land owners and land borrowers and reduce the flexibility of existing borrowing arrangements. The team cautions government against implementing the law at this particular moment in the Kiang West District.

A significant proportion of the land in the Kiang West District is under the management control of the state. The Kiang West National Park and three forest parks account for 12,800 hectares of diverse forests, pastures, and water resources. National park managers and forest park agents

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enforce restrictions on the use of state reserves by local populations. This case study investigates the impact of the reserves on the population of Dumbutu. It concludes that many use rights to the natural resources of the national and forest parks have been reduced significantly and that this reduction has generated fears and tensions among the populations of the district. The community is concerned that use rights will be further restricted and that this may compromise the livelihoods of various user groups. The research team suggests that measures be taken to mitigate the effects of the park on the local populations. A primary recommendation is improving the institutional capacity of the Kiang West National Park's Technical Advisory Committee to advise park service authorities of ways to build better community relations. The advisory committee now plays largely a perfunctory role and fails to build the public support needed to maintain the ecological integrity of the national park and nearby forest parks. The team recommends that the Gambian-German Forestry Project consider ways to devolve resource management authority over the three forest parks to the local communities. Unless better co-management relations are constructed in the near future, popular resistance to the state reserves will intensify.

INTRODUCTION TO KIANG WEST DISTRICT

The Kiang West District is located in the Lower River Division of west-central Gambia. The divisional capital is Mansakonko. The capital of Kiang West District is Manduar, about 24 kilometers directly west of the case study village of Dumbutu. The population of the district consists primarily of Mandinka, Jola, and some Fula (Fulbe), who live in or near the principal villages.

The topography of Kiang West District rises by a gradual incline from the banks of the Gambia River to a low plateau in the interior. The elevation on the river is about 3 meters above sea level while the plateau reaches to about 48 meters near Jifarong and Bajana (see figure 1). From this high point the topography then slopes back down to the Bintang Bolong, an inland tidal tributary of the Gambia River separating the Kiang West District from the Foni districts. The levels of salinity vary according to the ebb and flow of Atlantic Ocean tides as well as the amount of fresh water run-off from upland areas during the rainy season.

Over the centuries the Bintang Bolong has been a major trade and communications route linking the populations of the Kiangs to broader trade networks. During the colonial period small wharves were constructed along the *bolong* to facilitate the evacuation of groundnut harvests. Fishing villages and trading ports were located along the Gambia River (for example, the ancient Portuguese settlement at Tubakollon), but these have been abandoned as villages have resettled closer to the national highway and a laterite road from Dumbutu to Manduar.

The ecology of the Kiang West District is varied. Two forested areas, which are examples of the few remaining of their kind in The Gambia, make up a large portion of the district. These forests border the Gambia River and Jarin Bolong to the north and the Bintang Bolong to the south. A series of small villages lie along the southern fringes of these large forested areas. The forest is used by the surrounding populations for hunting and forest-product gathering.

The forested areas of the plateau are defined in land use maps as “fair to good grazing” areas during the rainy season. In the dry season they are classified with poor to fair grazing because of the poor nutritive value of the grasses. The forest is infested with trypanosomiasis-bearing flies which limit its use for grazing and human occupation.

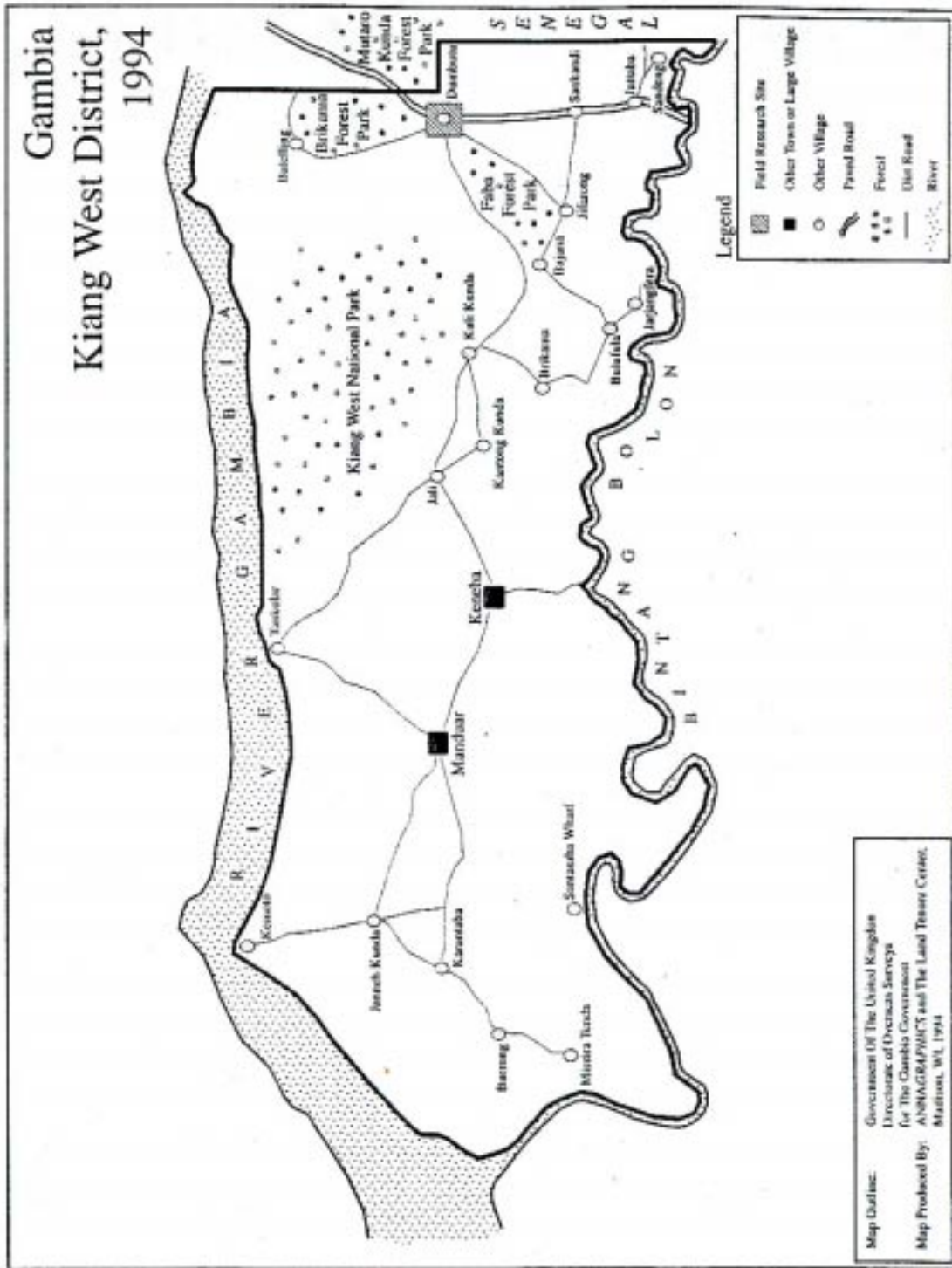
About one-half of the forested area of Kiang West District consists of the Kiang West National Park (KWNP), an 11,000-hectare state reserve gazetted in 1987. The principal villages, located around the national park in a semicircle are: Batelling, Dumbutu, Sankandi, Jattaba, Jifarong, Bajana, Kuli Kunda, Kantong Kunda, and Jali. On the other side of the park, another forested area stretches past the district capital of Manduar to the limits of the Lower River Division at the mouth of the Bintang Bolong. Small villages are carved out of these forested areas as well, nearly all possessing upland and lowland cultivated areas. The district also consists of three forest parks intensively managed by the Gambia-German Forestry Project. These are the Faba Forest Park (530 hectares), the Brikama Forest Park (500 hectares), and the Mutaro Kunda Forest Park (803 hectares). These forest parks were gazetted in 1952, but intensive management began only in 1990 when the Gambia-German project fenced off the perimeters of the park, opened a sawmill in Dumbutu to process logs into timber, and began to implement a forest-management plan.

The village settlements and associated cultivated areas are generally located along the borders of slight valleys which slope down to the principal *bolongs*. Over the centuries Mandinka and Jola women have cleared the valleys of dense forests and converted the land into rice fields, which have become especially prized cultivation areas. The fringes of these valleys are classified on land-use maps as “riparian fringing savanna woodlands.”

Lower in the valleys next to the *bolongs* are barren salt flats, herbaceous steppes, and mangrove (*Rhizophora spp.*) swamps. Rice farming is practiced by women in some of these lowlands. Sophisticated water control techniques have been developed by Mandinka and Jola women farmers to deal with the intrusion of salt water into the fields bordering tidal swamps (Carney 1988). In many villages, like Dumbutu, women rice farmers have abandoned these lowlands because of insufficient rainfall, for there has not been enough run-off to flush out salt water. While the floodplain herbaceous steppes are classified as “excellent to good” grazing lands during the dry season, good quality fodder is available only in patches during the rainy season.

The *bolongs* have been used not only as transport routes but also as important fishing and oyster collecting areas. Fishermen along the *bolongs* generally take their catches directly to the fish-packing plants in Kerewan rather than drying and smoking them on the banks of the *bolong*, as they did in the past. Women of Dumbutu and surrounding villages as well as from the Kombo come down to the mangrove swamps to collect oysters on a seasonal basis.

Figure 1 Map of Kiang West District



The upland plateaus surrounding villages like Dumbutu have been cleared of dense forest vegetation and converted to field-crop cultivation. Upland field crops like groundnuts and millet are cultivated on these fields. Fields close to the villages are generally better manured, especially by those who are fortunate enough to have access to cattle. Pockets of lowland depressions are found scattered throughout the uplands; these are used for upland rice cultivation by women during abundant rainfall years. On the cultivated and fallow uplands one finds economically useful trees such as *Parkia biglobosa*, *Pterocarpus erinaceus*, *Ficus spp.*, and *Adansonia digitata*. These species are used by rural people for fruit, nuts, firewood, forage for animals, cords, and medicines. During the rainy season the “agricultural tree savannas” (fallow fields) are also “excellent to good” grazing areas. For this reason one often finds that livestock are taken to these areas for grazing. In the dry season, the agricultural residue yields only “fair to poor” forage.

HISTORY OF KIANG WEST DISTRICT

The first Mandinka to settle in the Senegambia region were from Kangaba or Manding, a state of the ancient empire of Mali. Mandinka expansion into what is now Senegambia probably began much earlier than the Mali Empire. Several waves of migrations drew new settlers into what is now modern-day The Gambia (Sonko-Godwin 1988). While the complete social history of Dumbutu has not yet been written, initial research indicates that the hamlet is part of a cluster of villages settled long ago, these being Kunung, Kwinella, Batelling, Sankandi, Jifarong, Manduar, and Jammaaru. Oral historians suggest that a group of people fled the oppressive rule of Sumanguru Kanteh, the “Susu King.” The first group settled in Kunung but spread out to found the present-day villages of Kwinella, Batelling, and Manduar.² Political power in the Kiang has long been concentrated in these early-founding villages. The *mansa* of the Kiang West area generally came from either Batelling or Kwinella. New villages in the Kiang were generally founded by settlers linked politically to the ruling families of these two villages. By the early nineteenth century the Mandinka ruled over most of the Gambia River valley from the Barrakunda Falls to the coast. There were fifteen kingdoms at this time (Quinn 1972, p.23).

The Kiang Mandinka state played an important part in the struggle to maintain the traditional forms of Mandinka political supremacy along the Gambia River during the nineteenth century. The Kiang had a measure of prosperity at that time due to its export of groundnuts and palm products to the European market. This wealth was used to maintain military power and political dominance, a constant source of concern to European merchants interested in operating along the Gambia River.

The pre-colonial social organization of the Mandinka was hierarchical and stratified. At the top of the sociopolitical ladder were members of the royal-commoner group. In the past, these people did not farm but had slaves to work for them (Weil 1970, 1984). The craftsmen, such as blacksmiths, leather-workers, and griots, were constituted into castes and did not cultivate either. During the early twentieth century, however, “nobles” began to cultivate, slaves became independent farmers, and many of the specialist castes became traders and merchants.

² The team is indebted to Momodou Jammeh, a schoolteacher in Dumbutu, for his extensive work in recording the oral history of Dumbutu.

The Kiang was ruled by rotating heads of key lineages until the advent of British colonial administration. The *mansa* held certain proprietary rights to land within the state and collected taxes from farmers, travelers and traders, and village chiefs (*alkalolu*). The Mandinka kingdoms, however, did not have strong hierarchical systems of administration. By the middle of the nineteenth century the power of the *mansas* was severely eroded, and by the late 1890s, the British colonial authorities had destroyed their power. Vestiges of the *mansas* remain today in the administrative structure of The Gambia; some traditional village-level authorities are descendants of the former power elite.

Two rather distinct communities were found throughout the Kiang in the middle of the nineteenth century, the “soninke” or animist villages and “maraboutic” or Islamized villages. Communities operated under their own laws and customs, generally living peacefully next to one another until the 1860s. Maraboutic villages were found generally along the banks of the Gambia River, with Muslim villages often controlling trading activities along the river. Scholars suggest that Islam was spread by traders from the inland Niger delta. The influence of Islam was relatively shallow among the aristocracy. The *mansa* tended to resist Islamic precepts, practices, and conversions. Kwinella was one of the capitals of the Kiang and thus marabouts tended to settle in or near the village to advise the *mansa*. Batelling, however, has long resisted the full intrusion of Islam.

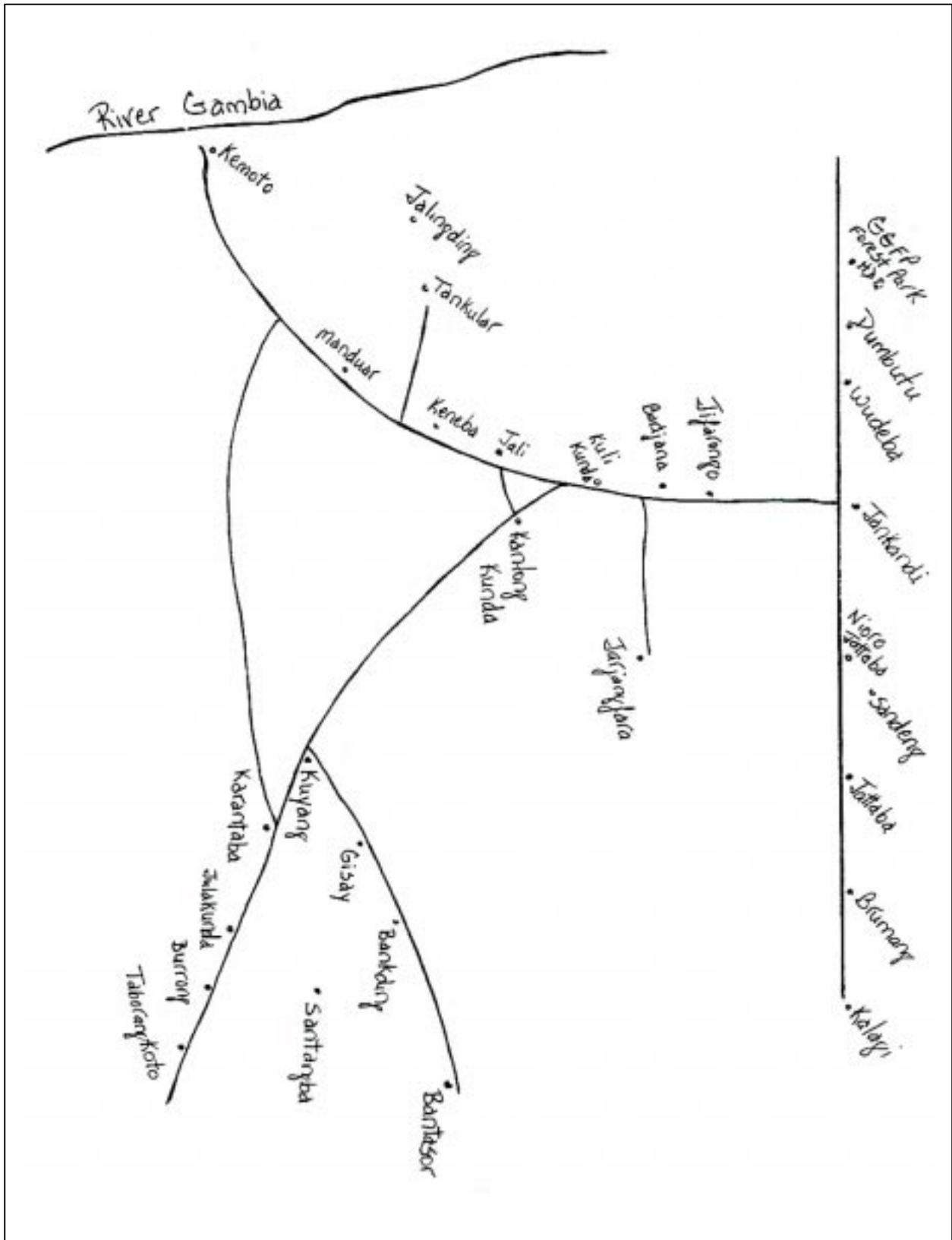
Each Maraboutic village had its own *alkalo* and *almami*. Villages such as Dumbutu attach great importance to the fact that Islam was established in their village at an early date. However, like many villages in Senegambia, Dumbutu still regards certain trees as sacred and respects other locations throughout the area. Five sacred trees, for instance, are found around the village; some areas are used for prayers, and others for ceremonies.

The power of Muslim villages progressively grew as they expanded trade with Europeans and settled Islamized “stranger farmers” from the Niger and Senegal river valleys in the Kiang; the Mandinka royalty simultaneously entered a period of progressive decline characterized by excessive exploitation of subjects and infighting among major noble families. The growth of the Islamic revivalist movement and the parallel decline in the power and legitimacy of the Mandinka kingdoms led to sweeping transformations of society from the mid-nineteenth to the early twentieth century (Quinn 1972, p. 68; Sonko-Godwin 1988).

For several decades the Kiangs and many other areas of The Gambia were torn apart by war between supporters of Islamic marabouts and adherents of the Mandinka kingdoms. Islamic reformists commanded large armies that swept through the area seeking to place “pagan” villages under their control. The British were progressively drawn into the conflict because of their concern not only to protect trading posts along the River Gambia but also to maintain a sustained export of groundnuts and other commodities (Gray 1940, pp. 463–65).

The area that is now Kiang West District came under British protection in October 1888. The boundaries of The Gambia were delineated by an Anglo-French convention in August 1889.

Figure 2 Map of Dumbutu and environs



VILLAGE OF DUMBUTU

The case study site of Dumbutu to a large extent typifies the villages of the Kiang West District. The present-day village is located on the eastern slopes of a valley that leads down to the Nganinkong Bolong which eventually feeds into the Jarin Bolong and the River Gambia (see figure 2). The territory of the village is characterized by a wide range of microecologies similar to those described in the previous section (see figure 3). As with most village in The Gambia, its settlement history has yet to be written. This section records in quite a detailed fashion the history of the community for the population attaches considerable importance to key events. Dumbutu has an exceptionally colorful history because of the central position it played during the early days of British colonial rule.

Although no one in Dumbutu could give exact dates when their village was founded, extrapolation from the list of *alkalolu* indicates that Dumbutu was founded perhaps around the 1850s. Dumbutu was founded by Mandinka tracing their ancestry to a certain Dayo Bah Camara. Among this group of arrivals in the Kiang was a certain Sirimang Darbo and Karfa Darbo. These people settled initially in Batelling under the tutelage of the Sankuley Koring, a *kabilo* from which the famous Mansa Koto originated. These arrivals were hunters and warriors and thus they circulated throughout the Kiang in search of game. Sirimang Darbo and Karfa Darbo went on a hunting expedition. This is the story that oral historians recount regarding the founding of Dumbutu:

Stories say that one day Sirimang was hunting and he came up to this part of the forest of Dumbutu and decided to take a rest. He slept under a tree with his hunting dogs next to him. As soon as he fell asleep, the dogs started to exchange words and began to describe how progressive and important a village might be in this area. So God being so good, when Sirimang heard the dogs speaking in this way he woke up and listened more carefully to what they said. After listening to the conversation he headed straight home to speak with his uncle Sang Bah Camera and brother Karfa Darbo. He explained that this place where he had slept would be a good place for a settlement and that he wanted to go there to set up a village. Sirimang's uncle was pleased with this intent, but asked him a few questions. 'Where is the place that is not too far in the west next to a stream that even when you whisper from here you shall hear us?' Whisper in Mandinka is 'Dumbu' and thus Dumbutu is now the name of the village. The uncle then asked, 'Where is a place that if I should [call] you shall hear me?' This is 'Wuurukang' and hence the name of the village next to Dumbutu of Worokung (Jammeh 1993).

For years there had been ongoing disputes between followers of Foday Kabba (marabouts) and the Jola and animist Mandinka supporters of the British (soninke). After the destruction of Toniataba and the eventual capture of Foday Silla, Foday Kabba fled to the Casamance part of Senegal. According to Gray (1940), Foday Kabba carried on a furtive, but well-organized traffic in slaves from the Foni. There were no actual raids, but Jola and Mandinka women were captured from rice fields and conveyed secretly to the River Gambia, where they were ferried over to the Baddibu and bartered for cattle, guns, and ammunition. Tensions were thus very high between animist and Muslim villages. The Travelling Commissioner of the South Bank, F.C. Sitwell, had managed to keep these tensions from erupting into full-scale wars between the two communities. Nevertheless, matters came to a head in 1900.

Figure 3: Ecological transect of Dumbutu

Zone/ Characteristics	<i>Bolong</i>	Salt flats	Lower valley	Upper valley	Settlement
Soil	•clay	•clayey – hydromorphic soils	•clayey loam	•clayey loam •FFHC dikes for water retention	•sandy loam
Trees	•tall and short mangroves • <i>nganenkoyo</i> (<i>Acacia spp.</i>)	• <i>kuroso</i> , a date-like palm •short mangroves • <i>jungo</i>	• <i>kurlo-nho</i> • <i>sama netto</i> • <i>bembo</i> • <i>bunkongo</i> • <i>bato bembo</i> • <i>tambaa</i> • <i>mampato</i> • <i>kabaa</i> • <i>keno</i>	• <i>jaffo</i> • <i>kabaa</i> • <i>jungo</i>	•mangoes •baobab •papaya •prosopis •neem • <i>netto</i> • <i>bantango</i> • <i>neberdyio</i> • <i>tabo</i> • <i>jaffo</i> • <i>soto</i>
Wildlife	•fish •oysters •crocodiles •crabs • <i>patamo</i> shark • <i>timitengo</i> birds	•bush pigs •rabbits •grass cutters • <i>gitowolo</i>	•grass cutters •bush pigs •monkeys •guinea fowl •hyenas • <i>kunko wulo</i> • <i>totoneh</i> • <i>jatang kana</i> • <i>wato</i>	•monkeys • <i>totomeh</i>	•birds •domestic birds
•Water	•salt water	•no water during dry season •saline dry season	•seasonal flooding of fresh water	•seasonal runoff •fresh water wells 8-10 meters	•wells, pumps, an boreholes
Grasses	• <i>solingo</i> • <i>banyamo</i> • <i>tien-ningo</i>	• <i>wanto kado</i>	• <i>nyantang faro wa</i> (<i>Andropogon gyanus</i>)	• <i>andropogon</i>	
User groups		•formerly salt collection	•rice growing (late maturing varieties) •honey gathering •fruit collection •hunting •firewood	•rice growing •grazing •sand extraction	•diverse: retail shops, etc.

In 1899, Sitwell had been informed of a potentially explosive rice-land dispute.³ According to the oral historians of Dumbutu, the affair started because a woman from Sankandi was married to a man in Jattaba. The woman's parents gave a rice field to their daughter, which she shared with her new in-laws. Eventually she decided that she wanted to call back the loans of land to the in-laws. Her Jattaba relatives refused to give back the land. Fighting broke out among the women. This quickly led to interventions from the woman's family in Sankandi. Fighting broke out between the compounds and this led to severe conflicts between the two villages of Jattaba and Sankandi. Foday Kabba entered into the fray by supporting the village of Sankandi, an Islamic village. By this time the British-supported Mansa Koto was forced to intervene in the issue in order to keep the peace.

Mansa Koto and Commissioner Sitwell went to Sankandi to try to resolve the issue. Sitting under the big silk cottonwood tree on the outskirts of the village on the road to Jifarong, the conflict was discussed. Mansa Koto recommended that the villagers of Sankandi forgo their demand that the Jattaba people return the rice fields to their original owners. The Sankandi people refused, arguing that the rice field was rightly theirs and it should never be ceded. The meeting was adjourned without resolution. A date was set for another hearing but tempers were frayed. The Sankandi people are reported to have warned the commissioner and Mansa Koto that if they returned and decided in favor of the Jattaba people, the commissioner would be killed.

In September 1900, Sitwell, accompanied by a certain Mr. Silva, returned to Sankandi with a small police escort and a group of retainers under Mansa Koto, the chief of Batelling. Sitwell commanded the people to come outside the town to discuss the matter under the silk cottonwood tree. The Sankandi people refused, saying that they would only discuss the matter under the *bantaba* tree in the center of the village. Sitwell and Silva entered the village, but neither the chief, Dan Bana Darbo, nor his followers came to the meeting place. According to the British version of the story, Sitwell saw the chief in the distance and tried to arrest him. Oral historians say that Darbo refused to be taken up to Batelling to meet again with the people of Jattaba over the matter. Darbo called for help and a fusillade of fire was aimed at the British. Sitwell and Silva were killed on the spot. Mansa Koto died three days later of gunshot wounds after fleeing Sankandi for Batelling. Six constables were also killed. At least four Sankandi people died in the battle.

Foday Kabba, by now a supporter of both Dumbutu and Sankandi, quickly took advantage of the killing of the commissioner and Mansa Koto by spreading the word that resistance should be organized against the British. Meanwhile, the Dumbutu-Sankandi alliance maintained the vow never to return the rice lands to Jattaba. The explosive situation launched by the massacre at Sankandi resulted in considerable instability throughout the protectorate. Village chiefs supported by the British found great difficulty controlling their populations. It became unsafe for traveling commissioners to make their rounds through the provinces.

Not until early 1901 could the British send any reinforcements to the protectorate to quell the disturbances. The British, coordinating the efforts with the French to locate and destroy Foday Kabba, sent half a battalion of the Third West India Regiment from Sierra Leone, half a battalion of the Second Central African Regiment which was returning from Somaliland, and

³ This account is based upon the works of Jammeh (1993), Archer (1967, p. 92), and Gray (1940).

three sailing ships. The whole force secretly met off the coast and sailed directly up the Rivet Gambia.

The main body went to Tendaba. Two companies of the West Indian Regiment proceeded up the Bintang Bolong Creek so as to keep the population of Sankandi from retreating. Musa Molloh, with assistance from the people of Batelling, cooperated with the British by sending a force to Jarra to keep the Sankandi people from retreating.⁴ On 11 January 1901, the troops disembarking at Tendaba marched straight to Sankandi and surrounded the village in the early morning hours. But by this time, a large number of the forewarned population had fled to the Foni to seek refuge with Foday Kabba. Heavy fire was opened on the Sankandi by the British as the troops advanced. Sankandi was taken and destroyed entirely.

The British historians do not recount the final episodes of the sad day. Darri Bana Darbo and Sankandi Burang were captured by the British, tied up, and taken to Dumbutu to be hung in front of the people there. The British found the population of Dumbutu at Friday prayers. They opened fire and at least seventy people were killed. The majority were Darbos and members of the Camara Kunda, Jala Kunda, and Cisaay Kunda. Some Dumbutu residents were captured and sent to exile in Sierra Leone. Others fled and sought refuge in Wurokung, Kabada, and the majority, in the distant forests of Sampama. Here a group lived in trees and caves until the situation settled down.

The Jattaba-Sankandi rice-land disputes led eventually to the military pacification of The Gambia; for this reason the story is an important part of the annals of Gambian colonial history. The British continued to quell disputes throughout the protectorate in order to reestablish military and political control and thus foster rejuvenation of the colonial export economy. A similar tenure dispute occurred in the Foni Jarrol District, and it too resulted in the massacre of villagers (Freudenberger, ed., 1993). The pattern of the Jattaba-Sankandi rice disputes was repeated in many parts of the protectorate, whereby the colonial forces intervened directly in internal affairs, often over natural resources, that were inextricably linked to broader political and religious alliances between different factions of Gambian society. Thus, the Jattaba-Sankandi rice land disputes exemplify how a seemingly small dispute over rights to land may erupt into a major crisis following the intervention of the state. These historical events are still vivid remembrances among the villages concerned and explain to a considerable degree the rivalries and tensions that still exist between communities.

Present-day Dumbutu

The present-day location of Dumbutu reflects a successive shifting of the village from locations somewhat to the west to its present site next to the tarmac road. The village has been relocated three times and vestiges of the former villages still exist today. Towering baobabs indicate one place where the village was found in the past; mounds of soils indicate the location of the former mosque and home of one of the leaders of the village. The village has moved for several reasons: unusual increases in the mortality of villagers, burning of the village, and construction of the new road after World War II.

⁴ Musa Molloh was the head of the Fuladu District and had overthrown Bakari Dembel in 1892. The half-brother of Musa Molloh was allied with Foday Kabba.

The spatial layout of Dumbutu is well organized. The village has a wide array of infrastructure: wells with pumps, several small stores, a seed bank millet machines, a public school, a mosque, a dispensary, and a multipurpose community center. As discussed below, much of this public investment results from a very functional relation with numerous donor agencies as well as support from government.

Dumbutu is surrounded on nearly all sides by state forest parks and a national park (see figure 1). As will be recounted below, these state reserves have generated a considerable amount of unease in the village since rights of access to the forest have been progressively restricted through the construction of a fence around the forest park and the enforcement of various rules barring certain uses of the forest parks and the new Kiang West National Park. To the west of Dumbutu lies the new park established in 1987. Park headquarters lie just on the outskirts of the village across the valley used for rice cultivation. To the northeast of Dumbutu is found the Mutaro Kunda Forest Park and the headquarters and sawmill of the Gambia-German Forestry Project. To the northwest lies the Brikama Forest Park and to the southwest, the Faba Forest Park. The Senegal border is about 3 kilometers immediately east of Dumbutu.

For most segments of the population, the forest is an important source of revenue and an assortment of tree crop products. Women enter into the forests to collect tree crop products for home consumption as well as sale. Children circulate throughout the forest eating fruit and hunting small animals. Men have long depended on the forest for hunting as well as collecting firewood and other tree products for sale to the urban markets of the Kombo. For this reason, both actual and envisaged restrictions lead to considerable anxiety on the part of the community.

The rice cultivation valley is divided into various place names. Swamp rice is cultivated in normal rainfall years at the bottom of the valley nearest to the *bolong*; however, during the past two seasons harvests have failed because of salt-water intrusion. More distant rice fields, known as the "sampana" area, were abandoned about ten years ago due to high soil acidity, the poor road leading to the fields, and excessive depredations by wild animals. Women now place a priority on cultivating rice in the upland valley area but here they suffer from a lack of sufficient water from rainfall runoff. Attempts have been made to build small dikes across the valley floor with assistance from the Freedom from Hunger Campaign, but these dikes have been breached by the heavy flow of water down the valley after rains. Women from Dumbutu and the Kombo collect oysters during the dry season in the *bolong* and fish are caught and sold by resident fishermen. Detailed descriptions of the various uses of these ecologies are provided below.

The striking feature of Dumbutu is the impact of migration of youth to urban centers in both The Gambia and overseas. Village informants estimate that roughly half of the young have migrated out of the village in search of employment. Not only is there a substantial segment of the village population in the Kombo St. Mary area, but there are also many in Libya, Germany, Sweden, Spain, Nigeria, and elsewhere. Although the young send back remittances to the village, an important source of income for the households, the migration of labor has severe repercussions on the local economy.

The migration of labor has resulted in the reduction of land placed under cultivation. The upland areas under cultivation have contracted, reportedly because of a lack of young people to till, while there has been a corresponding increase in the amount of land placed in fallow. Rice fields in the valley reaching up past Dumbutu are plentiful enough to allow women to place a portion in fallow, a situation that is probably quite rare in The Gambia. Labor is so scarce that

women have, on occasion, resorted to hiring tractors at 40D per hectare to cultivate the rice fields in the valley. The village has just received a tractor from the Woodbury Linkage, an English community that sends considerable assistance to the village. Male farmers have mechanized cultivation, seeding, and weeding activities through the use of animal traction. As suggested to the research team, use of animal traction is a consequence of the general shortage of labor.

The shortage of labor has other unanticipated consequences. Bush pigs and other pests such as monkeys invade rice and upland fields causing considerable damage to crops. These pests wreak havoc on harvests because there are not enough young men in the village to protect crops and kill these noxious pests.

DUMBUTU SOCIAL STRUCTURE

The Mandinka cultural system is marked by social and sexual divisions of labor that create distinctions between men and women, founders and immigrants, older and younger people, marabouts and commoners (Linares 1992, p. 186). In many Mandinka villages there is almost a complete gender separation of cropping tasks. Men generally grow field crops on the plateau—millet, sorghum, maize, and groundnuts. Women grow primarily rice in permanent fields, but they are also engaged in a wide variety of other revenue-generating activities such as forest product gathering, gardening, sale of cooked items, and fabrication and marketing of crafts. In order to understand tenure to natural resources, it is important to delve into settlement histories of the community. Descendants of founding families play a predominant role in controlling access, use, and distribution of natural resources.

Social position and household settlement histories

The Mandinka draw clear-cut divisions between “owners of land” and more recent immigrants. This is a pervasive and underlying feature of Mandinka society and is sanctioned by Islam. Mandinka villages are thus divided into two distinct groups: the founders, and the newcomers or “strangers.” Members of the founder groups often share the same patrinyim, but in villages like Dumbutu this is not always the case. Founders are responsible for initiating all political processes. Founders are patrons while newcomers are more often regarded as dependents (Linares 1992, p. 153; Weil 1971, p. 259). The oldest lineages generally possess the strongest rights to land. They also lend land to newcomers.

The first arrivals to an uncleared or unclaimed area play an important role in land distribution. A founding family may clear more land than they need to encourage the settlement of later arrivals. Dependent relations are then built up around the founding family (Linares 1992, p. 167). The newcomers who borrow land from the founders may gradually strengthen their rights to the land in several ways. Households that remain in the community for a long period have firmer rights than those that are more transient. Individuals and households who provide services to the community, such as Fula who guard the village herds, are more assured of acquiring borrowed land than persons who simply stop by the village for a season or two. One can also solidify rights by marrying into the community. A woman from a borrowing family can acquire more secure rights to rice lands by marrying the son of a major land-owning family.

Later arrivals can acquire permanent possession of land by clearing any uncleared and unclaimed land. In situations where land has become more scarce and completely claimed, a compound may be obliged to remain in a borrowing status.

Social groupings and access to land

The social groupings of Mandinka villages are hierarchical and may be classified into categories. Seven extended families, or clans (*kabilo*), control the use and distribution of much of the land surrounding Dumbutu.

Kabilo

The Mandinka village of Dumbutu consists of two basic subdivisions. The *kabilo*, translated roughly into the “clan,” consists of a grouping of compounds or families (*kunda*). The *kabilo* is generally a patrilineal grouping of various heads of *kunda* of the same lineage, though a *kabilo* may incorporate newcomer lineages and individuals into its structure. The *kabilos* of the founding families play a central position in governing the community.

In Dumbutu, each *kabilo* head acts as steward of the land, but land is “owned” by the respective *kunda* heads. In effect, the *kabilo* devolves much management authority to the *kunda* sub-unit, even though the land is a possession of the entire clan. Over the past century, the stewardship role played by the *kabilo* heads has changed. The foundation of their stewardship arises from the concept of “original clearer.” The seven *kabilo* heads of Dumbutu can trace their stewardship over the land back to this act of land clearing. The land claimed by each *kabilo* was originally cleared by each the forefathers of the village. Discussing the concept of “landownership,” Dumbutu elders conveyed a strong sense that rights to use and, indeed, own land originate from this investment of labor by the forefathers to tame a wild nature; that is, they suggested that the right to “own” land arises because of the labor invested in clearing the bush.

As one head explained to the research team, the seven *kabilo* heads used to act as stewards of their land by:

- 1) allocating land which could be cultivated individually by all the members of each family (*kunda*) within their *kabilo*;
- 2) allocating any excess land to members of *kundas* in other *kabilos*;
- 3) allocating land to stranger farmers (seasonal migrants to the area); and
- 4) organizing workdays on communal land cultivated jointly by all *kunda* members in one *kabilo*.

In addition to these land-administration tasks, the seven *kabilo* heads were responsible for maintaining the peace and arbitrating various disputes within and among *kabilos*. The *kabilo* heads also represented the various *kundas* within their respective *kabilos* during community meetings.

Today, *kabilo* heads appear to play a lesser part in land administration. Their past responsibilities have shifted to the heads of *kundas*. This shift in roles and responsibilities was evidenced time and again during the case study. In response to questions concerning who has allocation rights over certain pieces of land, Dumbutu residents would reply that the power to allocate land was vested in the heads of their respective *kundas*.

Kunda

The compound, or *kunda*, is the basic residential unit among the Mandinka. The core membership is a patrilineal kin group, consisting of a man and his wives, his married sons and their wives and children, his unmarried daughters, elderly widowed mothers and mothers-in-law, and younger brothers with their wives and children (Day 1982, p. 382). Other relatives and “strangers” may live within the *kunda* for varying lengths of time. For instance, a group of oyster collectors, known as “karoninkas,” from the Kombo live in a *kunda*; until recently they paid rent for lodging and food by leaving piles of oyster shells with the head of the household.

In the idealized Mandinka setup in Dumbutu, land is passed patrilineally from father to son at time of marriage. One would expect land to be divided into extremely small plots after a couple of generations. In reality, landholdings of various brothers rest under the control of the *kunda*. Out-migration encourages control of land to revert to those family members who remain in the village. The son keeps upland fields to work himself but extends complete usufructuary rights over rice fields to his wife. If a new wife arrives, the father gives new rice parcels to the son who, in turn, allocates these to the new arrival. Often one finds that sons work for fathers, and when a father passes away, the sons will continue to share labor among one another. This provides flexibility to organize fallow rotations among upland fields. Cooperative groups, usually organized by age, may also work together. Land is not sold in Dumbutu, for this would alienate permanently land from the holdings of the *kunda* and *kabilo*.

Interviews held by the RRA team indicated that while patrilineal inheritance is the general rule, there are important exceptions. For example, women can inherit rice land from their mothers and fathers. Thus, people, especially women, can and do acquire land external to patrilineal inheritance.

Marriage relations play a profound part in resource allocation patterns in Mandinka communities. Marriage determines not only changes in social status but also access to resources. In Dumbutu the importance of marriage is reflected in land borrowing. Some *kundas* within *kabilos* may not possess permanent rights to land and thus must borrow land on a regular basis. This occurs because *kundas* from outside of Dumbutu may be adopted by founding families. As such, they have no permanent rights to landholdings. Several *kundas* have unequal holdings of upland and lowland fields, yet they can borrow easily from close relatives because of marriage affiliations. Some *kundas* possess sufficient land for all cultivation purposes and loan land to other **kundas** in need. Some *kundas* possess land but must also borrow land on a seasonal basis. Other *kundas* have no land and must borrow both upland and lowland fields each year. Fula herders in Dumbutu, for example, borrow land on an annual basis.

Dumbutu residents have a clear sense that land is owned (*konko tio*) by individual *kundas* and even individual members within these *kundas*. While not all *kundas* have access to land, there is no landlessness because of the prevalence of borrowing arrangements. Dumbutu residents share a common principle that all residents should have access to land if they have the means either to cultivate or to build compounds. This principle is accentuated by the fact that many of the land-rich *kundas* do not have enough labor to use all their land. Because of the considerable urban migration of Dumbutu’s youth, *kunda* heads gladly loan out what they cannot use. Even after lending land, many of these land-rich *kundas* have, as they put it, “unused” land remaining in their possession.

While these ethics and principles exist in Dumbutu, not all land is of equal value due to

topography, soil fertility, and location. To a large degree social status determines preferential access to land. Several land borrowers indicated the problems associated with borrowing land. One Fula male farmer, who migrated with his father and mother from Upper Baddibu,⁵ complained that the pieces of land given to him were of poor quality, required considerable labor to clear, and, often located far from the village, were susceptible to encroachment by wild pigs. The Fula farmer also mentioned that there is some insecurity accompanying land borrowing. From year to year, he never knows which piece of land he will be given. Even when the *kunda* head from whom he borrows land finally delineates a piece for his use, he still cannot be sure that it will be the one he ends up cultivating. As he described, last year he was given a piece of land in May. He proceeded to prepare the land for cultivation by tethering cattle there. Once the land was sufficiently manured, the *kunda* head took back the land and reallocated another piece. As this point in the conversation with this Fula farmer, his father interjected that even the land on which they built their homes was insecure. The *kunda* head constantly reminded them that they were living on borrowed land and were thus not allowed to plant trees there. The Fula man's mother, however, quickly steered the conversation away from this topic. She reprimanded her son and husband for complaining.

The Fula farmer's comments were corroborated during the transect exercise. One of the transects cut a swath through the upland fields. The team noted that the fields allocated to the Fula farmers were located farthest from the center of town. One Fula farmer was even constructing a fence of dried, thorny branches to ward off bush pigs. As this farmer mentioned, his field was not bordered by other fields and, thus, was susceptible to damage by bush pigs.

Another male land borrower who was married to a Dumbutu resident echoed similar problems with land borrowing. On the issue of tree planting on borrowed land, however, he said that he is allowed to plant trees with the permission of the *kunda* head. He is not interested in doing so, however, because he intends to move back to his village of birth.

Borrowing arrangements with seasonal migrants are somewhat more formal. Traditionally, the stranger farmer will stay with a host family. The head of the host family is responsible for allocating land to the stranger farmer. To fulfill this responsibility, the host will either allocate a piece of land within his *kunda* or request land from other *kundas* on his stranger's behalf. In addition to obtaining access to agricultural land, the wife (and/or wives and daughters) of the *kunda* heads will provide food and water and clean clothes for the stranger farmer. In return, the stranger farmer will work part-time on his⁶ host family's farm. The stranger farmer also will share some of his harvest with his host's wife (or wives) in thanks for her cooking, water collection, and cleaning.

Land borrowing thus occurs on a continual basis between *kundas* within the same and different *kabilos*. In one land-surplus *kabilo*, the majority of both upland and rice fields is loaned out even while a substantial amount remains in fallow. Payment of rent or tithes on land borrowed does not seem to be practiced in Dumbutu. As one interviewee stated, it is considered to be usurious to take payment on land and this is against Islamic principles. However, kola nuts are exchanged if a stranger comes to the community to request land. This symbolizes the

⁵ This Fula farmer stated that his family had immigrated from Upper Baddibu because of lack of sufficient grazing land and the subsequent death of their cattle herds.

⁶ The majority of stranger farmers are men.

temporary borrowing status of the individual.

Land borrowing does bring certain restrictions. Land-lending families generally prohibit tree planting on borrowed land, though there are important exceptions to the rule. The lenders might advise passers-by (*luntango*) to refrain from planting, say, fruit trees. If trees are planted, the *luntango* should sell the trees to the landlord upon his/her departure from the village. If the trees were not sold to someone within the *kabilo* of the *luntango*'s landlord but rather to a neighbor, this marketing situation could cause conflicts. The land lender would not be able to exercise free and complete control over the land if a neighbor's tree were planted on it. However, if a long-term borrowing member of the *kabilo* wanted to plant an orchard, then arrangements could be negotiated within the *kabilo*.

Dabada

The term *dabada* refers to the production units of a compound. Usually, each *dabada* is headed by the eldest male member of each household within a compound, that is, the patriarch and married brothers. There are several activities undertaken within the *dabadas* such as the allocation of compound land among household members and the coordination of agricultural workdays.

The *dabada* is considered to be the primary production unit of the compound. Traditionally, the *dabada* is the production unit of the men involved in upland field crop production and the term may simply refer to the household heads' personal fields. The Mandinka refer to a field on which a crop is grown by both men and women for consumption by the household as *maruo* fields. The personal fields of women and junior men are called *kamanyango*. Wives are often assisted in the cultivation of these fields by unmarried daughters. A cultivator who remains a member of the household controls the plot's use and rights to the crop produced. The cultivator cannot make claims to family labor although sometimes reciprocal assistance is arranged between family members.

In Dumbutu, the male members of the *kunda* cultivate primarily the upland fields of cereal crops. Yet women also cultivate and control the revenue from the sale of groundnuts on *kamanyango* lands. In a revenue matrix conducted among a group of women in Dumbutu, it was estimated that groundnut cultivation generates the greatest source of personal revenue for women in the village followed by the sale of tie-dye cloth, baobab fruit, and cooked cassava with sauce. As the chart shows, the cultivation of groundnuts and gardening take a disproportionate amount of labor relative to income earned. But women are also involved in a variety of other income-generating activities such as sesame cultivation, oyster harvesting, gum collecting, locust bean collecting, and soap making.

Sinkiro

The term *sinkiro* refers to the consumption units within each compound. The eldest woman of each family unit usually heads the *sinkiro* for that particular family. The *sinkiro* heads are "responsible," among other things, for rice cultivation (the main subsistence crop), for the storage of the rice, and for the allocation of the stored rice over the dry season. Day refers to the *sinkiro* as "a group of women who rotate duties for cooking as well as all the people who are regularly served from the same pot" (1982, p. 382). Large compounds may have several *sinkiros* in them. These are usually headed by the eldest man in each unit, though there are exceptions to this rule because of male migration out of rural areas. The use of the term as a consumption unit

is often confusing, for the *sinkiro* group may also be engaged in the production of staple food crops such as rice and vegetables.

Women may rely on other age-mates for assistance in cultivation. Work groups may also be formed which circulate around the village rice fields providing labor for pay. These “committees” of women often have strong rules governing absence or lateness of participation in the work party.

The traditional specialization along gender lines is changing, however, due to the influence of labor migration of young men. The severe shortage of labor and of rainfall in villages like Dumbutu is forcing women of the *sinkiro* to cultivate not only rice but also groundnuts.

Land and wealth

Some of the *kabilos* are considered “better off” than others because a preponderant number of members within the extended family tend to be wealthier, are better educated, are politically and economically more well placed, and have greater access to employment overseas. This social grouping is chosen as a measurement unit because *kundas* tend to borrow land within the *kabilo*. Informants also felt it was easier to consider the importance of land as a source of wealth using this social grouping as a unit of analysis. From the basis of discussions associated with a wealth-ranking exercise, there appears to be no relation between size of landownings and wealth. The *kabilo* possessing the best lands everywhere in the community happens to be considered among the least well off *kabilo* in the community.

It is often assumed that investment of labor and inputs into productive agricultural activities generates wealth in rural communities. Larger landowners should generate a greater surplus product than smaller landowners. However, investigations in Dumbutu tend to suggest that the amount of land owned by an individual, *kunda*, or *kabilo* is not a factor in the creation of wealth. Rather, individuals and households gain greater income and security through a variety of nonagricultural activities.

Interviews in Dumbutu suggested that wealth is more a function of education and out-migration than ownership of land. The wealthiest two *kabilos* in the village are those that have succeeded in educating their youth and placing them in prominent business and government positions. They are financially well off. Remittances sent by people who have migrated abroad are also important sources of revenue and security for these two *kabilos*. The second tier of *kabilo* contains educated individuals and those who own cattle. A third tier is simply very hard working and able bodied, but not especially well off. The less well off are those who lack access to sufficient labor, have physical handicaps, and are discouraged by their plight.

There is a limited correlation between the “wealthiest” *kabilos* and landholdings. The largest land-holding *kabilo* in Dumbutu is considered by one interviewee to be the poorest because lacks sufficient labor to cultivate all of its land. However, one of the wealthiest *kabilos* is one that not only contains people who are well off financially and who have employment abroad, but also has access to prime upland fields. In the current agricultural context of low prices for agricultural products and high costs of inputs, the way to get ahead in Dumbutu is not through agriculture. Rather, wealth and security are generated by the opportunities that education provides to the individual as well as the possibilities opened by employment outside of the village. Yet, for those remaining in the village, security and well-being can be obtained through cattle raising

DUMBUTU VILLAGE INSTITUTIONS

The functions of village institutions in rural communities like Dumbutu are highly varied due to the historical origins of each organization. The functions of village institutions have evolved considerably over time. As indicated in the introduction to this section, pre-colonial institutional structures have been largely abolished. However, power is still concentrated in the hands of village leaders who, in turn, rely strongly on the assistance of *seyfo* or provincial chiefs. In contrast to many neighboring West African countries, these provincial chiefs retain considerable power to influence village-level political and social relations.

District and village governing institutions

Alkalo

The *alkalo* is the traditional head of the village and the principal contact with the outside world. *Alkalolu* exist in every village. They are selected by a group of elders of the village and symbolize village unity. Their main functions are the propagation of village values and the resolution of conflicts.

The *alkalo* is often advised in his tasks by a group of elders, often the elderly representatives of the various *kabilo* and *kunda* heads in the community. Opinion leaders surrounding the *alkalo* play an important part in maintaining the harmony of the community and ensuring the position of the *alkalo*. These people come together on a regular basis at the *bantaba*, a covered platform placed under a tree next to the mosque in the center of the village. Community debate and decision-making are often fostered among the representatives of the various *kabilo* heads meeting after the afternoon prayers.

The selection of *alkalo* has changed somewhat since colonial times. Initially the village community selected an *alkalo* through its own means and submitted the candidate to the authorities. Today three options now govern the selection process. The village may meet to select a new leader through consensus. This is the preferred option. Alternatively, village elections with secret ballots may be held. Sometimes the election of an *alkalo* can result in divisions within the community. For this reason, villagers avoid secret elections as much as possible. A third alternative is for the village elders to select a group of candidates and propose them to a well-respected spiritual advisor. The names of the *alkalo* selected by the village must be confirmed by the *seyfo* and the district commissioner.

The role of the *alkalo* in land allocation is somewhat ambiguous. Colonial observers noted that the *alkalo* “allots to those, who need it, unoccupied land, which belongs to the village as a community” (Gray 1940, p. 492). In villages like Dumbutu, there is apparently no reserve community land for the *alkalo* to distribute. Rather, it is the heads of *kunda* who determine which lands are to be borrowed or given to those in need. The *alkalo* may happen to be a major landholder in the community and thus be able to allocate his own *kunda*'s land. But sometimes the *alkalo* may possess little land and even borrow it on occasion.

The *alkalo*-ship in Dumbutu has historically played an important part in the decision-making surrounding bush-fallow rotations and the location of grazing lands. In the past there was a fallow system in which the areas of cultivation of the entire community would be rotated on a regular basis from one side of Dumbutu to another. The *alkalo* continues to be involved in any decisions that affect the village as a whole—including decisions regulating the location of

livestock corridors through cultivated fields.

Seyfo

Following the conquest, the British colonial administrators adopted the policies of indirect rule so widely applied in other parts of the empire. The British chose to modify some of the pre-existing governance structures they found in their newly acquired territories. Gray (1940, p. 493) notes that “the administration of the Protectorate hinges largely upon the chiefs.” Indirect rule in The Gambia, the author noted, consisted of the “development of local self-government under the advice and supervision of the commissioners” (ibid., p. 490). The Native Authority Ordinance of 1933, the Native Tribunals Ordinance of 1933, and the Protectorate Ordinance of 1935 clarified the colonial approach to indirect rule. The Gambia was to be administered through government-approved district-level *seyfo*, village *alkalolu*, and the badge messengers.

During the colonial period the administration of the provincial territories of the protectorate hinged largely on these three authorities. Like many of his colonial contemporaries, Gray believes that these “administrative grades are not the creation of the protecting power but existed long before the advent of British rule. All that has been done is to define and develop their respective powers and authorities” (Gray 1940, p. 491). The title of *seyfo* originates in the colonial period but “it is largely the heritage of the Mansa or ‘king’ of former times.” Oftentimes it is noted that the *seyfo* come from old ruling families, and “it is still the policy of government as far as possible to appoint a *seyfo* from one of the families of hereditary rulers, as it is recognized that a great deal of a chief’s utility and prestige depends upon the authority inherent in the post.” The commissioners judged who would be the best *seyfo* and proposed a candidate to the governor, who made the final decision. As Gray lauds, “this is not an innovation but an adaptation of an old custom to modern requirements” (ibid., p. 492).

District tribunal

The authority of the *seyfo* and the *alkalo* has historically been enforced by the district tribunal and the commissioner. According to the legal statutes of The Gambia, the district tribunal shall administer:⁷

- (1) Customary law prevailing in the area of jurisdiction of the tribunal insofar that “it is not repugnant to justice and morality or inconsistent with the provisions of any Act or other law in force in the Provinces”;
- (2) Islamic law relating to civil status, marriage, succession, divorce, dowry, the rights and authorities of parents and guardianship whenever the parties are Muslim;
- (3) The by-laws and orders made by a council, minor council, district authority, or the commissioner; and
- (4) Provisions of any act including any regulation, rule, or order made there under which the tribunal is authorized to administer.

For offenses against customary law, a district tribunal may impose a fine or order imprisonment with hard labor, impose both a fine and imprisonment, or inflict punishment authorized by customary law. This punishment must be tempered in that it “shall not be

⁷ Chapter 6:03 of the “Law of The Gambia,” 1990.

repugnant to natural justice and humanity and the fine or other punishment shall in no case be excessive but shall always be proportioned to the nature and circumstances of the offence” (Cap. 6:02, 13). No sentence imposing corporal punishment or imprisonment of more than fourteen days is allowed unless it is reported first to the commissioner. No sentence of corporal punishment shall be executed unless it has been confirmed by the commissioner and Supreme Court, and it shall be executed in accordance with Section 30 of the Criminal Code.

Religious organization⁸

Religious figures such as the imams and marabouts of Mandinka villages play an important part in both the religious and the temporal life of a community. Religious figures contribute to a variety of community functions such as resolving disputes between people over any number of issues, including those of natural resources (see below section E). Disputes often go first through the *alkalo* before they reach the imam. People come to the imam not only to seek spiritual advice but also to arrange marriage celebrations and to try to settle divorces.

Marabouts and imams possess land in Mandinka villages, though they often receive contributions of labor from the community.

Age-group organizations

A *kafo* is any group of people that comes together to participate in a common cause. Traditionally *kafo* were age groups but now they often meet to work on development issues facing the community. The Catholic Relief Services Kafo is a group that meets to run the seed store. The Primary Health Care Kafo is a group of women that run the health care center. The Woodbury Kafo is the group that organizes the activities of the Woodbury-Dumbutu linkage.

Community development organizations

The distinction between the *kafo* and more formal community development organizations is often blurred. The village development committee (VDC) is the organization strongly supported by the Department of Community Development of the Ministry of Local Government and Lands with the authority to coordinate all community development initiatives. The VDC chair of Dumbutu is an active intervener in community discussions.

Various government services work in the community at one time or another. Community development officers pass through the village; governmental and nongovernmental development projects are found throughout the Kiang West District; and social services are provided to villagers by both governmental and nongovernmental organizations. Government- and nongovernment-sponsored projects provide formal primary school education and adult literacy classes. Koranic schools are similarly active. Health care is available at primary health-care clinics in many of the district’s villages as well as through the Medical Research Center. The International Trypanosomiasis Center conducts research on tsetse fly resistance in cattle. Donor organizations such as the Freedom from Hunger Foundation work with government extension agents to implement village infrastructural activities.

Rural development projects

A large number of governmental and nongovernmental organizations are present in Dumbutu. Villagers gathered under the *bantaba* reported on the functions of a wide range of organizations

associated with specific community development activities.

Various governmental and nongovernmental projects have worked with the village to set up a primary school, a seed bank, a primary health care center, a family planning clinic, a trained midwife, a milling machine, capped wells with pumps, and a women's garden. Sponsors have included Action Aid, Catholic Relief Services, Freedom from Hunger Committee, IOGT, and most of the main-line governmental departments. The Dumbutu community placed a special emphasis on the Woodbury-Dumbutu Link. Over the years the town of Woodbury, England, has sponsored a variety of projects. The linkage program is currently sponsoring the construction of a multipurpose community center and has just recently purchased a tractor for the village. The gift of the tractor is especially appreciated by women, for it will reduce the necessity to rent tractors from the Agricultural Services Department to cultivate rice fields. Two American Peace Corps volunteers have lived in the village as part of the ongoing development of the Kiang West National Park.

Schools

Dumbutu is blessed with a well-maintained primary school that has provided solid education for many of its well-placed citizens. Nevertheless, the complaint is raised by elders in the community that primary and secondary schools contribute to labor migration, one of the central constraints to agricultural development in the area. While recognizing that educated youth are a source of wealth for the family, full-time attendance of young people in school deprives the household of needed labor for agricultural and livestock-raising activities.

Resource-management institutions

Several different layers of resource-management institutions are found in the Kiang West District and villages such as Dumbutu. The Kiang West District is unique in The Gambia in that a large percentage of the district is placed under the direct management of the state. The state controls and administers land through the management of the forest parks and the Kiang West National Park (see figure 4). Through various legal mechanisms, the government determines the populations' use rights to state lands. With varying degrees of success government has introduced new institutions to facilitate the management of state resources. The influence of the state reserves is thus directly felt by the populations surrounding these areas, for rights of access are conditioned upon the approval of state agents.

Figure 4 State reserves in Kiang West District

Total land surface in state reserves (hectares)	
Mutaro Kunda Forest Park	803
Faba Forest Park	530
Brikama Forest Park	500
Kiang West National Park	11,000

At the same time, “customary” institutions continue to regulate resource allocation on the land not subject to direct state control. A variety of interwoven institutions from the *kabilo* to the district tribunal determine many of the rights and responsibilities to land and other natural resources. The institutional jurisdictions of these two entities clash from time to time in the Kiang West District. Conflicts and disputes are one consequence of the confluence of the state tenure regimes with the local-level regimes.

Forest park managers

The village of Dumbutu is surrounded by three forest parks: Mutaro Kunda Forest Park, Faba Forest Park, and Brikama Forest Park. Management powers are vested in the agents of the Department of Forestry. In contrast to many forest parks in The Gambia, these three are intensively managed by the forestry service through assistance from the Gambia-German Forestry Project. The Gambia-German Forestry Project has invested considerable resources in fencing off and culling lumber from the relatively dense forest cover. A sawmill has been established in Dumbutu in the Mutaro Kunda Forest Park. The forestry service is presently planting cashew and malina trees around the periphery of the park as a firebreak. A nursery has been set up by the project in order to plant indigenous species of trees within the park to replace those removed through logging and fires. Natural regeneration of forest species is also being promoted through a ban on forest fires and selective transplanting of seedlings growing in the wild. Bamboo, a valuable species extensively exploited in the past, is being reintroduced to the Kiangs.

Labor has been contracted from the surrounding communities to fell deadwood, operate the saw mill, plant trees, clear fire lanes, maintain fences, and patrol the park. Three forest scouts are engaged by the project, one each from Velingara, Batelling, and Dumbutu. Contractors engaged to collect dead firewood are permitted to resell the wood outside of the park. Scrap wood from the sawmill is given free to the village. Revenue from the sale of firewood and lumber goes to the national treasury and a special line account for park maintenance. In this sense, the government-managed forest generates benefits to the community.

As will be discussed further in this case study, the establishment and maintenance of the forest reserves generate considerable ambivalence on the part of the people of Dumbutu. The enforcement of park limits and restrictions removes a substantial area of land from the use of local populations. Excellent grazing lands, especially suitable for rainy season pastures, are found within the forest parks. Small ponds seasonally provide important sources of fresh water for livestock especially in the early dry season. Prior to the construction of chain-link fences around these parks, people had unencumbered access to firewood, fruits, construction timber, and medicinal plants. Portions of the forest park now impinge upon some of the rice fields cultivated by the women of Dumbutu. Access is now severely limited because of forest guards. For these reasons, some hostility is expressed against the park. Forestry agents recognize this fact, noting that the wire fencing is periodically cut and that considerable time and expense is spent in repairing the damage.

Kiang West National Park managers

The Kiang West National Park was established through the 1987 Kiang West National Park Order. The 11,000-hectare park is one of the last unsettled spaces in The Gambia and diverse flora and fauna are found within its boundaries. Feasibility studies, a park management plan, and

delineation of the park boundaries did not occur until 1990. Donor assistance facilitated the placement of boundary markers and the construction of firebreaks around the park. Local labor, primarily women, was engaged to clear the path around the park and plant fire-resistant trees within the buffer zone. Park headquarters has been constructed and plans are being implemented to facilitate park use by tour groups from Banjul (i.e., Audio-Visual Center, bird-watching blinds, concession stands). Professional park managers now enforce provisions of the Wildlife Conservation Act and the Kiang West National Park Order that restrict land uses by rural populations. The park service is advised by a technical advisory committee (TAC) consisting of three members each selected from Batelling, Kuli Kundi, Bajana, and Dumbutu. No women are represented on the committee; one forest park member noted, “Women are not officially involved in decision-making.”

The Kiang West National Park has introduced a degree of tenure insecurity among the populations living in the zone. All felling of trees and burning is prohibited within the park. Hunting and trapping of wildlife is similarly banned. These regulations fall under the purview of the 1977 Wildlife Conservation Act and the Kiang West National Park Order. Even though the creation of the park has not prohibited all uses of the area by the community, the threat of permanent exclusion is ever-present. The “Kiang West National Park Integrated Conservation and Development Planning Report” recommends that “subsistence level natural resource use by local people continue at its current level during a five-year assessment, unless changes in management strategies become warranted as quantitative information becomes available.”⁸ Commercial wood gathering and sale are thus no longer allowed, though villagers can collect deadwood for household use. Women oyster collectors fear that the park service could restrict rights of collection. The Kiang West National Park represents the entry into the community of a new institutional actor.

Kiang West National Park administrators seek ways to encourage public participation in park management and a sense of community ownership of the park. Promises have been made by park planners to share with villagers economic benefits generated by the park. Villagers have high hopes that the park will spark economic growth, employment, and donor assistance. However, the creation of the national park has added a new dimension of uncertainty to the lives of the people of Dumbutu.

RESOURCE USE, MANAGEMENT, AND TENURE IN THE VILLAGE OF DUMBUTU BY MICROECOLOGICAL ZONE AND SOCIOECONOMIC GROUP

The territory of Dumbutu can be divided into five ecological zones: (1) the *bolong* and salt marsh (2) the salt flats, (3) the lower valley, (4) the upper valley, and (5) the settlement area (see figure 3). Each of these zones supports a variety of land-use practices and represents unique habitats for wildlife and vegetation. This land-use diversity is matched by a variety of tenure relations.

⁸ Ministry of Natural Resources and the Environment, “Kiang West National Park Integrated Conservation and Development Project: Planning Report,” 30 September 1992, p. 15.

Bolong (mangrove and salt marsh)

A thick mangrove forest lines the waters of the River Gambia and the Jarin and Nganingkoi *bolongs*. Tall and short mangroves (*Rhizophora harrisonii* and *Avicennia spp.*) and the salinity of the *bolong* and salt marsh estuaries provide a unique habitat for a variety of fish and crustacea, including oysters. Seasonal changes in salinity are reported to be from 13.7 percent in June to 0.2 percent in October.⁹ Clay soils underlie these mangrove swamp areas. Various groups of Dumbutu residents use the Jarin and Nganingkoi *bolongs* for fishing, hunting, collecting and processing oysters, and gathering of forest products.

Oyster gatherers

The RRA team interviewed two Dumbutu women, who are part-time oyster gatherers, to learn about the ecology, processing system, and marketing of oysters. During this interview the research team also learned of the relationship between Dumbutu and Karoninka female oyster gatherers. Since the early 1980s, women originally from Karoninka (Casamance, Senegal) have journeyed to Dumbutu to spend the dry season collecting, processing, and selling oysters. The Karoninka women, as Dumbutu residents refer to them, lodge with various Dumbutu families. Instead of a cash payment, these women exchange oyster shells for room and board. As the two Dumbutu women explained, the Karoninka women collect and process all their oysters at a few central locations. These main processing points make it easy for the Dumbutu hosts to collect the disposed shells. These shells are an important source of lime, an ingredient in whitewash, cement, and plaster.¹⁰

The arrival of the Karoninka women has resulted in the transfer of oyster collection and processing technology to the women of Dumbutu. Whereas in the past, no one from Dumbutu collected oysters, now many Dumbutu women have learned this trade from the Karoninka women. As the Dumbutu women explained, the Karoninka women have shown them the technique of boiling the shells in order to extract the oyster meat.

There are important differences between the Karoninka and Dumbutu women, however. One difference is that the Dumbutu women do not process their oysters in central locations. Instead, they process the oysters as they move along the *bolong*, leaving behind scattered shells. Thus, the Dumbutu women neither trade nor sell the remaining shells. As they stated, anyone with “enough resources” can collect the shells they discard. In contrast, the Karoninka women carefully collect and pile up the shells for eventual use as rent to pay for lodging in the village.

The Karoninka women dry and then transport the oyster meat to the Western Division, where it fetches a better price. The Dumbutu oyster gatherers sell their daily harvests in Soma.¹¹

Fishermen

The men of Dumbutu fish the *bolong* for *talapia*, *chaalo*, *jotto*, *kujalo*, *wankango*, *fetta*, *baba furo*, and *battoto*. The RRA team interviewed one of the local fishermen to gather information on

⁹ “Biodiversity Support Program and the Ministry of Water Resources, Forestry and Fisheries,” 1990, Kiang West National Park, prepared by an international team under the joint direction of V.C. Gilbert and A. Camara, p.31.

¹⁰ In Soma and Brikama, two major towns in The Gambia, one sack of white lime (approximately 50 kilograms) can be sold for 25.00 dalasis.

¹¹ One cup of oyster meat can be sold for approximately 2.50 dalasis.

the tenure arrangements surrounding fishing points. From this interview it appears that the *bolongs* are a commons area. Fishermen do not need permission to fish anywhere in these estuarine areas. Nor have the different fishermen from Dumbutu and other neighboring villages established rights to favorite fishing points. There is, however, one area called “Luperi” which is off-limits to fishing. No reasons were given as to why a taboo was placed on this area. According to the one fisherman, there have been no disputes over fishing points in his lifetime.

Fishing equipment is regulated by the state under the Fisheries Act. Fishing codes stipulate allowable size of nets. Also, to construct boats from trees, a fisherman would need to secure a cutting permit from the Forestry Department. In the past, fishermen would cut trees like *jalo* (*Khaya senegalensis*) to carve out canoes.¹² In the past, nets were made from the bark of baobab trees (*Adansonia digitata*) and floats were made from *bukango* trees.¹³ Today, fishing equipment is imported from abroad.

Usually, the daily catch is divided into thirds—one-third goes to the owner of the fishing equipment and the remaining two-thirds are divided between the two co-fishermen. The catch is sold in Dumbutu and neighboring villages or in Soma and Mansakonko. The fisherman interviewed reported that there has been little change in the level of fish caught over the years since he has been fishing.

Grass and forest product collectors

During the transect, a Dumbutu professional hunter identified several different types of grasses and sedges: *solingo*, *banyamo*, *tien-ningo*, *wanto kado*. The *banyamo* provide an excellent source of thatch for Dumbutu gatherers. While grasses and sedges predominate in this area, small trees and shrubs also dot the landscape. These trees and shrubs include *Naning-koyo* (*Acacia seyal*), *Donkoro* (*Acacia senegal*), *Jongo* (*Mitragyna inermis*), *Kuruso* (*Phoenix reclinata*), *Korosso* (*Rhaphia spp.*), and *Sibo* (*Borassus aethiopum*). The vegetation supports such vertebrates as rabbits, *gito wolo*, bush pigs, grass cutters, and antelope. This ecological zone is actively used by children as well as by professional hunters. Wild fruits and animals provide important supplemental foods for both the children of Dumbutu and their families.

Salt flats

Salt flats occur between the mangrove forests and the lower valley ecological zones. While this zone is above tidal influences characteristic of the *bolong* the salt flats are flooded by the *bolong*'s saline waters during the rainy season. During the dry season, salt minerals remain when these flooded waters evaporate.

During interviews with the Dumbutu women's *kafo*, the team learned that this ecological zone was once the site for salt extraction. While the women said that the amount they extracted was never much due to the distance of the salt flats from Dumbutu, they did collect salt minerals for domestic purposes during the dry season. Salt from these flats was an open-access resource; permission to extract this resource was not required for either Dumbutu or non-Dumbutu

¹² In the past, the area councils were responsible for issuing permits and collecting fees from the cutting of live trees. Therefore, fishermen who carved dugout canoes would have had to purchase a permit from the area councils for 2.50 dalasis. In the 1960s, the Forestry Department took over the responsibility of issuing timber cutting and collecting permits.

¹³ *Bombax buonopozense* or red silk cotton wood.

residents.

Over the past two decades, the women have observed the gradual disappearance of this economic resource. Without enough rains, there has been insufficient flooding and, thus, no economically viable deposits of salt. Dumbutu women now purchase their salt from neighboring villages such as Jifarong, Sankandi, and Bajana.

Lower valley

Clay loam soils underlie this lower valley ecological zone. A wide variety of tree species is found in this zone, including: *kurlonho*, *sama netto* (*Entada africana*), *netto* (*Parkia biglobosa*), *tallo* (*Detarium spp.*), *kutufingo* (*Vitex doniana*), *bembo* (*Lannea velutina*), *bukango* (*Bombax buonopozense*), *bato bembo* (*Lannea spp.*), *tamba* (*Parinaria macrophylla*), *mampato* (*Parinaria excelsa*), *kaba* (*Nauclea latifolia*) and *keno* (*Pterocarpus erinaceus*). Numerous wildlife species such as grass cutters, bush pigs, various species of monkeys, guinea fowl, hyenas, *konko wulo*, *totanah*, *jatang-kana*, and *wato* also flourish in this zone. *Nyantang faro wa* (*Andropogon gyanus*) can form a dense ground cover. The diversity of vegetation and animal life supports a comparable diversity of socioeconomic activities.

Cattle owners and herders

Andropogon spp. grasses are important sources of standing fodder for cattle and small ruminants. To gather more information on the management of livestock and small ruminants, the RRA team interviewed several *kabilo* heads and herders. As these people explained, “many” Dumbutu residents own cattle but every cattle owner does not graze his/her¹⁴ own cattle. To manage efficiently the grazing of the total population of cattle, individuals who own a few cattle have turned over the management of their cattle to the three largest cattle owners (who are also *kunda* heads) in Dumbutu. As managers, the three largest herd owners are responsible for: (1) collecting fees from all the owners of the cattle in their herd; (2) hiring and paying, from the collected fees, Fula herders to care for all the cattle in their respective herds; and (3) organizing the tethering of the cattle in their respective herds in preparation for the agricultural season.

During the dry season, the upland and lowland fields surrounding Dumbutu are open to the free grazing of these three herds. Herds from outside Dumbutu also frequent these fields. For example, having grazed their lands earlier in the dry season, Fula herders from Nioro Jataba bring their cattle to Dumbutu. In some cases, cattle owners from other villages may ask Fula herders in Dumbutu to care for their cattle. The Fula herders stated, however, that, while the best grazing land was in the forest parks, they were forbidden to graze the animals there.

As a Dumbutu Fula herdsman explained, during the morning, cattle are grazed in the upland areas surrounding Dumbutu. During the afternoon, they are brought down to the lowland areas where several watering points are located. These watering points consist of five hand-dug wells in an area called the *wulong bango*. The wells are owned by cattle owners in Dumbutu.

Four other wells are located nearer to the *bolong* in an area called *bato feroto*. Each of these wells has been dug, and therefore is owned by one of the three major cattle owners of Dumbutu for exclusive use of his herd. Herders of cattle from the two other herds must obtain permission to water their herds at a particular well. To sink additional wells, herd owners must first secure

¹⁴ Interviews reported that women also own cattle in Dumbutu.

permission from the traditional owners of the land on which they hope to dig.

Tethering of the cattle herds occurs on a request-only basis. Farmers negotiate with cattle owners for the opportunity to tether, though no payment is made for tethering and manuring services. However, the farmers on whose field the cattle are tethered are to supply the stakes to which the cattle are tied. As several Fula herders explained, the various herd owners have first rights to tethering and thus manuring. While women rice farmers have never formally requested that cattle be tethered on their rice fields, they do collect the manure around the various watering holes to use on their rice fields. They do not need permission to gather the manure.

The RRA team received conflicting responses to questions about the tethering of livestock. The Fula herders stated that, other than the herd owners, only one person had requested tethering this year. As a result, they and their families obtained relatively unlimited access to tethering of livestock and thus to cattle manure. During a separate interview, a non-cattle owner stated that he has been requesting permission to tether cattle in his field for five years. That permission has never been granted. During yet another interview, another non-cattle owner said he did not tether cattle in his field to improve fertility because the demand for manure is greater than the cattle can supply. In addition, this male farmer stated that the herd owners have first access to tethering and thus manure.

It thus appears to the RRA team that manure is a scarce resource. A few cattle owners possess the distributive powers to allocate manure through the act of tethering. For reasons that remain obscure, the cattle owners have not fulfilled requests for manuring by non-cattle owners. Instead they have tethered the animals in their own fields or let their Fula herders tether the cattle on the agricultural fields they have borrowed. On the surface, access to tethering appears to be free and available upon request. In reality, cattle owners are exerting monopolistic control over the allocation of manure. This could contribute to a widening of the gap between the wealthy owners of cattle, who can manure their fields, and the poorer elements of the community, which lack both cattle and manured fields.

During the rainy season, cattle and small ruminants are closely guarded. Small ruminants are placed in enclosures and cattle are tethered and grazed in areas left uncultivated. Crop damage by livestock can be a source of serious conflict. The *alkalo* and even the *seyfo* and the district tribunal can fine the cattle owner for crop damage. The fine compensates the farmer for the losses. Even though livestock damage is a constant problem, local-level conflict-resolution mechanisms succeed largely in providing adequate compensation. The existence of cattle damage is nevertheless symptomatic of the contentious interface between livestock raising and field crop cultivation in mixed farming systems. One of the reasons suggested by Fulbe herders for the extensive crop damage in Dumbutu is the lack of grazing lands, which is caused by the construction of fences around the Faba, Brikama, and Mutaro Kunda forest parks. Herders can no longer find sufficient space to graze livestock far removed from fields. As a consequence, it is inevitable that crop damage will occur from time to time as livestock escape the control of the herders.

The establishment of the Kiang West National Park has also resulted in loss of grazing land. Ostensibly, grazing is allowed in the national park. However, because *Gmelina* seedlings have been planted around the perimeter of the park, park officials rescinded this rule by placing a “temporary” moratorium on grazing in 1992 and 1993. Park officials indicated their hopes that a series of community development projects would be implemented to meet the forage needs of

the local cattle and small ruminants.

The Fula herders mentioned another problem—this one concerns access to wells located in the *wulong bango*. As described, these wells are found inside the rice-growing areas. During the rainy season, the herders can take their herds into the uplands, where natural water pools occur. However, as these pools become dry toward the end of the rainy season, the Fula herders must move their herds back down to the wells in the *wulong bango*. This movement usually occurs, however, before women farmers have harvested their rice. Thus, to obtain access to water, the Fula herders risk damaging the rice fields. The herders suggested that more wells be dug in the upland areas to prevent such problems. Women farmers corroborated the information presented.

Women rice farmers

During the rainy season, the lowland valley becomes flooded with fresh water. Women rice farmers refer to this zone as the *wulong bango*. These farmers have given names also to distinct areas within the *wulong bango*. In these areas, rice farmers have cultivated both early and late varieties of rice. Women have two additional rice-growing areas closer to the *bolongs*; however, they have abandoned these regions in the past two years because of salt-water intrusion, distance from Dumbutu, crop damage by monkeys and bush pigs, and gradual deposition of iron toxicity from upland water run-off.

Women *kafo* members said that they have enough rice land and enough labor to farm these lands. However, the seemingly ideal situation is marred by a problem voiced repeatedly by the women—there is not enough rain. As one woman stated, “During our childhood, we used to have enough rains in this valley. Now it all runs off.” As a result of the drought, women now have more rice land in cultivation but reap smaller harvests. In the past one rice field could supply the needs of a *sinkiro*, whereas now two or three fields are needed. The women rice farmers also noted that they used to have several early varieties of rice that they placed in the upper fringes of the *wulong bango*. However, because they shifted to other varieties supplied by the various government departments and non-governmental organizations, they have “lost” these seeds. The following rice varieties have become extinct: *tungkungo*, *caramuso*, *hapsaruso*, *mamma mano*, *fula mano*, and *seido*. Given the drought conditions, the women *kafo* members expressed the need for technical assistance concerning water-retention dikes and early-maturing rice varieties.

When asked questions about the distribution of harvests, women *kafo* members responded that “rice harvests are for the men.” Upon further discussion, however, they noted that the men of Dumbutu are entirely dependent on the rice cultivated and harvested by them. All of the rice that the women produce is for household consumption; none of the harvest is sold, describing a situation where all rice is needed to meet subsistence needs.

The women *kafo* members mentioned several alternative crops to rice, namely, sesame, groundnuts, products from their village garden, *findo*, and com. As individual farmers, the women grow these crops for both subsistence and commercial use. Several women mentioned that they intended to grow sesame this rainy season to produce sesame oil, which they would then sell in Soma. Likewise, they said that they were growing groundnuts to generate income.

To understand the tenure arrangements, the RRA team conducted both focus-group and individual interviews with the women rice farmers in the rice-growing zone of Dumbutu. During a focus-group interview with about ten female *kafo* representatives, the team asked, “Who

‘owns’ the rice fields in the *wulong bango*?’ The woman president responded by stating that the land belongs to male residents of Dumbutu. Her statement was quickly qualified by the one male representative, who said that male ownership of land is in name only—that women farmers possess absolute user rights to the rice land.

After holding this focus-group meeting, RRA team members had semi-structured individual interviews with several female farmers. These interviews provided a better picture of women’s “ownership” of, and access to, land. The team discerned three mechanisms through which women can obtain access to land: (1) marriage; (2) parents, extended family members, and/or friends; and (3) citizens of the neighboring village of Batelling.

The primary mechanism through which women obtain access to land, especially rice land, is their husbands. As stated by both male and female residents of Dumbutu, it is the obligation of the husbands to provide their wives with rice land (and, to a lesser degree, upland fields for legume and grain crops). It appears that women’s control over the land is quite strong: they make most of the management decisions, retain control over the harvests, and can lend the parcels to other women. Some insecurity accompanies land acquired by this mechanism, however. As one woman said, if her husband married a second wife, then she might have to share her fields with the new co-wife. Then she would have an insufficient amount of land and would need to borrow more from other people.

In many cases, women farmers have access to their fathers’ and mothers’ land. A woman may have access to rice fields (and to some extent, upland fields) either directly through inheritance or, more likely, indirectly through complex borrowing arrangements. Land borrowing can be arranged between a woman and her parents or, on her behalf, between a woman’s parents and her in-laws.

When a woman marries, her husband, acting through his mother, is obliged to provide her with enough land to farm rice. Usually, the mother-in-law, and thus the woman’s husband, can fulfill this obligation by allotting the land to which she has access via her own husband (the father-in-law). The mother-in-law’s obligation to provide for the woman may be stronger when the new wife is not a citizen of her husband’s village, because, by leaving her place of birth, the woman can no longer call upon her parents or extended family members to gain access to land. Frequently, however, the mother-in-law will not have enough land to allocate. In these cases, the woman’s own mother may lend land to the mother-in-law. Thus, mothers create borrowing arrangements to ensure that their daughters have sufficient land to cultivate. These types of borrowing arrangements seem especially important for women whose husbands either have not inherited or have inherited an insufficient amount of rice land.

In the case of deceased parents, a woman can borrow land from her brothers, who have inherited her parents’ land. In such cases, it would appear that brothers have some obligation to provide their sisters with land if their sisters’ husbands cannot.

The RRA team also found considerable land borrowing among women who are not related. Again, this is based on the principle that if the land is not being used, then someone in need should be able to borrow it.

According to several respondents, about half of the women in Dumbutu borrow land from families in Batelling. Batelling and Dumbutu share a common valley which is suitable to rice growing. Part of the valley belongs to families of Dumbutu and part belongs to families of Batelling. However, because the Batelling women have access to swamp rice land (which does

not suffer from salt-water intrusion), these women do not need their entire share of the valley's rice fields. Dumbutu women are thus able to borrow fields on a year-to-year basis.

The women's ability to exercise their usufructuary rights over land varies according to: which mechanism is used to obtain the land; the type of land (that is, *suba* or *patchico*;) the crop rotation for that season; and the social position of the women themselves, their husbands, and their parents in terms of the key distinguishing feature of Dumbutu's social structure-settlement history.

There are two categories of rice fields, *suba* and *patchico*. The term *suba* means "group cultivation of a rice field." Usually, the group includes a mother, her unmarried daughters, and her daughters-in-law. In many cases, each co-wife will manage her own *suba* field with her unmarried daughters and daughters-in-law. Women farmers manage *patchico* fields individually. The harvested rice from these *patchico* fields is used by the individuals at their own discretion. However, as with other activities in the village, the distinction between individual and shared use of resources is blurred. Often daughters-in-law may use the rice harvested from *patchico* fields when their husbands come to visit (as in the case of husbands/sons who have migrated to urban areas). Women may also use their *patchico* harvests during local celebrations and festivals.

Yet another interesting caveat to the allocation of rice land is that women may borrow rice land even when they already have sufficient land in their possession. Women rotate rice areas in the *wulong bango* from one year to the next to avoid soil exhaustion. Thus, if particular women do not have rice land in the area under cultivation during a particular year, they will need to borrow. Also, women sometimes borrow land to be closer to the fields of other women; women group their rice fields as a protection strategy.

To illustrate the complexity of the tenure system in terms of women's access to agricultural fields, box 1 relates a conversation with one woman farmer of Dumbutu.

Hunters and collectors of forest products

The woodland fringes of the women's lowland rice fields possess a store of forest products. An open-access tenure regime governs the collection of these products. Men collect honey from naturally occurring beehives in these woodland fringes. Women and children of Dumbutu collect various fruits, leaves for sauces, and medicinal herbs; children also hunt small animals and birds.

In the past, there were at least ten professional hunters in Dumbutu. At present, there is only one. As this hunter explained, the increasingly strict regulations placed on hunting (through the establishment of the forest parks and the Kiang West National Park) have made hunting difficult if not illegal as a profession. Other reasons cited were: the cost of bullets and guns and lack of interest by the young. According to Dumbutu's resident hunter, the scarcity of hunters in Dumbutu and neighboring villages has serious ramifications on the herd size of wild bush pigs. Every farmer with whom the RRA team spoke stressed the seriousness of the crop damage caused by bush pigs. In the past, hunting parties would be organized with neighboring villages. At least 100 bush pigs would be culled per day during these hunting periods. Now, very few people can be amassed and the bush pigs flourish.

Box 1: Interview with Mrs. X¹⁵

A women in her late 40s, Mrs. X lives with her husband in Y *kunda*. The Y *kunda* is within the ward of the Z *kunda*'s *kabilo*. The Y *kunda* has a structure similar to other Mandinka compounds in that agricultural and cooking activities of the various compound members are undertaken within *dabadas* and *sinkiros*. Mrs. X is the 'head' of one of the two *sinkiros* in Y *kunda*. There is one other *sinkiro* which Mrs. X's sister-in-law manages. There are also two *dabadas* in X *kunda*—one managed by Mrs. X's husband and the other by Mrs. X's husband's brother.

This rainy season, Mrs. X plans to grow swamp and upland rice, maize and sesame. Mrs. X drew a map in the sand to illustrate where she will cultivate these three crops. As this map shows, Mrs. X plans to cultivate five rice fields: one in the area called "Daloto," two in the *wulong bango*, and two in the area called "Manneh Koito." In further discussion, however, Mrs. X noted that the management of these rice fields is not carried out in the same manner—four are *suba* fields and one is a *patchico* field. For Mrs. X, her husband gave her the two *suba* rice fields located in the "Tabatokolung" area. Mrs. X will cultivate rice on these fields with the assistance of her unmarried daughters and her one daughter-in-law.

Mrs. X's husband inherited the Tabatokolung rice fields. Since she transferred to her husband's compound, Mrs. X has used these fields. Because he came from a large family, Mrs. X's husband inherited only a small amount of rice land. As a result, the Tabatokolung rice fields are not large enough to support the requirements of Mrs. X's family; every year Mrs. X must borrow land for rice cultivation.

This illustrates how important a woman's natal family connections are in meeting subsistence needs and family obligations. As Mrs. X explained, it is her duty to provide a *patchico* rice field to her son's wife. To fulfill this obligation, Mrs. X borrowed land from her brothers (residing in Z *kunda*). Even though her brothers inherited the rice fields from Dobally's parents, Mrs. X does have borrowing privileges to this inherited land. Every year, however, Mrs. X must return these borrowed rice fields to her brothers.

Mrs. X has borrowed three pieces of land from her brothers. In turn, she has lent one of the borrowed rice fields to her daughter-in-law as a *patchico* field. Mrs. X's daughter-in-law can use the rice harvested from the *patchico* field in any way she sees fit. From her brothers, Mrs. X also borrowed one *suba* rice field located in "Daloto." As Mrs. X commented, at the present time, she can borrow these fields with ease. However, she stated quite clearly that if her brothers were to marry more wives, then the availability of the fields might be constricted.

Mrs. X's husband does have a sufficient amount of land located in the upper valley ecological zone. It is from this supply that Mrs. X's husband lends them land to cultivate sesame and maize. As Mrs. X explained, she intends to process sesame seeds into oil to sell in Dumbutu or Soma.

When asked if she could plant trees on land borrowed from her brothers, Mrs. X responded that she could if she obtains permission from them. This permission would be granted because, as she put it, "my brothers know that I know the land belongs to them." However, Mrs. X has never planted, nor plans to plant, trees in the rice fields she uses. However, her husband did give her permission to plant a mango tree in their compound. She expressed interest in planting more.

¹⁵ To preserve the confidentiality of those with whom we spoke, no real names have been used in this document.

Upper valley and plateau

The upper valley and plateau ecological zone is located closer to the settlement areas of Dumbutu. This zone is typified by thin, clayey loam soils dotted with laterite rock escarpments. Trees such as *jaffo* (*Arteries africana*), *kaba* (*Nauclea latifolia*), *jambakato* (*Combretum spp.*), *wolo* (*Terminalia macroptera*), *keno* (*Pterocarpus erinaceus*), *santango* (*Daniella olivera*), *wolo-kono dutu* (*Cordyla spp.*), *netto* (*Parkia biglobosa*), *bantango* (*Ceiba pentadra*), *taba* (*Cola cordifolia*), and *soto* (*Ficus exasperata*) can be found in this zone as well as other species found in the lower valley zone. Fruit collection from these trees is not regulated in any way except when *tongo*¹⁶ exists. At present, the *alkalo* only applies *tongo* to mango and baobab trees because of their economic importance. Infractions against the *tongo* are imposed by the *alkalo*. Economically valuable trees are not cut down or trimmed unless expressed permission has been obtained from the heads of *kundas* controlling the particular plot of land.

Herders and grazing

As in the lower valley zone, grazing of cattle and small ruminants is an integral part of the landscape. See Lower valley, above, for a description of the system of management for livestock and small ruminants.

Sand extractors. Another activity prevalent in this upland zone is the extraction of sand. People said that Dumbutu residents do not need permission to collect sand for community building purposes such as schools, mosques, multi-purpose centers, and the Gambia-German Forestry Project and Kiang West National Park facilities. Residents usually use hand-held shovels to dig up the sand. On average, only about ten tractor loads are taken per year. Sand extraction is not an income-generating activity for anyone in Dumbutu.

Dumbutu residents, however, do appear to be developing rules to govern the sand-extraction activities of non-residents, for permission must be obtained by outsiders to extract sand. One interviewee described a case where workers from Tendaba Camp (a tourist hotel located nearby on the River Gambia) came with a large truck to extract sand. Dumbutu residents requested that the workers tell them how much sand they expected to take; when they learned that the workers were not intending on taking much sand, they granted permission. The community is developing a precept that no external economic agent can extract resources on a commercial basis without expressed permission from the Dumbutu *alkalo*.

Unfortunately, Dumbutu residents do not request sand extractors to undertake any land-reclamation activities. This fact is evidenced by the numerous craters located in this ecological zone.

Women rice farmers

Women are the primary cultivators of upland rice. The similar tenurial arrangements as described in the Lower valley section, above, apply to rice fields in the uplands.

¹⁶ *Tongo* is a Mandinka term that refers to the temporary moratorium placed on the collection of fruit. Usually, the *alkalo* of a village calls these moratoriums to ensure that fruits, such as mangoes, reach maturity before they are picked.

Legume and grain crop farmers

Both men and women grow a variety of grain crops in addition to cultivating groundnuts. The majority of Dumbutu male farmers grow early millet, *sunoo*, as their main subsistence crop. The tenure arrangements governing the use of these upland or plateau lands are described extensively in the section on the Village of Dumbutu social structure. Most of the land in this ecological zone is allocated to the various *kabilos* and *kundas* of Dumbutu. Everyone recognizes the boundaries of each other's fields. Lines of trees have been planted along some boundaries to clarify ownership; the trees were often planted following a dispute. Extensive borrowing takes place in these upland fields.

The fields of the wealthiest cattle owners are well manured and tend to be situated closest to the village. The more distant fields are farmed by newcomers and temporary visitors to Dumbutu. The farmers complain that these fields are infertile because it is hard to get access to manure. The outer fringes of Dumbutu's fields are fenced off with piles of thorns against bush pigs. These fences are only somewhat effective, for evidence is widespread of bush pig wallowing areas located directly in farmer's fields. Yet they serve to protect the fields of those farming closest to the village. In effect, newcomers and nonresidents bear a disproportionate cost of bush pig intrusions.

Sacred areas and population of Dumbutu

There are a number of sacred groves and consecrated areas within the village of Dumbutu. All of these sacred groves and areas have place names, usually the name of important trees in Mandinka folklore (e.g., baobab and silk cotton wood). Restrictions are enforced by the community against use of these trees. Particular *kabilos* are responsible for certain trees and sacred areas. The unique taboos placed on these sacred areas are listed below in box 2.

Settlement area

The settlement of Dumbutu is located on an upland plateau of sandy loam soils. This is the primary zone of habitation. The map drawn by several residents of Dumbutu shows twenty-one *kundas*. Dumbutu is also well endowed with small shops; approximately seven are found within the village. Various *kunda* heads have given land for development projects (e.g., the maternal-child health clinic, the primary school, and the seed store) at the request of the *alkalo* and without compensation by either village residents or the government. Various *kundas*, with the sanction of the *kabilo* heads, have given land to new arrivals to settle and build compounds. In most cases, land gift-giving for settlement is a permanent arrangement. The *kunda* head does not expect the borrower to return the land every year. However, it is an implicit assumption that if the borrower of the settlement land were to leave, then the land would revert to the original *kunda*. There has never been a case in which a *kunda* head has taken back land given for a compound. Permanent settlers can and do plant trees on these compound lands.

An important exception to this implicit rule is the Fula families who have migrated to Dumbutu over the past decade. As was mentioned earlier in section III.C.2., the *kunda* heads who have lent settlement land to the most recently migrating Fula families have placed strict rules on the land (i.e., no planting of trees) and have made it clear that the Fula are only temporarily borrowing the land.

Box 2. Sacred groves and other consecrated areas

TABO FRANQKUNKO

A large *taba* (*Cola cordifolia*) to the south of the village is held in trust for community use by the Colley Kunda Kabilo. With the permission of the head of the Colley Kunda Kabilo, this tree can be used for prayers for rain.

SANTANDING KUO

This majestic tree (*Santanding* (M), African balsam, *Daniella olivera*) marks one of the previous locations of Dumbutu. This sacred tree, and the land on which it grows, is held in trust for community use by the Darbo Kunda Kabilo; however, only members of the Darbo Kunda Kabilo can pray under this tree.

SOTO JUMBAWULANG

Sacred tree

TABA KUNJURA

Sacred tree

SITA WULINGO

Sacred tree

WIRING DINGATOU

Sacred tree

TABAJELI BALI

This area is a sacred field. According to folklore, anyone who cultivates or grazes his/her animals in this field will run into trouble. If the person laughs while working in this area, they will never be able to stop laughing again. Aerial photographs of the area evidence the fact that this myth acts as a strong deterrent. The area shows up as a wooded area in a sea of cleared fields.

CEMETERY

The cemetery for the village is sacrosanct. The area is reserved for funerals and an occasional honey collector.

ORIGINAL MOSQUE

Only a few marker sticks and a rise in the ground are evidence of the location of the original mosque of Dumbutu. No one can use this land for cultivation or sand extraction.

SHRINES

Various shrines are reported to be located in Faba Forest Park. The team did not see these firsthand.

BANTABAS

There are a number of *bantabas* in Dumbutu. The main *bantaba* (meeting place usually located under a large shade tree) is located in the center of the village. Anyone can use this area as a resting and/or meeting place. Because the location of Dumbutu has changed three times over the course of history, the present-day *bantaba* is located on land given to the community by Colley Kunda Kabilo. Usually, *bantabas* are placed on land not previously owned by any one *kabilo*. Smaller *bantabas* are interspersed throughout the village. Again, these areas are reserved for rest and discussion.

Generally, however, trees found within a compound are “owned” by the person who planted the tree. Others are not allowed to cut ripe fruit from such trees without the permission of the tree planter. Several women expressed an interest in planting fruit trees but reported that they have never received any extension information on establishing tree nurseries or transplanting seedlings.

RESOURCE-USE DISPUTES AND CONFLICT RESOLUTION IN KIANG WEST DISTRICT

In the previous section the diversity of resource tenure arrangements was presented. Different tenure arrangements were shown to be tailored to the particular characteristics of different ecological zones and resource users. The impacts of drought, youth migration to urban areas, and changing environmental and agricultural policies and laws were discussed. Various tenure pressure points were described. This section describes how Dumbutu residents and various other resource-management institutions in the Kiang West District overcome these pressures. In particular, this section describes both the nature of resource-use disputes and the dispute-resolution mechanisms.

Categorization of resource-use disputes in Dumbutu and Kiang West District

The team used the Rapid Rural Appraisal research technique of dispute matrices to gather information on the types of resource-use disputes and the disputants involved for Dumbutu, in particular, and Kiang West District, in general. Constructing dispute matrices with Dumbutu’s acting *alkalo* and imam and the district tribunal for Kiang West provided unique insights into the types and causes of disputes. From these dispute matrices, the RRA team developed a preliminary categorization of resource-use disputes as follows:

- (1) competing claims to a single parcel of land;
- (2) boundary disputes for fields located at the borders of two neighboring villages;
- (3) disputes over the inheritance of rights to land and trees;
- (4) disputes over the right to plant trees on borrowed land;
- (5) disputes concerning crop damage by livestock; and
- (6) violations of various state regulations.

A myriad of individuals and groups are involved in the five categories of disputes. For example, disputes over field boundaries can involve individuals from either the same *kabilo* or different *kabilos*, either the same *kunda* or different *kundas*, and either men or women. The majority of resource-use disputes recounted to the case study team involved an individual’s claim over borrowed land—thus, cases where the “right of original clearer” was being challenged by both short- and long-term borrowers.

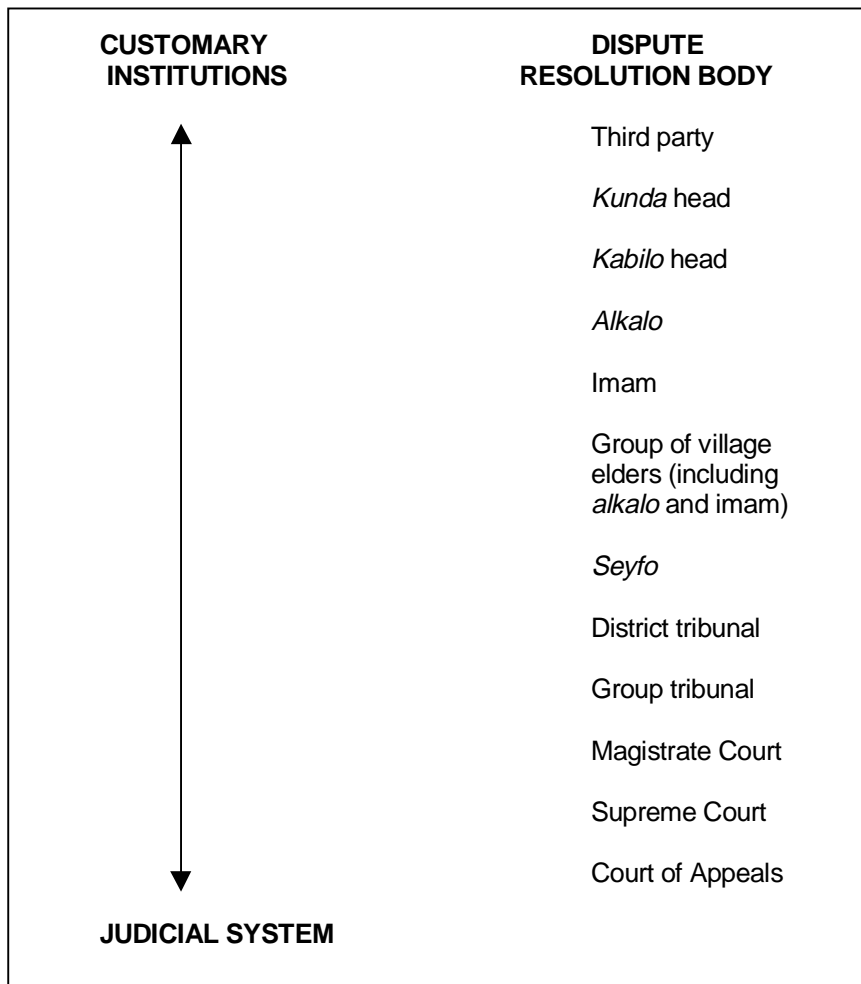
Conflict resolution mechanisms in Dumbutu and Kiang West District

Resource-use disputes are often indicators of tenure “pressure points” that can indicate breakdowns in customary tenure systems or represent clashes between state laws and customary tenure norms. The study of disputes around natural resources is thus a means for identifying the

causes and consequences of change in tenure systems and the success or difficulties communities have in constructing responses to tenure problems.

From interviews with farmers, *kunda* and *kabilo* heads, village elders, the *seyfo* and district tribunal of Kiang West District, and the registrar of the commissioner's office for the Lower River Division, the case study team developed a dispute-resolution schema (see figure 5). This schema depicts what the team has discerned to be the process followed by disputants seeking arbitration for their disputes.

Figure 5 Dispute resolution schema



The steps in this schema share several characteristics. These shared characteristics are compromise, negotiation, compensation, use of witnesses, and use of “standing laws” and also “moral laws.” As one district tribunal member explained, moral laws help govern interactions among people. The resolution of disputes entails careful weighing of several factors, for

example, who the disputants are, their moral character, the moral intent of their actions, and the severity of harm caused by their actions.

For all six of the categories of disputes mentioned above, the residents of Dumbutu try to solve the dispute at the local level. Resolution is first sought by the individuals themselves. If this is impossible, various third parties may intercede. These third parties can be mutual friends and neighbors who make appeals to the disputants to strike a compromise. If a compromise is not found at this level, *kabilo* and *kunda* heads of the disputing parties intercede.

If the dispute still cannot be solved then the *alkalo* may become involved. Colonial observers such as Gray noted that although the *alkalo* does not have judicial powers, “his aid is frequently invoked as an arbiter of disputes” (Gray 1940, p. 492). To this day the *alkalo* plays a key role in dispute resolution. Usually the *alkalo* will bring together the elders and the imam to decide appropriate courses of action. (Sometimes the *alkalo* will request that the village elders remain in the mosque to discuss an important matter after the afternoon prayer.) This group of elders may request that the disputing parties meet with them to choose a course of action. The imam may intercede in his capacity as a religious advisor. The imam may advise a course of action using the teachings of the Koran to guide his advice. This type of action usually occurs in a dispute over the inheritance of property. (The Koran lays out clear rules of inheritance.)

The *alkalo*, the imam, and the group of elders all rely on “expert witnesses” to settle disputes. For example, in a dispute over boundaries between fields, these local leaders will call in people who witnessed the first clearing of the area or who heard firsthand about who cleared the area in question. Certain individuals in the district are well known historians on land matters.

On occasion, disputes remain unresolved at the village level. At this point, the *alkalo* or the disputants themselves can go to the district *seyfo* to ask for his assistance. Like the *alkalo*, the imam, and the other village elders before him, the *seyfo* will strive to settle disputes through informal arbitration. Unfortunately, the case study team did not have time to obtain a clear picture of this informal arbitration process. During the construction of the dispute matrix, the *seyfo* mentioned that he, along with his court of district tribunal members, will meet with the disputants several times to try to resolve a dispute amicably. The *seyfo* may call the disputing parties to the court in Manduar or he may send out one or two of his district tribunal members as emissaries to investigate and try to solve disputes.

Only when these informal arbitration strategies do not succeed does the *seyfo* call a district tribunal hearing. The tribunal possesses the legal mandate to administer the customary law prevailing in the area of jurisdiction of the tribunal insofar that “it is not repugnant to justice and morality or inconsistent with the provisions of any Act or other law in force in the Provinces.”¹⁷

The *seyfo* will set a date for the hearing and notify his district tribunal members. The *seyfo* will also send a letter to the commissioner of the Lower River Division with a cover copy to the executive chairman of the area council. In this letter, he will request that the area council pay the district tribunal members for their travel expenses to and from the hearing and for their sitting

¹⁷ Chapter 6:03 of the “Law of The Gambia” (1990).

allowance. These expenses are paid from the taxes and rates collected by the area council within the Kiang West District.¹⁸

In an effort to provide greater legal backing to the district tribunals, the Ministry of Justice has recently assigned five court scribes, trained in legal note taking, to the five divisions in The Gambia. These court scribes are to travel to all the district tribunal and group tribunal hearings that take place in their division. Their salaries and time are paid by the Ministry of Justice. The case study team was able neither to meet with the court scribe for the Lower River Division nor to look at the court records of the Kiang West District Tribunal. Subsequent follow-up yielded few results since the scribe was often traveling or difficult to locate.

District tribunal members are chosen by the *seyfo* of each district. The *Seya's* selections must be approved by both the commissioner of each division and by the Minister of Local Government and Lands. Once approved, each member can serve until he dies, becomes too old to perform his responsibilities, or the *seyfo* requests his removal by the commissioner. A short survey of correspondences to the commissioner from the various *seyfos* of the districts in the Lower River Division indicates that such requests for removals are rare—there were only three such cases since the 1960s. None were from the Kiang West District.

In the past several years, the *seyfo* and the district tribunal members have been increasingly called upon to arbitrate cases involving Forestry Department officials and either individual villagers or the *alkalolu* of particular villages. Most of the cases Forest Department officials bring to the district tribunal involve a supplication to punish those who have set forest or bush fires or those who have illegally entered forest parks to cut timber or clear land for agriculture or a new settlement.

On occasion, the decision of a district tribunal may be appealed by one or both of the litigating parties. There are two avenues for those seeking appeals. The appealing party can write to the commissioner of the division in which the district tribunal operates. If the party makes a strong case, then the commissioner can call together the group tribunal. Group tribunals are composed of approximately six to seven members. The members are chosen by the divisional commissioners and approved by the Minister of Local Government and Lands. The members are usually well-respected *seyfo* who have served on district tribunals. Their terms are similar to those of the district tribunal members.

Until recently, the group tribunal for the Lower River Division (LRD) has been an anomaly. For administrative reasons, the LRD and the North Bank Division (NBD) have shared one group tribunal. Because travelling time became so onerous, this situation was changed in 1991. Now LRD and NBD have their own group tribunals. The *seyfo* for Jarre West District is the president of the group tribunal for the Lower River Division. He deliberates with five other *seyfos*, one of whom is the *seyfo* of Kiang West District. The *seyfo* for Kiang West District was chosen because of his knowledge of Islamic precepts as well as his long-standing position on the district tribunal for Kiang West.

In practice, the group tribunal acts as an appellate court to the district tribunal. A review of the commissioner's correspondences relating to the group tribunal for the LRD indicates that the

¹⁸ The *alkalolu* also receive a certain percentage of the revenue the area councils generate from their tax- and rate-collection activities. Since their collection activities are never complete, this resulting percentage never amounts to very much money.

appellate jurisdiction of the group tribunal over the district tribunal has been a debated issue. On the one hand, the Ministry of Justice does not recognize group tribunals as court of appeals to the district tribunals. On the other hand, the Ministry of Local Government and Lands along with their commissioners act as though group tribunals are appellate courts. These officials see group tribunals (as well as district tribunals) as the institution responsible for deciding cases pertaining to customary and, to some extent, Islamic laws in their jurisdiction.

The RRA team was able to look at the court records for the LRD group tribunal. These records showed that in 1992 the group tribunal deliberated upon:

- ◆ one land dispute;
- ◆ one case of using insulting language to a woman's mother; and
- ◆ three cases of divorce—one because of insufficient maintenance by the husband for the wife and two because of dislike by one of the spouses for the other spouse.

Although not from the case study district, the land dispute case heard by the group tribunal illustrates some of the common elements of the land tenure system of Kiang West District. For this reason, the particulars of this case are highlighted in box 3 .

If the disputants in a case brought before the district tribunal do not concur with the decision, they can bring their case into the “formal” judicial system. In this case the disputants would need to hire lawyers who could bring their case before the Magistrate Court, the Supreme Court, and the Court of Appeals.

Interviews with the acting *alkalo* and imam of Dumbutu

The case study team interviewed both the acting *alkalo* and imam of Dumbutu to gather information on the types of resource-use disputes that they assist in resolving. The acting *alkalo* was very reluctant to discuss disputes or even to admit that they exist. The team attributed his reticence to his advanced age and to the fact that he was very conscious of his status as acting *alkalo*. He appeared not to want to create any waves that might cause problems for his successor. (In many villages in The Gambia, village leadership tries to portray a picture of serenity and harmony to outsiders.)

The interviews with the imam of Dumbutu proved to be more fruitful. From this interview and subsequent discussions, it became apparent that the imam is Dumbutu's main arbitrator. The team asked the imam to rank the frequency with which he intercedes in resource-use disputes. Instead of asking the imam to give us a list of these disputes, the team presented a pre-designed matrix with six categories of resource-use disputes and three categories of disputants.

The team went back to the imam to ask him to rank the frequency of the disputes which only involved Dumbutu residents. While the results of this second interview were constructed into a dispute matrix, the imam provided many scenarios to illustrate the types of disputes he arbitrates. These scenarios are described below.

Box 3 Yabou versus Jawara: Case of competing claims of ownership over one piece of land

This case involves competing claims over one plot of land—two male farmers have claimed “ownership” of one plot of land. Numo Yabou, the plaintiff, is a farmer from Kunong. Sorry Jawara, the defendant, is a farmer from Kunong Mansasansany (present-day Nema). In claiming ownership over the disputed plot of land, Yabou requested that Jawara “return” the disputed plot to him. Yabou argued that Jawara was only a “borrower” of the land. In his defense, Jawara claimed that he was not a land borrower but, instead, the rightful owner of the land in question. Thus, Jawara denied that Yabou had any customary standing from which to request the return of the plot of land.

In order to prove their claims of ownership, both the plaintiff and the defendant relied on expert witnesses. These witnesses were to provide evidence of ownership by telling the history of the clearing of the disputed land. Yabou's claim of ownership rested on the evidence that he inherited the land in question from his forefathers who were the original clearers of the land. Jawara's claim of ownership rested on the evidence that the land was virgin land when he started cultivating it.

Yabou and his witnesses argued that Yabou's great-great-grandfather, who was among the first settlers in the area, cleared the plot of land in question. They also argued that Kunong was the first village to settle in the area. Since Kunong was a “founding village,” it was the responsibility of Kunong elders to give land for settlement and cultivation to the newer village of Kunong Mansasansany. Yabou and his witnesses stated clearly that the gift of the agricultural land was only a loan; the residents of Kunong reserved the right to recall the loan.

Jawara and his witnesses argued that the land was “bush with lots of trees.” Jawara and his witnesses argued that Jawara himself land was not being cleared the disputed plot thirty (30) years ago. He felt that if the used, it was his prerogative to clear and cultivate it.¹⁹

Ultimately, after a full day of deliberation, the group tribunal members decided in favor of the plaintiff, Yabou (which concurred with the decision of the district tribunal). Their decision was based on the principle of first settlement. Since Kunong was the original founding village, Kunong was the “landlord” of Kunong Mansasansany. Thus, the farmers of Kunong Mansasansany were indeed land borrowers and had to return land at the request of their “landlords.” However, in issuing their judgment, the group tribunal members stated a concomitant principle—if a person is in need of land to grow crops for his/her survival then it is the obligation of the “landlords” to provide him/her with land. The following quote from the court records illustrates these aspects of the judgment:

Any land you see belongs to somebody. If you are using somebody's land and he or she needs it back please return it to avoid conflict. The defendant and his witnesses did not give any good evidence here. If at all the defendant is [looking to farm so as to feed himself, one could understand. In reality the land belongs to Yabou... Villages settle one after another. You, the defendant, stated here that the plaintiff is your landlord because he settled before you. It is obvious that the said land is his. Everybody has land but if you leave your place and go to another place, then your landlord owns the land. He, the landlord, has the right to give you where to work and feed your self. It does not necessarily mean that you should own it. Anybody who allows someone to settle in his place, should give the individual a place to farm. You should return this said land.”²⁰

¹⁹ In fact, Jawara seemed to indicate that it was a God-given right to develop “unused” land. When this case was heard first by the district tribunal, Jawara refused to swear upon the Koran before giving testimony because, as he stated, “all land belongs to God.”

²⁰ Numo Yabou versus Sorry Jawara, a case heard before the LRD Group Tribunal, Saturday, 22 February 1992, at Kwinella, J. Darboe, Court Scribe.

(1) Upland disputes: Upland disputes generally revolve around questions of who owns what piece of land. One scenario given by the imam was a case in which two men from Dumbutu claimed ownership over one piece of upland farmland. Both claimed that their respective forefathers had cleared the land, thus vesting each of them with inherited usufruct rights over land. In this particular type of land dispute, the imam told us that he would call in witnesses who could testify as to the original clearers of the land. After the witnesses' testimonies, the imam would request the disputant at fault to give up his claim.

The imam noted that similar cases have surfaced between Dumbutu and other villages. In one instance a farmer preparing his fields for rainy season planting encroached onto the field of a farmer from a neighboring village. In such a case, both the imam from Dumbutu and the imam and *alkalo* of the other village would need to intercede. A visit to the area in question would take place and the border would be reaffirmed by witnesses knowledgeable about the history of the particular land parcel.

Upland farmland disputes also occur between Dumbutu residents and stranger farmers. Stranger farmers who have been long-term borrowers of land may try to claim possession of land given to them for their use by a Dumbutu compound head. Resolution of these types of cases would be clear-cut—possession of land remains with the Dumbutu compound head.

(2) Rice land disputes: Disputes over rice land follow a similar pattern to disputes over upland fields. The imam noted that two women farmers may claim ownership over one piece of land. In order to resolve such a dispute the imam would call in witnesses. In most instances these witnesses would be men, who could attest to the original clearing of the land.

The imam also described a scenario of an intervillage dispute over rice fields involving a woman farmer from Dumbutu as a borrower of a Batelling rice field. Because of the longevity of the borrowing term (five to six years), the Dumbutu farmer began to claim ownership over the piece of land. To resolve the dispute, witnesses had to be called in to identify the original clearers of the land in question. The imam noted that similar disputes have arisen between Dumbutu and Wurokang.

Disputes over rice land involving Dumbutu residents and stranger farmers also have occurred. These disputes arise during the time of harvesting rice. Sometimes the stranger farmer is required to pay a rent for the use of rice land and lodging. This payment can be in cash or in kind. Disputes arise when the stranger farmer refuses to pay or contests the amount of payment. The imam noted that stranger farmers have been known to come from Senegal, the Casamance, and the Foni Districts in The Gambia.

(3) Trees: The scenarios the imam described for the team's category of "trees" mainly involved disputes over planted trees. It is important to note that the team members did not ask any questions concerning disputes over forested lands or disputes over naturally regenerating trees. Likewise the imam did not mention any such disputes.

The imam provided the following scenario to illustrate a dispute over trees involving Dumbutu residents. It has happened that when a man who has planted a tree subsequently dies, another person (possibly the owner of the land) can assume the responsibility of watering and caring for the tree. If, after some time passes, the son of the man who planted the tree claims ownership of the tree, a dispute may arise in which the caretaker claims ownership over the tree. The imam stated that resolution of such disputes is clear-cut—the act of watering and caring for

the tree does not confer rights of ownership over the tree. The son of the tree planter inherits ownership rights to the tree.

(4) Animals: The imam presented two scenarios of disputes concerning animals. One type of dispute involves crop damage by livestock and small ruminants. Resolution of these types of disputes obliges the livestock herder to compensate the farmer for the crop loss. If the herder (or owner acting on behalf of the herder) argues with this resolution, the imam can fine either the owner or the herder 5–15 dalasis.

The imam described a different type of intervillage dispute concerning animals. Herders from Dumbutu often herd cattle for owners from Sankandi, and on occasion, disputes arise when the cattle owners state that they gave more cattle to the herder than what was returned to them. Resolution of such disputes again rests on the testimonies presented from eyewitnesses.

(5) Water: Disputes over water have increased over the past decade as more borehole pumps have been introduced into the village of Dumbutu. Our interview with the imam corroborated the comments of others who reported an increase in disputes over the filling of buckets at these pumps. These disputes can take two forms. Women may argue that another woman is being greedy if she fills more than one bucket at a time while others are waiting to fill their single buckets. Another type of dispute may arise when a Dumbutu host cuts into the water line to fill the bucket of his/her stranger/guest.

The research team asked the imam two questions at the close of the interview: “Can women inherit land and have there been disputes concerning women’s inheritance of land?” The imam answered our first question in the affirmative—women can inherit land from either their mothers or their fathers. Because of time constraints, the imam was only able to give us one example of a dispute involving women and land inheritance. As the imam described, disputes can arise when a father fights with his son-in-law over the use of a piece of property. The father has the right to “take back his daughter.”

Conclusion: The discussions with the acting *alkalo* and the imam of Dumbutu about disputes suggest that in the past there were more disputes over upland fields as compared to today. One reason for this trend may be that, as stated earlier, there has been a reduction in pressure on land. There are fewer people demanding access to land either to cultivate or to settle.

Interviews with *seyfo* and district tribunal members of Kiang West

District tribunal members identified twenty-one different types of disputes which they are called upon to arbitrate. The district tribunal members narrated each of these dispute types with hypothetical dispute scenarios. These scenarios gave the RRA team insights into the uniqueness of the cases falling within each dispute-type category as well as how some of these disputes have been resolved.

(1) Divorce: All of the district tribunal members noted that the number of divorce disputes brought to their attention have increased considerably over the past few years. In fact, they stated that divorce cases form the majority of all their cases. When asked why this is so, the *seyfo* responded that divorces are more frequent because “young people do not obey their elders.”

The district tribunal presented two scenarios to illustrate possible grounds for divorce. The grounds for divorce could occur if either a man asks his wife either to cook and clean and the wife refuses or a wife cooks something the husband does not like. Divorces may occur if a wife

goes somewhere without informing her husband first. As the district tribunal members told the team, in the case of divorce, a woman can not claim possession of any of the land she may have been farming extensively but that “belonged” to her husband’s family. As a rule, women obtain land from their husbands. However, there have been isolated instances when a husband may grant his ex-wife use rights to land so long as she is responsible for the care of their children.

(2) Disputes over upland fields: Two scenarios were presented by the district tribunal members for disputes over upland fields. One scenario involved disputes over the inheritance of parcel ownership between the descendants of land borrowers and the descendants of land “owners.” This type of dispute occurs when land has been lent “for a long time.” To resolve such disputes, district tribunal members usually call in witnesses who are knowledgeable about the history of the disputed parcel, that is, who witnessed or heard firsthand about the clearing of the parcel.

Disputes over upland fields also can occur between two villages. As the imam of Dumbutu also reported, these disputes arise when a farmer encroaches onto farmland falling within the territory of another village. To resolve these types of disputes, the district tribunal members rely on witnesses who can testify as to the correct boundaries between villages. The tribunal members affirmed that each village has distinct territorial boundaries known by the *alkalolu*. Thus, in many cases, these witnesses are the village *alkalolu*. The farmer who encroached is then asked to cease his/her cultivation activities.

(3) Disputes over rice fields: The district tribunal members described scenarios of disputes over rice fields which were similar in nature to the scenarios given for disputes over upland fields. Both categories of dispute revolve around competing claims of ownership and boundary disputes. Likewise, resolution mechanisms involved the calling in of witnesses who could attest to the original clearers of land. The district tribunal members noted that the frequency of disputes over rice fields has increased dramatically over the past decade.

(4) Personal debt: These disputes arise when individuals default on personal money loans. Because of time constraints the RRA team did not delve further into resolution mechanisms of this category of dispute.

(5) Fighting: Because of time constraints the RRA team did not request a description of this category of dispute.

(6) Spacing for new houses within compounds: These disputes arise when an individual or family wishes to build a house within his/her family compound and others in the compound refuse to allow construction. Because of time constraints the RRA team did not delve further into resolution mechanisms of this category of dispute.

(7) Theft: Because of time constraints the RRA team did not request a description of this category of dispute.

(8) Insulting language: Because of time constraints the RRA team did not request a description of this category of dispute.

(9) Dispute over the custody of children: Because of time constraints the RRA team did not request a description of this category of dispute.

(10) Fire: As the tribunal members described, disputes can arise if the identities of individuals who started a bush fire are contested. Resolution of such cases rests on the evidence presented by the litigants. In some instances, the district tribunal members must also visit the site of the bush

fire in order to investigate the damage. The district tribunal can impose a penalty of 300–500 dalasis and/or sentence the guilty party to a period of imprisonment. If no guilty party can be found, the tribunal members can fine the *alkalo* of the village where the fire started. Many of these cases involve Forestry Department officials as litigants.

(11) Adultery: Because of time constraints the RRA team did not request a description of this category of dispute.

(12) Crop damage by livestock and small ruminants: These disputes arise when livestock damage a farmer's crop. In some cases, the farmer takes matters into his/her own hands and may beat the animals to death before trying to obtain compensation from the herd owner. Because of time constraints the RRA team did not delve further into resolution mechanisms of this category of dispute.

(13) Planted trees: The tribunal members presented the scenario of the rights of trees planted on borrowed land. As they described, land is often lent on the condition that no tree planting take place. If the land borrower goes against this condition, the landowner has the right either to destroy or take possession of the tree at the end of the borrowing period. However, the district tribunal members noted that in some cases in which the land borrower did not intend to cause the landowner an "inconvenience" by planting the tree, the district tribunal members may decide in favor of the land borrower. In these instances, the case is not brought before the court and the land borrower may retain his/her rights to the planted tree.

(14) Forests: Within this category, several different types of disputes can arise. As the district tribunal members explained, cases can involve farmers who clear land within designated forest parks. Other types of cases involve violations against regulations stipulated in the Forest Law, for example, the starting of bush fires and cutting firewood and building poles without a permit. In all these cases, Forestry Department officials become litigants in the disputes.

(15) Violation of *tongo*: *Tongo* is an "embargo" placed on selected species of trees by edict of the *alkalo*. Once *tongo* has been declared for such species as baobabs, mangoes, and locust bean, children and young adults are forbidden to cut any fruit from these species. *Tongo* is a means for ensuring that fruits are allowed to ripen to maturity and are protected from theft. As the district tribunal members remarked, an *alkalo* has been known to bring the violator of a *tongo* to court. In these cases, the culprit has refused to pay a fine imposed by the *alkalo*. The *seyfo* would then require the culprit to pay a fine exceeding the 5 dalasis fine set by the *alkalo*.

(16) Neglecting *kafo* community services: The district tribunal members reported that these types of disputes are occurring with greater frequency than in the past. Disputes arise when "young men" refuse to join their peers in undertaking various community activities. Because of time constraints the RRA team did not delve further into resolution mechanisms of this category of dispute.

(17) Animal injuries: These disputes arise when two animals belonging to different herd owners fight and injure each other. To resolve such cases, the tribunal members impose fines if evidence is presented that one owner has sharpened the horns of his cattle to make the animal a better fighter.

(18) Jealousy between co-wives: Because of time constraints the RRA team did not request a description of this category of dispute.

(19) Motorcycle, bicycle, and cart accidents: Because of time constraints the RRA team did not request a description of this category of dispute.

(20) Breaking of *seyfo* edicts concerning new settlements: These disputes arise when a group tries to establish a new settlement without the prior approval of the *seyfo*. Because of time constraints the RRA team did not delve further into resolution mechanisms of this category of dispute.

(21) Nonpayment of organizational loans: These dispute cases involve individuals who default on revolving loan funds sponsored by various NGOs. Because of time constraints the RRA team did not delve further into resolution mechanisms of this category of dispute.

(22) Nonpayment of compound taxes: These dispute cases involve individuals who purposefully do not pay government compound taxes. As proof of eroding moral values, one district tribunal member noted that some people actually specialize in not paying these taxes. Because of time constraints the RRA team did not delve further into resolution mechanisms of this category of dispute.

POLICY REFLECTIONS AND RECOMMENDATIONS

The case study generated a variety of policy recommendations, which are presented below. The first section presents the views of various rural interest groups expressed during interviews and village meetings. The subsequent sections present the reflections of the research team as they contemplate the future of the Kiang West District. The purpose of the case study research was not explicitly directed toward the generation of an exhaustive set of policy recommendations; yet through the course of the research and a general village meeting, it is inevitable that policy recommendations will surface.

Policy recommendations of resource user groups

Men farmers

The establishment of the Kiang West National Park has generated considerable ambivalence. During several public discussions it was noted that the national park could bring much development to the Kiang West District in the form of community development projects and local employment. Respondents hoped that the generation of local employment through tourism and park developments would help to reverse out-migration. Yet on several occasions, people expressed severe reservations. “We are being destroyed, rather than helped by it,” remarked one man. Another said, “Do not turn all of Kiang West District into a forest park—leave some forests for ourselves.” Another noted, “The Gambia is being turned into a forest park.” These comments all express a concern that government is instituting excessively harsh restrictions on land use. Respondents feared that the Kiang West National Park could bring ever-tightening limits on freedom of settlement, rice cultivation in lowlands, livestock grazing, fishing, the use of fire as a management tool, and forest-product gathering.

The overriding concern of men expressed both at a village meeting and with the district tribunal was the problem of bush pigs. Men strongly recommended that various measures be taken to kill the bush pigs coming out of the Kiang West National Park and the forest parks, including bringing in the military to hunt the pigs, constructing better fences around the forest

parks, using poison baits, and simply authorizing entry into the reserves to hunt freely. Observations were frequently made that the restrictions on bush fires and hunting have led to the increase in the population of bush pigs. In the past, the elderly recounted, intervillage cooperation used to be organized to kill bush pigs. Fires would be set in a coordinated fashion to channel pigs into a specified area and hunters would gather to kill as many fleeing bush pigs and other wild animals as possible. Even though fires are now restricted, it was also noted that there are no longer even enough youth to organize these intervillage hunts.

During one gathering, villagers noted that the Kiang West District is sparsely populated in a country that is otherwise experiencing land shortages. Non-residents contact villagers in the district requesting land and thus fears are rising that land shortages could occur in the future. Complaints were raised that the government ban on the creation of new villages within Kiang West National Park is a serious constraint. “We can do nothing about this, but it is against our will,” said one interviewee.

Reservations were raised about the ban on fires within the forest parks and Kiang West National Park. Fire, many argued, is an essential management tool for clearing fields. Several respondents noted that fires do escape the confines of fields and burn down state forests. For this reason, one respondent suggested, it is important to promote early burning, just after the harvests. This would minimize damage to forests if the fires spread out of control.

Fears were raised by the residents of Dumbutu that the Forest Parks Service, supported by the Gambia-German Forestry Project, was engaging people from outside Dumbutu. This concern reflected the preoccupation of Dumbutu residents that employment should be generated for its own youth as a means to reduce rural-urban migration. On several occasions respondents stressed the importance establishing employment-generation projects.

Men and women complained of the severe labor shortage in Dumbutu. As one man remarked in the village meeting, “We only cultivate 20% of our land because of the departure of young people.” Blame was placed on the public school system. It was noted that often young people leave the village as soon as they finish primary school in order to attend secondary schools. While one parent noted, “We obey government by sending children to school,” there is not enough labor around to protect fields against bush pigs and other pests.

Women farmers

During a visit to the valley rice fields, women of Dumbutu expressed the strong need to construct new dikes across the valley floor to facilitate rice cultivation. The Freedom from Hunger Campaign had constructed a series of dikes, but these have been breached by the strong flow of water down the valley.²¹

Like the men of Dumbutu, the women felt that pests were key constraints to agricultural production, especially in the rice lands. Bush pigs come in from the forests to destroy crops, and baboons and birds eat harvests. Insect pests, such as termites, consume rice seedlings.

The poor condition of roads between the rice fields and the village was lamented. Women *kafo* representatives stressed that marketing of vegetables from the garden was a key problem.

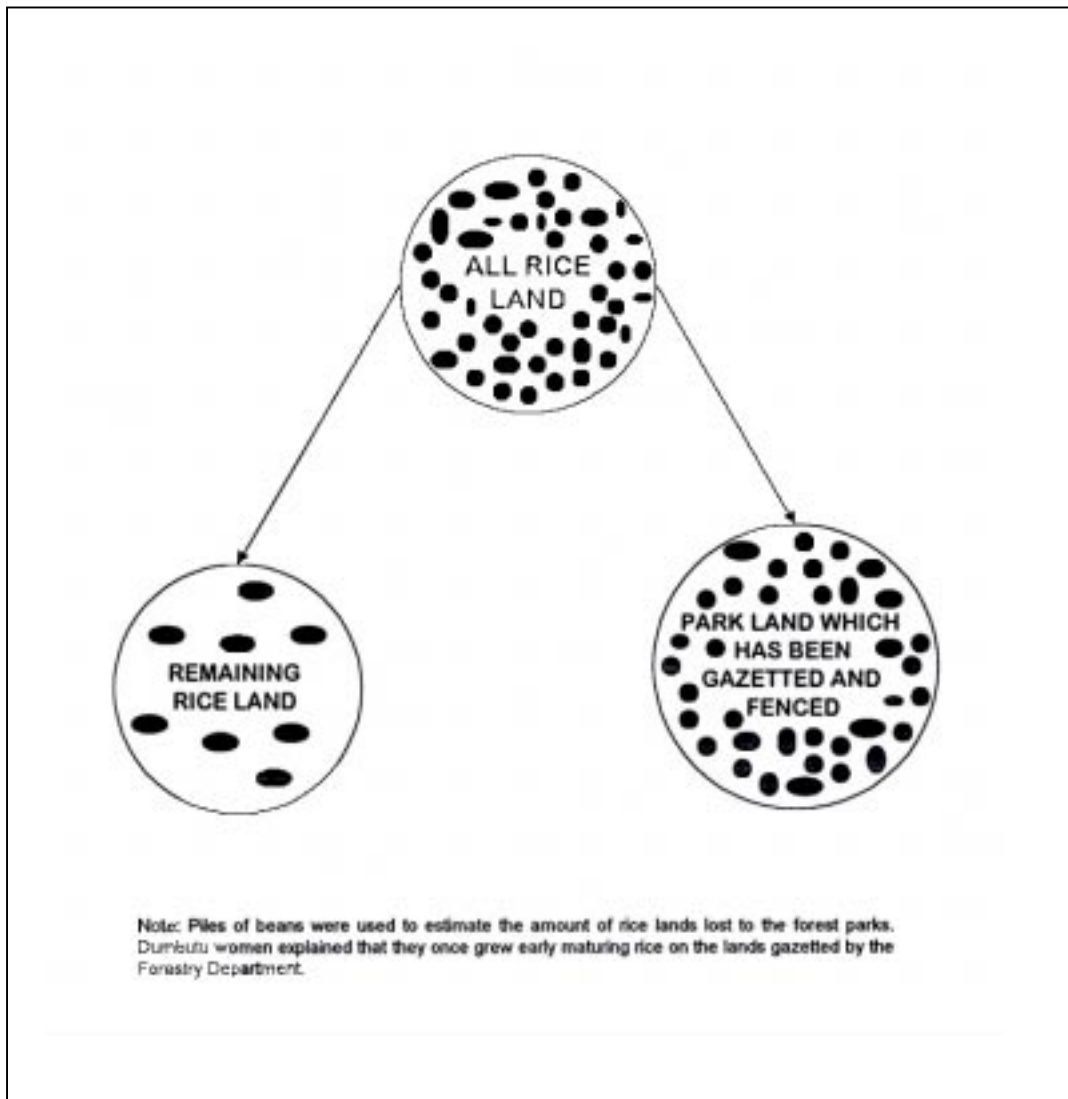
²¹ Following advice received from team members during this case study, the women of Dumbutu contacted the Soil and Water Management Unit to present a request for assistance in constructing new dikes. Worked on new dikes subsequently commenced in mid-1994.

The oversupply of vegetables during the dry season often leads to low prices. This hinders the ability of the women's garden group to repay loans to Action Aid.

Women rice farmers in Dumbutu were very adamant about what they considered the expropriation of rice cultivation areas in the main valley by the forest parks. From their perspective, well over three-quarters of the rice lands have been taken by the forest parks (see figure 6). While this may be an exaggeration, it nevertheless reflects a deep-seated source of resentment. The fence and the service road of the Faba and Mutaro Kunda Forest Parks reaches down along the borders of the valley used by Dumbutu women for rice cultivation. The land placed within the forest parks is said to be land used during high rainfall years for rice cultivation, though at present these fields are not cultivated due to the lack of rainfall.

The women recommended that hand pumps be installed in the garden to facilitate daily watering.

Figure 6 Loss of *faro* rice fields to forest parks



Livestock owners and herders

The Fula herders noted the problem of conflicts between livestock owners and women rice cultivators caused by crop damage from cattle seeking to gain access to water along the valley in the early dry season. The herders recommended that a borehole be dug in the upland grazing areas so that the need to water animals in the valley would be reduced, especially at the time of the rice harvest.

Livestock owners in Dumbutu complained that the Livestock Service no longer vaccinates livestock and that “now cattle die.” For six to seven years the Department of Livestock Services had carried out a vaccination campaign of cattle, but after the problem was controlled, the program stopped.

Policy reflections of team members: Tenure, decentralization, and community-based resource management

The analysis of the tenure and resource management situation in the Kiang West District and the village of Dumbutu suggests that there are few extremely severe tenure “hot spots” at this moment. Rather, there are several latent tensions that could become in the future contentious public policy issues. The populations of the district appear to have sufficient land to pursue cultivation and livestock raising without provoking major land conflicts at this time. Conflicts are not generally due to land shortages since extensive labor migration out of the district reduces the likelihood that shortages will occur in villages like Dumbutu. When disputes do arise around natural resources, there are a variety of mechanisms to resolve the contentious issues. These conclusions are based only upon the study of one village in the district and discussions with various government officials, yet we sense from these sources that our conclusions are on the right track.

Labor migration from villages like Dumbutu serves as an escape valve reducing pressures on land, though this may be short-lived. In the eventuality that a substantial labor force were to remain in the village, there could suddenly be a land shortage—one exacerbated by the presence of the state reserves on the three sides of the village. Dumbutu possesses little remaining area on which to expand agricultural production. Various factors could push the migrant labor force back to the village. Immigration policies designed to restrict the presence of foreign labor in European and neighboring West African countries, coupled with few employment opportunities in the Greater Banjul area, could force youth to return to Dumbutu. Alternatively, agricultural incentives such as higher prices for food and cash crops, improved credit, and sufficient amounts of seeds could encourage youth to remain in the village to farm the land. If this were to happen, demand for lands would increase and, most likely, conflicts over access to suitable land.

The migration of roughly half of the young people out of Dumbutu has resulted in a severe labor shortage, a situation found in several other parts of The Gambia. Development projects to promote the conservation and regeneration of natural resources in the district should be very mindful of this constraint. The construction of water retention dikes, tree planting, bush fire control, and other soil and water conservation activities generally requires the investment of considerable community labor. Labor availability is limited, especially during the dry season when a substantial part of the youth labor force leaves the village.

Tenure constraints in the holdings

(1) Land: The current customary land tenure system of Dumbutu provides sufficient security to descendants of early settler families and sufficient amounts of land to land borrowers. This is because agricultural production is in decline and thus this reduces the demand for land. Groundnut production no longer generates extensive revenues in the local economy and thus less land is placed into production. Labor out-migration is extensive because youth have no means of cash income and thus search for employment in the Greater Banjul area and overseas. The remaining labor force of older men, women, and young children cultivate lands within close proximity to the village and rarely clear new lands.

The tenure system in Dumbutu is sufficiently flexible for it provides anyone who needs to cultivate adequate amounts of land, even if only loaned out on a short-term basis. However, land borrowers may not necessarily obtain access to the most fertile nor well-protected lands because these prime areas are reserved for the landowners themselves.

The land surplus situation occurs primarily in upland areas. Women do not possess adequate rice-growing fields due to the loss of prime lowlands to salt water intrusion. This is a consequence of the changing water regimes of the River Gambia due in part to extended years of low rainfall. Lands best suited to rain-fed rice production are scarce and highly prized. These are located in the middle and upper reaches of valleys. For this reason, development projects aimed at improving rice production through the use of water harvesting technologies are of much interest to the women.

The customary tenure arrangements in villages like Dumbutu depend on the ability of community members to remember land borrowing and ownership arrangements. This knowledge is held primarily by the elderly descendants of first-settler families. These elderly men constitute the membership of the district tribunal, a key judicial body consulted by the community to resolve conflicts over land ownership and borrowing practices. The reproduction of knowledge about land ownership patterns may be lost in the future because youth leave the village and fail to learn the complex tenure arrangements from the present generation of elderly.

The influence of state reserves on tenure arrangements in the Kiang West District is pervasive. Customary tenure arrangements were abolished following the creation of the forest parks and Kiang West National Park over vast areas of land once under the control of villages contiguous to these areas. Initiatives by the Forestry Department to protect the three forest parks have been successful in that the fenced-off lands are most likely no longer as heavily exploited as in the past. However, the enforcement of state control over the forest parks has resulted in the reduction in the size of rice fields available to women located along the borders of one of the forest parks. This has naturally frustrated women confronted by a shortage of prime rice growing lands. While Dumbutu residents currently have access to adequate amounts of land for cultivation, possibilities for expanding field crop cultivation are severely limited by the presence of the forest parks and Kiang West National Park. In the long term, agricultural production must be intensified, though a wide array of institutional and technical obstacles impede intensification.

The customary tenure system works in tandem with the extensive agricultural system. Flexible borrowing arrangements are essential for maintaining the fallow systems. The ability to borrow land at little or no cost facilitates farming because the cultivator possesses maximum flexibility to choose land needed to meet particular cropping needs. Labor-surplus but land-short households can obtain land for cultivation without incurring high transactions costs since land-

borrowing arrangements are negotiated with village landowners. The conversion of customary tenure relationships to a leasehold system as permitted under the 1990 Lands Act might result in the emergence of rigid borrowing arrangements. The flexibility of the present tenure system could be lost if landowners fear that borrowers might use the law to acquire permanent claim to borrowed land.

(2) Trees: The traditional tree tenure system appears to be adequate. Naturally growing trees in cultivated fields are open-access resources except when *tongo* occurs. The community is cognizant of forestry regulations and the economic utility of many different types of trees. Trees with edible fruits are generally left in the fields though the density may not be high. Landowners can plant trees on their own land with no restrictions. Both landowners and land borrowers avoid planting trees on borrowed land for this can generate conflicts over inheritance at a later date. Trees can be planted in compounds by landowning and land-borrowing families, though women need permission from husbands. Ownership of trees generally appears to be vested in the person who planted them. Conflict-resolution mechanisms exist to resolve disputes over tree ownership.

The populations of Dumbutu and other villages are quite unequivocal about the fact that borrowers do not have the right to plant trees. Closer investigation suggests that this rule is not as steadfast as it might appear. While landowners confront few constraints to establishing orchards on family lands because of their historical rights to land, long-term borrowers can negotiate tree planting rights. Success in negotiating rights to plant trees on borrowed land depends on whether the landowner considers the borrower to be a well-established and long-term resident of the community. The tenure system discourages non-resident speculators from acquiring land for fruit tree orchards. Considerable latitude may exist in the tenure system for establishing legally recognized contractual agreements that meticulously spell out the terms of a loan. Government can play a role in encouraging the preparation and recording of written contracts spelling out uses of land and trees.

(3) Livestock manure: Manure is a private good controlled by the livestock owners of Dumbutu. Preferential rights to limited supplies of manure exist within the community of Dumbutu. Cattle owners monopolize access to manure and severely limit distribution to non-cattle owners. Fulbe cattle herders are some of the few fortunate to obtain access to this scarce resource. Demand for manure far exceeds supply in Dumbutu. Manure seems to be applied exclusively on the fields of the wealthy cattle owners. Villagers recognize that yields are higher on these fields but manure contracts do not exist because of the short supply and its preferential use by cattle owners. This leads our team to suspect that disparities between the wealthy cattle owners and non-cattle owners will be maintained, if not increased, in part because the latter possess few means to increase soil fertility.

(4) Livestock water points: Ownership of the four wells used for livestock watering located along the fringes of the Dumbutu rice fields is in the hands of the cattle owners. Conflicts exist between the cattle owners and the women rice cultivators due to crop damage caused by cattle during the early dry season. Compensation is paid for damage to rice fields, but this interface between livestock production and rice farming is an ongoing source of tension in the community. The problem is exacerbated by the fact that key upland watering points (pools of water collected in lowland depressions) used during the early dry season are located within the forest parks and national park where access is now severely limited by the Forestry Department. The suggestion by the Fulbe cattle herders to construct wells in upland areas away from the rice fields merits consideration for it represents a strategy to reduce tenure conflicts in the community.

Tenure constraints and state reserves

(1) Kiang West National Park: The specter of the Kiang West National Park looms over the district. Unless the park authorities soon develop improved relations with the communities surrounding the national park, expressions of hostile resistance will surface and undermine the long-term ecological and economic viability of the park. For a village like Dumbutu, surrounded by three forest parks and the Kiang West National Park, the long-term tenure situation is rather perilous. As rights of access to the forest resources are progressively restricted by park management, village residents risk losing sources of income generated through livestock production, fisheries, oyster collection, and the sale of forest products. This case study has shown that the residents of Dumbutu have lost upland and lowland rice fields, access to forest products commercialization, rights to unrestricted hunting, control over fire as a management tool, and freedom of settlement. The Technical Advisory Committee (TAC) of Kiang West National Park has been created as an advisory body of non-elected members and it has no decision-making powers. The community possesses few formal mechanisms to influence the decisions of park authorities.

At this moment, the parks generate a variety of benefits for individuals within the community: salaried and part-time employment, scrap firewood from logging activities, the hiring of women from the surrounding villages to clear firebreaks, and engagement of village-based enumerators. Yet individuals also bear some of the costs of the reserves. Bush pigs and other wild animals may destroy some or part of field crops. Grazing reserves may have been restricted thus affecting the health and growth rates of livestock. The key to the future of the reserves will be to identify and measure who incurs the costs and who receives the benefits. In principle, for an optimal economic balance to be assured, the net beneficiaries should be able to compensate the net losers.

The source of greatest current frustrations for the community of Dumbutu is the infestation of forested areas by bush pigs. Throughout the study villagers lamented the damage caused to field crop harvests by marauding bush pigs. Dumbutu residents believe that the bush pigs seek refuge in the Kiang West National Park and the forest parks and feel powerless to confront the problem. The community has lost the means to control the population explosion of bush pigs and hence damage to field crops is excessive. From the villagers' perspective, bush fires are an important instrument in controlling the numbers of bush pigs, but fires are severely sanctioned by government. Bush pigs can be shot by hunters, but shells are of limited availability. This is a tenure problem because the community cannot regulate for themselves a particular natural resource—the bush pig.

The “Kiang West National Park Integrated Conservation and Development Project Planning Report” stresses the importance of building popular support for the national park. Various mechanisms are suggested for increasing public commitment to the park. These include allowing continued access of the community to the parks for subsistence uses, permanent and seasonal employment for residents bordering the park environmental education, development of a legitimate Technical Advisory Committee, promotion of sustainable agricultural development activities, and distribution of a percentage of fees collected from tourists visiting the park. These initiatives must be put into place in the near future. Otherwise, the villagers living around the park will come to see current restrictions in access to the natural resources of the park as profound threats to the community's livelihood.

Experience from other parts of Africa suggests that both passive and active forms of resistance to the park may emerge out of conditions of frustration. This can include overt forms of resistance such as cutting perimeter fences to forest parks, poaching, lighting forest fires in the park, or cutting down planted trees at the perimeters. Resistance can take on more covert forms such as not participating in public education programs or community development activities sponsored by park authorities. Community leadership, especially that of the elders, may fail to give full blessing to park administration initiatives to limit public uses of the park. Better “buffering” strategies may need to be developed between the communities living around the forest reserves and forest park administration.²²

The three forest parks and the Kiang West National Park have been created for a multitude of public purposes. The goals of promoting biodiversity, regeneration of degraded woodlands, and income generation from tourist development within national parks are certainly laudable. Development projects designed to mitigate the effects of the park have not yet generated benefits commensurate with the progressive constriction of access rights to the park. A priority must be placed by park authorities and donor agencies on setting up income-generating activities or else current public acceptance of the park will quickly vanish.

The Technical Advisory Committee lacks the institutional capacity to carry out its advisory functions. The advisory committee membership representation comes from villages contiguous to the national park, and indeed the committee has succeeded in ensuring that park authorities hire labor from their villages. The TAC lacks authority, for it may not represent the wide array of interest groups within the community. Membership selection does not appear to be a result of community consensus and, as a result, the TAC members may lack public legitimacy. Without legitimacy or authority, the TAC will be seen by the community as an ineffectual entity that does little but rubber-stamp the view points of the park authorities. As a result, one cannot expect frank, constructive, and innovative debate over park management to occur within this body. Unless considerable attention is given to the institutional development of the Technical Advisory Committee, one can expect relations between the park authorities and the public to deteriorate.

(2) Forest parks: The communities living around the forest parks of the Kiang West District have similarly lost rights of access to upland and lowland fields situated within the confines of the park, rights to sell firewood collected in the park, unrestricted hunting, access to grazing areas, and freedom of settlement. Management of these lands has been transferred out of their hands to the Forestry Department. The Gambia-German Forestry Project and the national treasury now collect the revenues gained from the sale of lumber and firewood harvested from the forest. While some limited access to the parks is permitted in order to collect medicinal plants and wild fruits, there is no public involvement in the management of the three forest parks surrounding Dumbutu. These restrictions cause frictions and resentments similar to those expressed with the Kiang West National Park.

Considerable opportunities exist to establish more participatory management structures for the forest parks. The Gambia-German Forestry Project has certainly gained experience in

²² For a theoretical discussion of buffering strategies, see Peter Bloch, “Buffer Zone Management: Access Rules and Economic Realities,” Land Tenure Center, 1992; G.W. Burnett and Heather Stilwell, “National Park and Equivalent Reserve Creation in French and British Africa,” *Society and Natural Resources* 3 (1990): 229–41; Katrina Brandon and Michael Wells, “Planning for People and Parks: Design Dilemmas,” *World Development* 20 (1992) 557–70.

working with communities to set up village communal forest projects based on its pioneering efforts in the Foni Brefet District. Throughout the Sahelian countries projects are being established to set up more participatory management structures for state reserves. The lessons learned from these projects could be used to set up a pilot forest management program focused on establishing new comanagement relations between the surrounding communities and the Forestry Department.

Tenure constraints and forest commons

The majority of non-state managed forests in the Dumbutu area are found on land managed by *kundas*. This is uncultivated land set aside as fallows. These lands may be considered the forest commons of Dumbutu. Access is unrestricted and several villages may use the same forested area to collect firewood and other forest products. Some forests belong to no particular *kabilo* or *kunda*. These are primarily frontier areas located between Dumbutu and adjoining villages. Some of these lands are subject to territorial disputes and for this reason tenure arrangements may be vague and uncertain. Some cursory evidence from interviews in Dumbutu suggests that these areas are heavily exploited by commercial firewood cutters because no authority threatens to restrict use. Forestry service regulations restrict cutting of certain valuable forest species, but enforcement depends on the ability of the forestry agents to execute provisions of the law.

The non-state controlled forests are the primary sources of forest products for the community of Dumbutu. If the forestry service and the national park service excessively restrict use rights to state reserves, one would expect the forested commons to suffer ecologically from overuse. Protection of one forested domain may incur excessive exploitation in another. The ecological impact of state protection of forest reserves on the forested commons needs to be explored in greater detail in order to determine forest use rates in the respective areas. This information could be used by forestry service agents to set up, with the heads of *kundas* and *kabilos*, village-enforced rules regulating extraction of forest products. These restrictions could be enforced like the *tongo* for fruit trees. Resource management agreements could be constructed between the forestry service and local-level institutions to regulate forest uses, though this cannot occur unless one looks at use rates of both the community commons and the state forest reserves.

The regulation of forest use in the open-access forest commons presents particular difficulties. Efforts to set up participatory forest management initiatives may be hindered because of intervillage disputes over the contested areas. It may be difficult to establish intervillage arrangements to better manage these areas until land disputes are resolved. This may require the state to enter into the fray as a mediator working with the contesting villages and the district tribunal to resolve the conflict. However, as this case study has shown, rural conflicts pitting one village against another can have historical roots. It is often difficult to put an end to these long-standing disputes.

Policy recommendations of team members

The research team formulated a series of specific recommendations to respond to the issues raised in the above sections. These are tentative suggestions that would all require further reflection by development actors active in the Kiang West District.

Agricultural productivity

A number of options should be explored to increase agricultural productivity. Agricultural intensification is needed as a guarantee against expansion of extensive farming practices into the fringes of the national park and forest parks. Policymakers and development advisors should be aware, however, of the severe labor shortage in the community and how this might impinge upon resource conservation and regeneration.

- ◆ **Soil fertility:** Experiment with various composting technologies and other low-input technologies to increase soil fertility. Rural populations in the Kiang West District cannot afford inorganic fertilizers in the context of low market prices for cash crops.
- ◆ **Rice varieties:** Experiment with early maturing varieties of rice adapted to local soil and rainfall conditions. Screen both local varieties and imported varieties to test viability.
- ◆ **Water control:** Construct dikes along the bottom of the valley with a spillway to harvest upland valley water run-off. Salt-water intrusion dikes could be constructed along the bottom of the valley next to the *bolong*. Villagers should liaise closely with the Agricultural Extension Service, the Soil and Water Management Unit, Action Aid, and the Freedom from Hunger Campaign.

Integrated pest management

Integrated pest management practices should be explored. This entails responding to control the spread not only of insects but, more importantly, that of the bush pig. Bush pig predation is a great source of frustration for the Dumbutu residents. Donors should explore the possibility of sponsoring a national conference on the bush pig problem that would bring together members of the national and international scientific community, business leaders, government, and local populations to discuss means to control the population of bush pigs and mitigate damage to farmers' fields. This conference would do more than most other actions to build trust and confidence that government can respond to locally perceived needs. Consensus about appropriate actions should be ironed out at this national conference.

Forest fires play a controversial role in the control of various agricultural pests. Fires are necessary to clear fields of weeds, especially in a labor-short context. Villagers feel that fires help reduce the incidence of certain types of noxious insects. Workshops should be set up at the local, regional, and national level to discuss ways to better use fire as a resource-management tool. Out of this national debate on forest fires, proposals might emerge to better organize early burning of fields or to more efficiently control widespread bush fires. Rural populations should be invited to these workshops and particular efforts should be made to elicit responses by rural participants themselves. Our case-study work shows that Dumbutu residents have good ideas on ways to control forest fires and how to use this element as a conservation tool. Informants promoted early burning as the least harmful alternative while remaining cognizant of the damage forest fires cause to the flora and fauna of the district.

Rural employment generation

Projects leading to income diversification and rural employment generation should be encouraged. Some types of rural employment generation may reduce the need to commercially exploit firewood from the forests. Income-generation projects should focus on ways to use the forest resources of the district in an ecologically sound fashion. For instance, the economic

potential of bee keeping should be explored as an income-generation activity. Hives might be located in the protected confines of the forest parks and national park. Initiatives might be set up to develop the export of dried or frozen bush-pig meat to European and West African markets. Apparently a merchant had once developed a thriving business near Tendaba of hunting bush pigs, drying the meat, and exporting it to Ghana. Tree planting of economically valuable indigenous species (e.g., bamboo, tamarind, baobab) could be encouraged in the forest reserves and national parks by individual households. Bamboo sales were once important sources of revenue for the Dumbutu populations, and thus there would be considerable interest in reviving the economy. Ownership of trees might rest in the hands of the families that contributed to the tree planting. This could create an opportunity for land borrowers to establish tree plantations.

Emphasis should continue to be placed on hiring the maximum number of people possible from the communities adjacent to the park for the construction of Kiang West National Park. The Gambian-German Forestry Project should continue to place a priority on hiring local people for various forestry activities.

Kiang West National Park

The Technical Advisory Committee is an important, though fledgling advisory board. Greater emphasis should be placed on the institutional capacity building of the body. The TAC appears to have little formal rule-making power and thus it lacks public legitimacy. The committee members may also lack a clear sense of their functions. In order to improve relations between the park authorities and the Kiang West communities affected by the national park, it may be necessary to devolve more management powers to the TAC. Its role as an advisory board may not be sufficient to restrain public resistance to the park.

The Technical Advisory Committee and the Kiang West National Park authorities should conduct a needs assessment exercise in the very near future to determine needs for training of the TAC members. As one component of the assessment, the Wildlife Conservation Department should review the management successes and setbacks incurred by the Watershed Management Committees of the Soil and Water Management Unit, the Sesame Growers Association, and the Area Councils. These institutions have all been set up by donor agencies and government to encourage community participation in local governance. Some, like the Watershed Management Committees and the Sesame Growers Associations, have become very strong organizations capable of managing their own internal affairs. The lessons learned on how to build viable institutions could be useful in improving the institutional capacity of the TAC.

Study tours organized for the TAC members to other national parks in Africa might be organized and financed by the USAID/Ministry of Natural Resources and Environment's Agricultural and Natural Resources program. This should be one of its priority interventions. The ANR program might finance study tours so that the TAC members can learn how compensation programs for damage caused by wildlife are organized in Kenya, Botswana, or Zimbabwe. While park authorities should participate in these study tours, the focus should be placed on training for the selected TAC members.

The Kiang West National Park authorities and interested donor agencies should explore ways of improving institutional linkages between the TAC members and existing rural organizations (i.e., district tribunals, NGOs, village opinion makers). The membership of the TAC may need to be expanded to include other key community authorities like the *seyfo* or some of the *alkalolu*. Attention should be placed on making the committee selection process more

democratic and transparent. Mechanisms to incorporate the viewpoints of resource user groups should be set in place. Subcommittees of particular interest groups, like cattle owners, herders, women oyster collectors, or women's *kafo* groups, might be set up to assure that their voices are heard.

The membership of the Technical Advisory Committee may be limited to too few villages. All villages along the boundary of the Kiang West National Park should be incorporated into the TAC. Some villages not immediately contiguous to the park possess historical rights to the area and these too should be incorporated into the committee.

The Department of National Parks should continue to place emphasis on public education of the functions of the Kiang West National Park. A similar educational program may need to be developed for the three forest parks surrounding Dumbutu.

The Kiang West National Park and forest park management should work closely with the populations of the Kiang West District to seek ways to mitigate the potentially detrimental side effects of the state reserves. Proposals are summarized below.

- ◆ **Reduction of bush pig populations:** The first priority should be placed on responding to complaints regarding the bush pig problem. Discussions should be held with the TAC and other key opinion leaders in the community to devise a series of measures to mitigate the effects of bush pigs and other pests.
- ◆ **Commercial sale of bush pig meat** to tourist camps and hotels in Banjul: The Kiang West National Park management team could encourage commercial harvesting of bush pigs, organized through local hunters, that could supply a national and international market for meat.
- ◆ **Commercialization of forest products:** Limited commercialization of dead firewood from the Kiang West National Park and the forest parks could be allowed, and cooperatives of residents could be entrusted to manage firewood sales. A management plan could be worked out where certain parts of the National Park are allowed to be used for the extraction of dead firewood.
- ◆ **Distribution of benefits from state reserves:** The government services responsible for the establishment and management of the state reserves will need to be continually assessing the costs and benefits of the national and forest parks. The arrangements for the distribution of benefits from any park revenues gained through the payment of visitor's fees should be embarked upon as soon as possible in order for the villages surrounding Kiang West National Park to observe the direct benefits of the park. Otherwise, the populations will continue to perceive the park as simply a means of reducing access to critical sources of livelihood.

1990 Lands Act

The implementation of the 1990 Lands Act and associated legislation may not be appropriate at this time in the Kiang West District. From our assessment of the present-day land tenure situation in the village of Dumbutu, we feel that implementation of the act could significantly disrupt existing social relations and deprive certain members of the community of access to land. The application of the law at this time could lead to greater land insecurity and possible out-migration of land borrowers.

Provisions in the law providing for the creation of a state leasehold system in areas “designated” by the state may be suitable for urban areas of The Gambia, but not for rural situations where customary tenure arrangements appear to be viable and functioning. The legal steps needed to create long-term leases could generate severe conflicts between extended families claiming historical ownership rights to land and families possessing long-term borrowing rights. Provisions in the law granting leases for terms of 99 years to both owners and borrowers of land may create tenure insecurities in rural communities long before the law is even applied in a designated area, because traditional landowners may revoke borrowing arrangements.²³ This could suddenly create a category of people lacking even borrowing rights to land. In the case of Dumbutu, strains in community relations could surface if the major land-owning *kundas* decide to call back long-term loans of land.

The present-day tenure system of villages like Dumbutu function adequately due to the powers and abilities of village-level elders and district tribunal members to resolve resource conflicts and devise new tenure arrangements to meet local needs. The creation by the State Lands Act of Land Administration Boards charged with the task, among others, of investigating and resolving disputes, risks undermining the authority of these local-level institutions. As this study has shown, village-level authorities are remarkably effective at allocating land to diverse interest groups and devising and enforcing tenure arrangements such as the *tongo*. Government policy should seek ways to complement these authorities rather than usurping their powers. Government policymakers might encourage, for example, traditional landowners to lend out land on a long-term basis for fruit orchards by looking at ways to record legally binding contractual agreements with district tribunals or area councils.

The members of the research team recommend to government that great caution be taken in implementing the new Lands Act in rural areas. Implementation of the law should be done on a pilot basis in rural areas following further study of the possible implications of the leasehold system on social and ecological relations.

²³ The State Lands Act clause of Part II, section 7 (1) reads: “Any person who holds any land in a designated area under customary tenure or year to year tenancy shall, at the date on which such area is designated and subject to the provisions of this Act, be deemed to be a lessee of such land.”

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ANNEX 3

CASE STUDY OF SANDU DISTRICT

prepared by

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INTRODUCTION

This report presents a case study of natural resource management practices in the village of Darsilami located in Sandu District, Upper River Division, The Gambia (see figure 1). The case study was funded by the U.S. Agency for International Development/The Gambia (USAID) under the Agricultural and Natural Resource (ANR) program and implemented by the Land Tenure Center (LTC) of the University of Wisconsin–Madison and the interministerial Working Group on Resource Tenure and Land Use Planning of the Government of The Gambia. The purpose of this case study is to provide policymakers with detailed information on rural natural resource tenure arrangements so that a national debate on land and resource policy options can consider local realities in The Gambia.

There already is a growing debate among Gambian policymakers on issues relating to land and resource tenure. The Gambia's *Environmental Action Plan: 1992–2001* highlights the need for public participation in the implementation of environmental policies. However, as the Action Plan notes, few environmental policies facilitate this needed public participation. The plan suggests improving environmental legislation in order to increase public participation in environmental programs. To do so, the Action Plan calls for a study of the relation between property rights and natural resource management so that the government can perhaps begin to share management of land and resources with local communities and individuals.¹ In addition, policymakers have revised the land laws of The Gambia. For example, the State Lands Act of 1990 is intended to introduce a system of leasehold: the Government of The Gambia (GOTG) designates an area as state land, thereby vesting ownership of this designated area in the hands of the state. Individuals or families holding customary rights to land located in these designated areas take out leases from the state. The purposes of the act are to create greater security of tenure intended to encourage investment in land and agricultural pursuits, to facilitate access to credit and bank loans, and to provide greater land and environmental regulatory powers to the

¹ Government of The Gambia, *The Gambia Environmental Action Plan: 1992–2001*, vol. 1, May 7, 1992, p. 41.

state. However, the pace of implementation of this act is presently being debated. Policymakers are asking questions: Where are the priority areas for designation of state lands? How are government agents and citizens to determine which rights to be listed on leases are ownership rights to land parcels only, or are usufructuary and owner's rights to trees, grazing tracts, and wells (which overlap land rights) also to be included on land leases? What level of tenure security do customary tenure systems provide? Is a leasehold system needed for the rural areas of The Gambia? Gambian women policymakers are particularly concerned with how the new land laws will affect women's rights to resources. They are highlighting also the need for environmental legislation that will recognize the role that women farmers play in Gambian agricultural systems.

Through the ANR program, USAID/The Gambia is trying to respond to the recommendations of the Environmental Action Plan, the questions posed by policymakers since the passage of the new land acts, and the concerns of Gambian women policymakers. One of the main purposes of the ANR program is to promote institutional and policy reforms. It is intended that these reforms will create the legislative framework to which local communities can turn in order to assume greater management control of and to gain greater financial benefit from the resources in their regions.

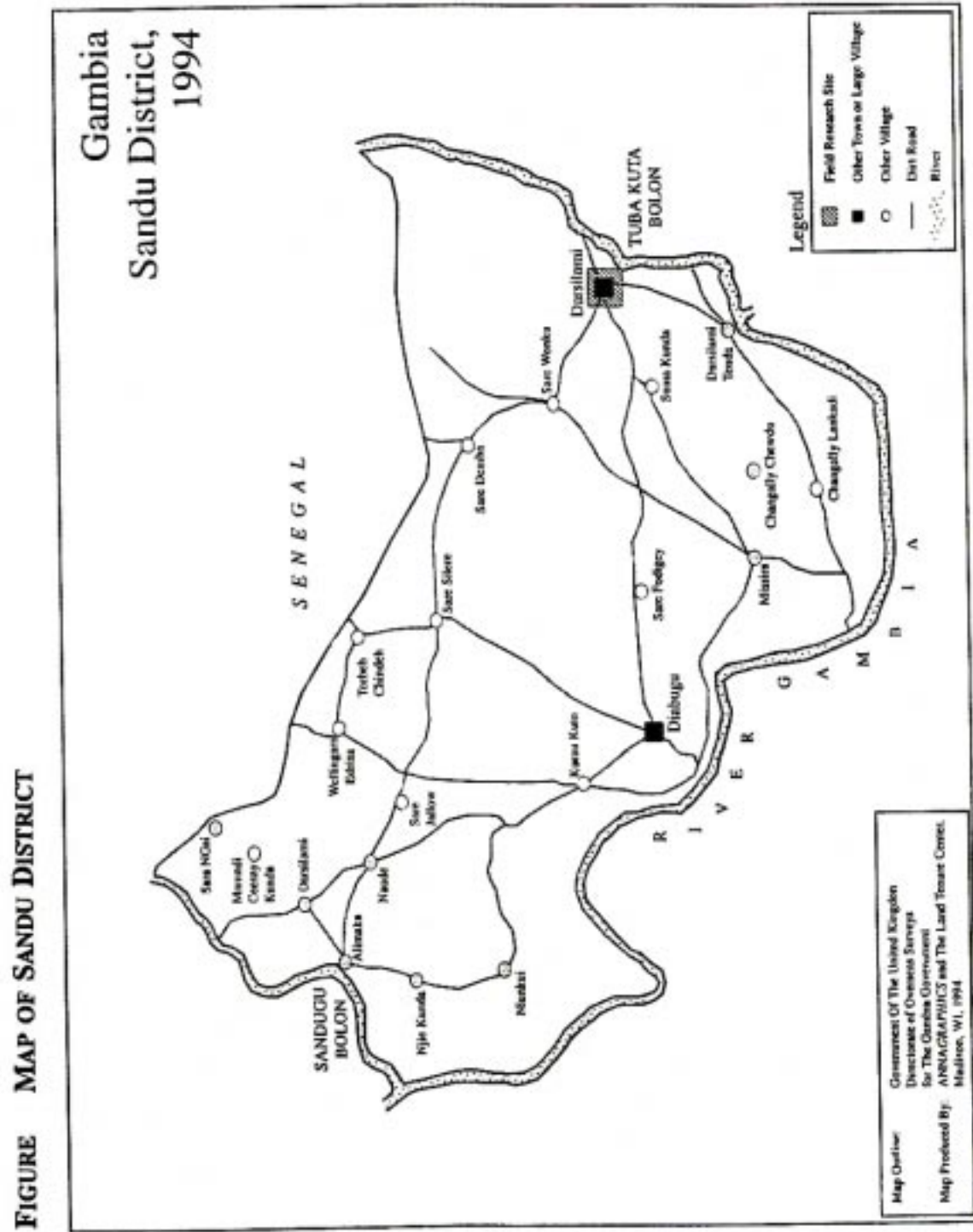
Given this policy agenda, this research intends to generate more information on the links between property rights and resource management, to answer some of the questions on the adequacy of customary tenure regimes, to examine women's rights to resources, and to recommend measures for achieving government and community cooperation in the management of natural resources.²

The specific questions that this case study seeks to answer are:

- ◆ What are the tenure rules resource users construct to regulate the use of natural resource in their territory?
- ◆ What are the tenure rules district and divisional authorities, as agents of the Government of The Gambia, construct to regulate the use of natural resources in Sandu District?
- ◆ What are the tenure constraints on and the opportunities for sustainable management of natural resources?
- ◆ What village, district, and/or divisional institutions play key roles in the management of natural resources and the resolution of resource-related disputes?
- ◆ What are the concerns and policy recommendations of village residents and district authorities?

² Mark Freudemberger, "Research Proposal: Tenure and Natural Resources in The Gambia" (Madison: Land Tenure Center, University of Wisconsin, 1 February 1993).

Figure 1 Map of Sandu District



To explore answers to these research questions the research team used various Rapid Rural Appraisal (RRA)³ techniques during its two weeks' living and working in the village of Darsilami. For the case study, the nine-member RRA team spent 12 days during the month of November 1993 in Darsilami with occasional visits to neighboring villages.

Upon arrival, the RRA team learned that it could not treat Darsilami as a single village unit but rather as three distinct subvillages. The three subvillages are: Sandu Darsilami, Taxotala, and Bulembu, each with their own *alkalo* (village chief) and imam (religious leader).

Given this situation, the nine-member team decided to divide into three smaller groups, each group conducting its own RRA in one subvillage. These three teams were the following: (1) Bulembu team—Amie Bojang, Radio Gambia, Rural Programming Division, GOTG; Nancy A. Sheehan, Land Tenure Center, University of Wisconsin–Madison, Research Associate, Gender Analysis and Natural Resource Management Specialist; and Gumbo A. Tourey, Ministry of Local Government and Lands, Department of Physical Planning and Housing, Urban and Physical Planner; (2) Taxotala team—Haddy M'Boge, Gambia Women's Finance Association, Direct Lending Programmer, and independent consultant; Tamsier Bobb, Ministry of Agriculture, Department of Livestock Services, Senior Animal Husbandry Officer; and Lance Robinson, University School of Rural Planning and Development, University of Guelph, Master's student; and (3) Sandu Darsilami team—Tijan Jallow, Ministry of Natural Resources, Policy Analysis and Planning Unit, Planner; Alhaji Marong, Ministry of Justice, Attorney, and Law Reform Commission, Legal Researcher; and Fatou Sonko, Women's Small Enterprise Development Specialist. The team reconvened to interview Sandu District authorities in Sera Gubu and divisional government representatives in Basse.⁴

Case study site

Darsilami is composed of two different ethnic groups: Mandinka and Serahuli. Oral settlement histories revealed that the Mandinka community members descend from some of the original founders of Darsilami. Serahuli residents came only recently (1930) to settle in Darsilami. As the research team soon realized, the specific time of settlement dictated the physical and administrative boundaries of the village of Darsilami. On any map of The Gambia, Darsilami appears as a single village unit, when in fact it is divided into three distinct subvillages, separated by ethnic affiliation, each with its own *alkalo*, imam, and *kafo* organizations. These three subvillages are called: Sandu Darsilami (Mandinka), Taxotala (Serahuli), and Bulembu (Serahuli).

The ethnic and administrative distinctions among these three subvillages have become more marked in recent years. Disputes over questions of landownership and land use have pitted Mandinka and Serahuli neighbors against one another. The most recent dispute erupted when the two Serahuli subvillages requested land for a cemetery for members of their communities. The

³ RRA is a qualitative research methodology which relies on a multidisciplinary team that spends a limited but intensive time at the case study site using a variety of methods designed to promote the active involvement of the local rural population in the collection of information. These methods include: participatory mapping, transects, institutional diagramming, matrices, wealth ranking, and semi-structured and focus group interviews.

⁴ The team provides a cautionary note to readers of this report. This case study is based on research in one village in the Sandu District. Therefore, care must be taken not to generalize findings based on the situation in Darsilami to the district or the country as a whole. See annex 1 for study strengths and limitations.

land that they requested was located in territory owned by their Mandinka neighbors. Although “officially” resolved, this particular dispute continues to be the source of ill feelings between Mandinka and Serahuli residents of Darsilami. The dispute not only has adversely affected the religious and social fabric that once may have bound Darsilami together into one village, it also has altered the land and tree tenure system in the village. As will be seen below, the dispute influenced the team’s entire field activities. Thus, while the research team took care not to aggravate the wounds caused by this disagreement, it did examine its affect on natural resource tenure relations in the village territory.

The selection of the case study site of Darsilami was a purposeful process based on criteria thought to be causes for differences in tenure rules and resource use patterns among villages and districts:

- ◆ ethnic composition of the village and district as a whole,
- ◆ divisional location,
- ◆ proximity to urban centers,
- ◆ known disputes in the area,
- ◆ proportion of land used for settlement versus agriculture,
- ◆ population size and growth rates, and
- ◆ existence or absence of major development projects.

The population of Darsilami is composed of both Serahulis and Mandinkas. The RRA team was especially interested in learning about the resource management and tenure arrangements of the Darsilami Serahulis, since no previous studies had been conducted in a Gambian Serahuli community on issues of resource tenure. The village of Darsilami also was chosen because of its divisional location; none of the USAID/LTC/Working Group case studies had been conducted in the Upper River Division. Darsilami is located in relatively close proximity to a main feeder road in the Basse urban area. A land dispute was known to have occurred in this village. Finally, the Working Group wished to explore questions of tenure in an area of land and labor scarcity— issues that the Working Group thought Darsilami would represent.

PATTERNS OF NATURAL RESOURCE USE IN DARSILAMI, SANDU DISTRICT

Social and geographical context

Darsilami is located administratively in the Sandu District of the north bank of the Upper River Division. In the first two days in Darsilami, the RRA team members conducted several participatory mapping exercises in order to obtain a sense of how Darsilami residents defined their territory and to learn about the important ecological features and physical structures in and around the community. (A territory is that area surrounding a village which villagers identify as their own.)

During these exercises, residents explained the boundaries that separate Darsilami into three neighborhoods. These boundaries were far from apparent to the team members, most of whom were strangers to the area, yet they are one of the basic physical manifestations of social differences in Darsilami brought about by differing settlement histories, economic endowments, and ethnic affiliations. The participatory mapping exercises revealed to the RRA team that residents do not treat Darsilami as a single village unit; they identify strongly with their

respective distinct subvillages called Taxotala, Bulembu, and Sandu Darsilami. Members of the Serahuli ethnic group reside in Taxotala and Bulembu. The majority of residents in Sandu Darsilami are Mandinka. As will be discussed in the section on conflicts, these subvillage identifications have become more pronounced in times of land disputes among the Mandinka and two Serahuli communities of Darsilami.

During the mapping exercises, the RRA team also learned that villagers have established boundaries between their own subvillages and neighboring villages. As villagers noted, these village boundaries are marked by important trees or rocky ridges. RRA team members also learned about important structures in Taxotala, Bulembu, and Sandu Darsilami. As can be noted in figure 2 (composite of villagers' territorial maps), *bantabas* (common meeting area usually located under a shade tree), mosques, compound units, wells, a public health clinic, and schools (both Arabic and government) are important to villagers in each of the three subvillages.

Resource use patterns, tenure arrangements, and tenure constraints by agro-ecological zone

A customary tenure system found in a particular region or territory is usually a composite of different rules governing resource use and ownership. These rules are often unique to the different agro-ecological zones found in the territory (e.g., rice versus pasture zone) and to the individual resources found in the area (e.g., trees versus land parcels versus wells). These rules also vary according to the individual or social group that uses the resource (e.g., men versus women, farmers versus pastoralists).

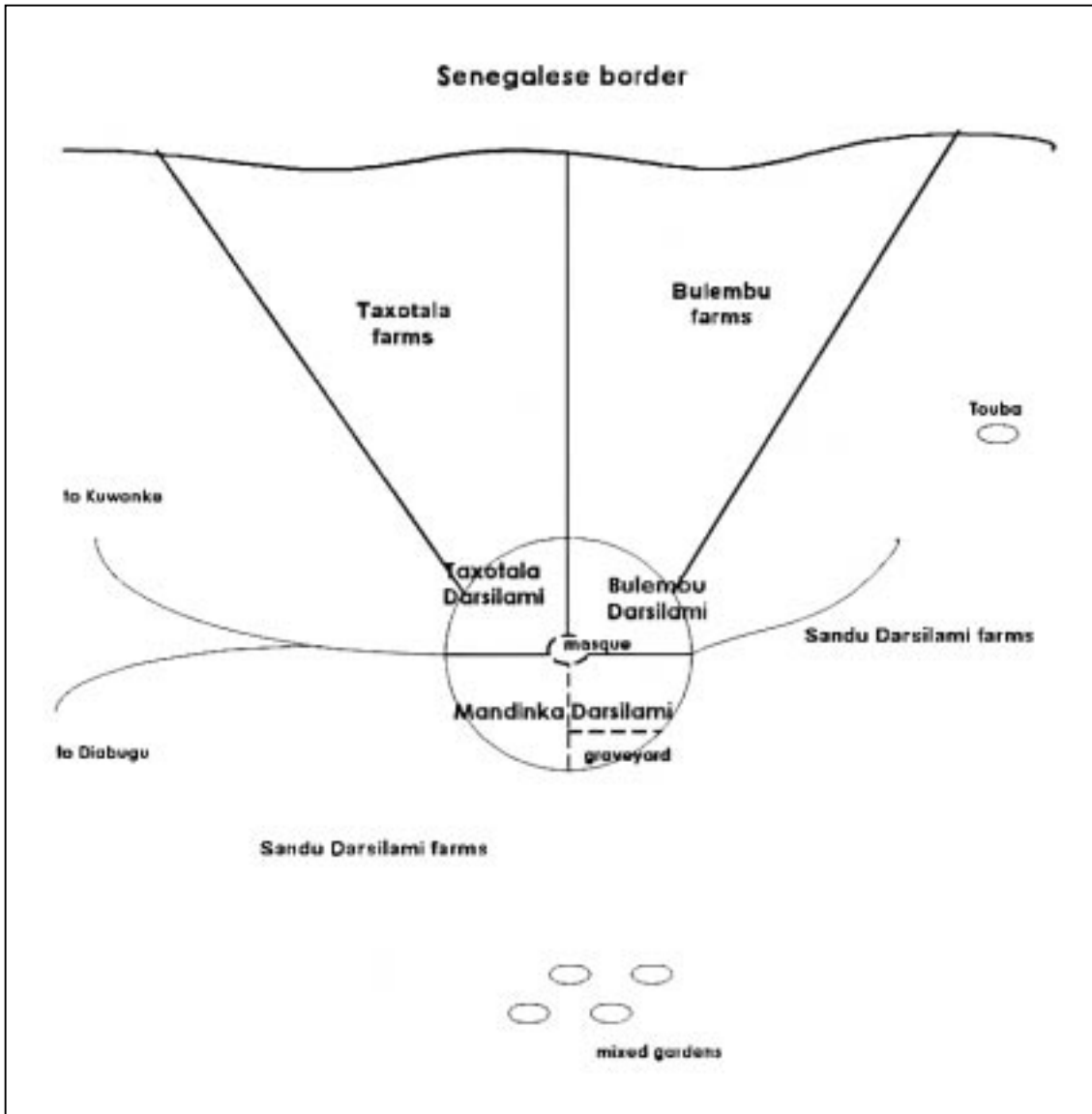
In order to discover the configuration of these different tenure rules associated with a particular agro-ecological zone, resource, or land user, RRA team members conducted a field transect,⁵ held semi-structured interviews, and visited individual land parcels with various village participants. At the close of the fieldwork, the team constructed an “analytical” transect.⁶ The description below presents the team members' transect, listing the tenure relations found in each of the agro-ecological zones surrounding the three subvillages of Darsilami. The agro-ecological zones are: village settlement area, backyards, inner fields, rice zone, rocky ridge area, and outer fields.

The following descriptions address separately the tenure systems of Sandu Darsilami and the two Serahuli communities of Bulembu and Taxotala. These separations were deemed necessary to highlight the differences between Mandinka and Serahuli tenure systems. The next section summarizes the tenure constraints and opportunities found.

⁵ A transect is a form of participatory mapping whereby the researchers and the village participants traverse the different micro-ecological zones found in a given territory.

⁶ An analytical transect is a summary sheet of all information collected by the team members on natural resource tenure relations in each main agro-ecological zone located around Darsilami.

Figure 2 Darsilami territorial map



Bulembu and Taxotala settlement area

Most residents in Darsilami know the boundaries between Bulembu, Taxotala, and Sandu Darsilami. In fact, these boundaries are clearly marked by various fence posts. The areas immediately behind or to the side of individual compounds were used as cemeteries in the past.

There are two main lineage-based groups (*xabila*) in Bulembu. These two groups as well as the slave and cobbler families associated with them live on separate sides of Bulembu. Imams come from one of the lineage groups and *alkalolu* come from the other.

Various fruit and some timber trees are found within Bulembu and Taxotala. These trees include mangoes, guava, *karankajebeh*, *kitijabeh*, neem, and Gmelina. To ascertain the tree tenure arrangements around trees located in compounds and *bantabas* (meeting places), the RRA team asked questions such as: Who planted the tree? Did that person need permission to plant it? Who watered and generally cared for the tree? Who has the right to harvest the tree's products? Who has control over the benefits of its products? Is there a *tonge*, or prohibition, on the tree? Answers to these questions indicated that trees planted by particular individuals remain the property of those persons regardless of who holds the land upon which the tree is grown; the planters also have the right to impose regulations on its use. Men and women of all castes can and do plant trees, though younger men and all women must first seek the permission of their compound head if they wish to plant trees within the compound. Fewer women than men, however, have planted trees; as one woman explained, women lack the knowledge of how to plant fruit tree seeds.

Some species of trees may be planted more frequently by particular castes. For example, members of the cobbler caste may be more inclined to plant *karankajebeh* because of the tree's usefulness in the tanning of leather. Others can use the tree for medicinal purposes without charge. The *kitijabeh* tree is another example. While greater numbers of men plant *kitijabeh*, women are the main users of this tree; they use the seedpods of the *kitijabeh* as dye for hand decoration. If the woman making the dye does not have her own tree, she asks permission to collect the pods; the tree owner does not levy a charge.

Within the compound there appears to be no particular division of space where men and women are likely to plant trees. In most cases, planted trees are located either in the middle of the compound yard or along the fences. There are no trees in the backyard spaces of Bulembu and Taxotala. Residents from both subvillages have constructed latrines and bathing areas in the spaces immediately behind their houses. This configuration could be the result of several factors. Participants clarified: Bulembu and Taxotala residents cannot expand their household backyards to plant trees because compounds abut one another and Sandu Darsilami residents will not give them additional land.

Bulembu residents do not impose a *tonge* on any tree found within their settlement area. Contrarily, the *alkalo* of Taxotala has placed a *tonge* on the collection of unripe mango fruits. The male youth group of Taxotala assists the *alkalo* by enforcing the *tonge*. The *alkalo* levies a fine of 5 dalasis on whomever violates the *tonge*. The male youth group collects the fine. The group then is able to use this money for various development activities such as the establishment of an orchard. Bulembu residents must follow the *tonge* imposed by residents of Taxotala and Sandu Darsilami. For one mango fruit cut during the prohibition period, the offender is charged 1 dalasis; for one baobab fruit cut during the prohibition period, the offender is charged 5 dalasis.

Although dug by individual compound members, wells located in the settlement area of Bulembu and Taxotala were considered open-access resources to all citizens of Taxotala and Bulembu citizens and guests. In fact, these wells serve both human and animal populations of Bulembu.

Residents of Bulembu were aware of some environmental health issues pertaining to well use. The women's *kafo* has imposed a *tonge* on washing dirty plates and buckets around wells. If the *tonge* is violated, the women's *kafo* president imposes a fine on the offender. In addition, residents of Bulembu are concerned about health risks posed by having to water their livestock at the same wells they themselves use. Bulembu residents said that they are unable to build separate troughs for their livestock because of the scarcity of land. Some residents are trying to avert this risk. For example, one Bulembu man dug a separate cattle trough. However, the trough is located only meters from the well used by his family. The three cattle herds that use this trough are the same herds tethered in Bulembu's rocky escarpment area during the rainy season.

The land shortage is particularly acute in particular sections of Taxotala and Bulembu. Women from these compounds find it particularly difficult because they do not have enough space to tether their small ruminants at night. During the rainy season, cattle migrate to the riverside, but sheep, goats, horses, and donkeys are kept within the village.

Bulembu and Taxotala backyard fields

The soil type in this agro-ecological area is *niyenbine*. Cassava, maize, and sweet potatoes are grown in this zone. In general, backyard fields are owned by individual compounds; compound heads are the managers of these areas. Land in this area is inherited patrilineally. However, in some cases, when a man dies and leaves more than one wife, the land will be divided among the daughters as well as the sons. Because of their settlement histories, few compounds in Taxotala have backyard areas. During the time of settlement, residents of Sandu Darsilami did not give the Serahulis of Taxotala and Bulembu enough land to build their compounds as well as to have space for a backyard. Also, some families in Taxotala lost backyard space when Seyfo Batapa interceded in an earlier land dispute; to establish the boundary between the three sections of the village, the *seyfo* along with the *alkalolu* at the time redistributed some of the backyard lands. Because of this, only four Taxotala compounds own backyard areas. Some of Taxotala's original backyard landholding was also redistributed to one Bulembu family; fearing a hostile reception, no one from Taxotala will pose a counterclaim to the land. When possible, compounds without own backyards will rent (for cash) land from various Mandinka families.

There are few trees within the fences of the cassava fields. As several people insisted, trees would shade out maize and cassava and thus would not be economical. Anyone has access to the naturally occurring fruit trees growing in these backyard fields; even strangers are allowed to pick fruit from these trees. However, planted trees in the backyard fields are owned exclusively by the individual who planted them. Both men and women can plant trees in these backyard areas provided that the land is held by their family; no one can plant trees in borrowed backyard fields.

No wells have been dug in Bulembu's cassava and maize fields.

Bulembu and Taxotala outer fields

The soil type in this agro-ecological area is *seyigne*. Most of the fields located in the outer ring around Darsilami are owned by the Mandinka villagers. In the past, these lands were lent to the Serahuli farmers free of charge. Gradually, as the Serahuli came to use more mechanized agricultural implements, the Mandinka started charging a fee for the use of their land. Many Bulembu and Taxotala farmers rented land from Mandinka families for 80–200 dalasis per hectare per season. Some women farmers in Taxotala used to borrow land to cultivate rice. Since the drought in the early 1980s, however, these women have not been able to grow rice. In addition, the Mandinka have ceased to rent out this land to the Serahuli because of a land dispute.

However, a small percentage of the fields located in this outer ring around the village are owned by Taxotala and Bulembu. These fields were given to the Serahuli, in perpetuity, at the time of their arrival. These lands are inherited patrilineally.

There is a form of land hocking in Taxotala. According to Taxotala residents, land can be used as collateral when requesting a loan of cash from one of the local Serahuli moneylenders. If the borrower is unable to pay back the loan, these moneylenders have the right to seize the land. Male compound heads are the nominal owners of agricultural land in Bulembu territory. Individual women and men farmers in a compound have certain user rights, but the individual owns the crop produced on the individual fields. The explicit ownership of crops cultivated by individuals is visually evidenced by the boundary markers placed between fields. Walking along paths crossing groundnut fields to the north of Bulembu, one immediately notices the okra and sorrel bushes growing in neat rows along field boundaries; the residents explained, women plant sorrel and okra along the boundaries between their groundnut fields to reduce the risk of boundary disputes and to take advantage of space that would otherwise just be a pathway. For women farmers, sorrel and okra are important subsistence crops and sources of income. Only a few men plant okra and sorrel in the boundaries between their groundnut fields. There is a twofold reason for this cropping pattern. First, women are the main farmers of groundnuts in Bulembu. Second, men rarely process and sell okra and sorrel as an income-generating activity.

There is no fallowing of land due to land scarcity. Men and women exchange fields in order to maintain a rotation from millet to groundnuts across growing seasons.

There are only a few trees such as baobab, locust bean, and *kembo* located in the outer agricultural fields of Bulembu and Taxotala. Trees occurring in the outer fields are under an open-access tenure regime, that is, trees that naturally regenerate are not owned by any one person. Anyone from Bulembu, Taxotala, or other villages can cut or harvest products from these trees. A *tonge*, however, is imposed on trees such as *nette*, *wankarre*, and *wulokono duto*. In the past, farmers used long poles to collect the *nette* pods and mango fruits; now they use cutlasses to cut down the pods and fruits and in the process also lop off branches. In an effort to protect these trees, the *alkalo* of Taxotala imposes a *tonge* against cutting unripe fruit. A violator of the *tonge* will be fined about D5.00. The male youth club enforces this *tonge* and collects the fines. This club then uses the fines they collect for digging wells and occasionally buying kola nuts. Thus, the male youth clubs have emerged as an important institution in the enforcement of natural resource rules and management schemes.

Women own all the goats and half of the sheep and cattle in Bulembu. Men own the other half of the sheep and the cattle in addition to the horses and donkeys. During the dry season, the four cattle herds of Bulembu are taken to land near the River Gambia. During the rainy season,

these four herds are tethered in two locations: one is the rocky ridge area where there is a natural watering hole; the other is in the lowland area (adjacent to the rice-growing area) on land borrowed from one Mandinka family. There, a Bulembu cattle owner has dug a well.

During cropping season, herders from Taxotala take their cattle to the riverside to avoid risk of crop damage and to take advantage of the higher-quality grazing lands near the river. Sheep and goats are tethered between field boundaries for grazing. Horses, donkeys, and oxen are used to till the land.

Located in the open fields of Sandu Darsilami's territory, there is a second cattle trough used by one of Bulembu's cattle herds. Before the cemetery land crisis, the compound head of Jawara *kunda* received permission from the *ex-alkalo* of Mandinka Darsilami to dig this cattle trough and to cordon off an area for tethering the herd he manages in the rainy season. While this compound head expressed some concern, he expects to be able to continue to use this trough in the ensuing years.

Bulembu and Taxotala outer fields borrowed from neighboring villages

The soil type in this agro-ecological area is *data*. The RRA team asked several Bulembu women to describe the process by which they borrow land from their Touba neighbors. They said that, several years ago, a handful of Bulembu men visited Wuli Touba and Touba and established initial contacts with individual male compound heads. Subsequent to these visits, the Bulembu men were able to borrow land for their wives. After the first year of successful borrowing, the women of Bulembu were able to return to Touba and Wuli Touba, without their husbands, to negotiate their own borrowing arrangements. Usually, the Bulembu women will formally request land three times before a land parcel is lent to them by individual farmers of Touba and Wuli Touba. Their first request is made at the end of the harvest period. This request is mainly to inform their Touba hosts that they are interested in borrowing land next year. A "reminder request" will be made during the trade season. A final request will be made several weeks before the time of land preparation. At this time, the Touba hosts will grant (or not grant) the plot of land.

Farmers from Taxotala use the land located to the north of the neighboring village of Kwonko. Apparently, because this part of the land had been fallowed for several years, the Taxotala farmers did not think it necessary first to ask permission from the Kwonko people before using it. As the Taxotala interviewee stated, eventually several farmers from Kwonko joined them to farm this section of land.

The Bulembu women are able to pick fruit and leaves and strip bark from certain trees in the outer agricultural fields of Wuli Touba and Touba without first gaining permission from the residents of Wuli Touba and Touba. These trees include *yahe* (*fara*, the bark is used to make rope and the leaves are used to make medicine) and *pampalingo* (*sibo*, the bark is pounded into long strips from which sponges are made to sell at *lumos*). To pick the fruit and seed pods of *nette* and mangoes, however, the women must first seek permission, for the residents of Wuli Touba and Touba also place a *tonge* on the cutting of fruit from these trees. The women of Bulembu must honor this *tonge*. If the *tonge* is violated, a monetary fine is imposed: for mangoes picked under the *tonge*, a fine of 1 dalasis for each unripe fruit will be levied; for unripe baobab fruit picked, the fine is 5 dalasis.

These fields borrowed by the Bulembu women are not used to tether their small ruminants. Occasionally, however, small ruminants and cattle owned by the villagers of neighboring Touba and Wuli Touba encroach on agricultural fields. These incidences can be sources of disputes.

There are no water holes in this agro-ecological zone that Darsilami villagers use.

Bulembu and Taxotala rocky ridge area

The soil type in this agro-ecological area is *koche*. Because the soil fertility is poor and the soil texture rocky, a large portion of the land is unused. This uncultivated land is de facto under an open-access tenure regime. A grazing area was identified by the villages of Bulembu and Taxotala. A large section of the grazing area was later taken over for agricultural activities primarily by one compound, which coincidentally owns a large cattle herd.

The tree species found in this ecological zone are: *wunkuno*, *bembe*, *sambe*, *fa*, *bumma*, *telle*, *turu*, *saho*,⁷ *kare*, *sanne*,⁸ and *tumbe*. All of the trees found here fall under an open-access tenure regime. Anyone, even a stranger, can harvest fruit, collect dead branches for firewood, and even cut down trees. A *tonge* is put on *netto* and *wankarre* before they are ripe. The same method of enforcement is applied in this zone as mentioned elsewhere.

This area is used by the male youth of Bulembu and Taxotala. Last year, for example, the young men of Taxotala acquired a plot of land for planting trees for fruit and fuelwood and fenced the area. In addition, the young men of both Bulembu and Taxotala are responsible for collecting firewood for their families. Usually, they will make collecting expeditions once a week, leaving early in the morning and returning for the midday meal. They collect only dry wood, so have no problem with the Forestry Department. Very few people sell firewood in Bulembu and Taxotala.

Local carpenters also use the tree species found in this agro-ecological zone. One local carpenter discussed some of the economics of the carpentry operation. The main cost is the fee for a tree-cutting permit. These fees vary according to tree species cut (for example, a permit for *wulokono duto* and *keno* is D200 per tree; the permit for *bunkungo* is D300 per tree, while the permit for *jallow* is D800 per tree). The carpenter also described the procedure of obtaining a permit. The first step is to go to the particular *alkalo* who manages the territory in which a particular tree is located to get the *alkalo*'s permission to fell the tree. The second is to obtain a letter of approval and a signed application for a cutting permit from the *seyfo*. The final step is to travel to the Forestry Department Divisional Office in Basse to acquire the cutting permit.

No farmer will plant trees in this ecological zone because of lack of water, lack of appropriate tree seedlings, and high risk of livestock predation.

Bulembu residents do not impose a *tonge* on any tree found within this agro-ecological zone. However, Bulembu residents must follow any *tonge* imposed by residents of Sandu Darsilami on mangoes, baobabs, and *netto*.

There are no forest parks or national parks near Darsilami.

⁷ This tree species as medicinal uses for nursing mothers.

⁸ This tree species has medicinal uses for children.

There is a seasonal water pool located near a rocky escarpment in Bulembu's territory. This water pool is used by two of the four herds of Bulembu; it marks the boundary between Taxotala and Bulembu.

The location of rainy-season grazing areas is jointly decided by the *alkalo*, his advisory group, and cattle owners.

***Bambadala* and lands rented from the Senegalese**

The soil type in this agro-ecological area is *data*. Bulembu farmers do not undertake soil conservation measures (contour plowing, manuring) or plant trees on land located in *bambadala*.⁹ It would appear that distance from Darsilami, lack of water, and lack of extension services are the main constraints.

Because of the land scarcity situation in Darsilami for the Serahulis, Taxotala and Bulembu male farmers are forced to rent land from Senegalese farmers. These Senegalese rent their land for approximately D30.00 per season. Only those farmers who have transport (horses, donkeys, carts) and who can afford paying rent can use land in Senegal.

There are no water holes located in this agro-ecological zone. However, Taxotala has a cattle track that cuts a north-south diagonal across the area.

Sandu Darsilami settlement area

The soil that underlies this agro-ecological zone is black clay. The land is owned by the compound. The ability to distribute land is vested in the compound head. There are two types of public space in Sandu Darsilami, the various *bantabas* and the mosque. There are also a few government-sponsored public facilities—the public health center, the primary school, and a borehole well. To establish these public facilities, under the mediation of the *alkalo* the state requested that individual landholders donate land. One family in Sandu Darsilami donated this land, but no compensation from either the *alkalo* or the state was given; the landholder was even denied a request to become the caretaker for the primary school.

The following tree species are found in this area: mangoes, Gmelina, neem, guava, *tabo*, baobab, *dualingo*, *fundano*, *nebedio*, and papaya. Trees found within compounds are individually owned, and men appear to have planted the majority of them. *Tonge* is established over fruit trees within the village to ensure that the fruit are not harvested before maturity.

Sharing the space in this zone with the human inhabitants are sheep, goats, horses, donkeys, chicken, and ducks. Both men and women own the sheep and goats. Men own the horses and donkeys. Both men and women own cattle, though men own most of the cattle.

There are numerous hand-dug wells within the individual compounds. There is one borehole water pump.

Sandu Darsilami backyard and inner fields

The soil type in the backyard and inner-fields areas is a mixture of black clay and sand. Landownership is vested in individual compounds. The ability to distribute land is vested in the

⁹ *Bambadala* refers to the area located between a rocky ridge to the north of Darsilami and the Senegalese border.

hands of the compound head. Several agricultural crops predominate, including maize, millet, sorghum, cassava, and potatoes.

Various tree species such as mangoes, baobab, guava, *tabo*, and *soto* are found in these backyard and inner field areas. Trees planted are individually owned by the person who plants them. Usually, trees are found within the gardens and are planted by women farmers. There is an open-access regime governing the use of wild trees in this zone.

Sheep, goats, horses, donkeys, *kacho*, and chickens are the predominant animals in this zone.

A few wells are located in this zone. Anyone from Sandu Darsilami can use these wells. Outsiders can use the wells only after receiving permission from the head of the compound in which the well is found.

Sandu Darsilami rice fields

Land is owned by individual compounds; the land-use management responsibility of distributing land in this area is vested in the compound head. Women are the absolute users of the rice fields. However, the cultivation of rice has become a less profitable enterprise. Over the past several years, the women have seen a steady decrease in their harvests. After becoming increasingly discouraged, they did not plant any rice in 1991 and 1992. They tried planting an early variety of rice this year, but the harvests were still not worthy of their time.

There are also dry-season gardens in this zone. These vegetable and fruit gardens are managed mainly by women of Sandu Darsilami. However, some Mandinka families continue to lend land to a few Serahuli families for gardening. These Mandinka families have not taken back the land that they had previously lent. Originally, the Mandinka families placed no conditions upon their lending arrangements; thus, the Serahuli families were able to plant trees (cashews and mangoes) in their borrowed gardens. As our Mandinka guides informed us, it was within the purview of the Mandinka to set conditions on lending arrangements and to revoke any lending arrangement. While some Mandinka farmers still hold that a landowner cannot claim ownership of trees planted on his land by the Serahuli (the trees belong to those who plant them), other Mandinka families have reversed this rule.

Various trees such as *jungo*, *wolo*, oranges, and cashews are found in this zone. Other notable tree species in this area are *netto koto bulo* and *singeng*. Fruit from the *netto koto bulo* is a source of fodder for cattle. *Singeng* is a multipurpose tree. Children collect deadwood from *singeng* for firewood, and the leaves from the tree are used for medicine and wrapping bananas. An open-access regime prevails in this ecological zone. Even strangers can use the products from such trees as the *netto koto bulo* and *singeng* and this fact does not seem to cause any consternation among the people of Sandu Darsilami. Only the Forestry Department regulates the use of tree species in this area in terms of issuing or not issuing timber-cutting licenses to non-Gambians.

The following wildlife species were observed in this zone: *kansolo*, *taweyo*, *kanjeroma*, *sunkang*, *falo*, *kanaa*, *kacho*, and ducks. There is an open-access regime governing the use of these species. Farmers did not mention any Department of Wildlife regulations concerning the use of these wildlife.

Water found in this zone is open to anyone to use.

Sandu Darsilami outer fields

Speaking with Sandu Darsilami farmers, the RRA team learned that *dato* is the predominant soil type for this agro-ecological zone. Land in this zone is owned by individual compounds. Land allocation responsibilities are vested in compound heads. Both women and men have access to land in this zone. One way to gain access is to request land from an individual's own compound head. If land is not available through one's own compound head, then the individual can ask to borrow land outside his/her own compound. Land will be lent if it remains unused. The main crops grown in this area are sorghum, millet, *wooso*, groundnuts, beans, and *jabehro*. Male farmers cultivate sorghum and millet; women cultivate *wooso* and *jabehro*; both men and women cultivate groundnuts and beans.

Several tree species are found in this zone: *jungo*, *wolo*, *sinjengo*, *sama*, *tinyo*, *farra*, and *tabo*. Trees planted are individually owned by the person who planted them. Usually, trees are found within the gardens and are predominantly planted by women farmers. All other trees are under public user rights.

Sheep and goats were seen grazing in this zone; they are owned by both men and women. The wild birds known as *kacho* in Mandinka were also apparent. There is open access to wildlife species found in this zone.

There were no wells or watering holes in this area.

Sandu Darsilami rocky ridge area

An open-access tenure regime predominates over the resources found in this ecological zone. Tree species found in this area include *jambecatango*, *keno*, *wolokono duto*, *netto*, *kulankalango*, and *kulingo*. Anyone can collect wild fruits, leaves, and deadwood for firewood in this agro-ecological zone. The only existing laws guiding the use of resources in this zone are various forestry regulations, and these are applied only infrequently.

Wildlife species found in this area are bush pigs, red monkeys, black monkeys, *kongo*, rabbit, squirrels, *klato*, bush dogs, *kuuto*, *totomeyo*, *kama*, *kilinkonco*, and *mansadibongo*. There is an open-access regime governing the use of the wildlife.

There are no wells or watering holes in this zone.

SUMMARY OF CONSTRAINTS AND OPPORTUNITIES BY AGRO-ECOLOGICAL ZONE

Settlement area	
Constraints	Opportunities
<ul style="list-style-type: none"> ◆ Lack of sufficient numbers of wells; villagers and livestock must share common drinking wells, which possess environment health risks. ◆ Male heads of households control most of the compound space. Little priority is given to space for the tethering of small ruminants, the majority of which are owned by women. The risk of small ruminant predation of food stocks is increased. ◆ Extension officials still lack awareness that male out-migration has left women de facto heads of households. Women farmers continue to support their families without receiving information, farming equipment, or rights commensurate with their responsibilities. ◆ Tension exists over access to public facilities located between the Mandinkas (Sandu Darsilami) and the Serahulis (Taxotala and Bulembu). Serahulis are less likely to use the public health clinic as a result. ◆ The Government of The Gambia has not compensated villagers for lands “acquired” by the government for “public purposes.” This precedent raises serious questions concerning possible future acquisitions. ◆ Women must obtain permission from compound heads to plant trees in their marital and natal compounds. 	<ul style="list-style-type: none"> ◆ Villagers have constructed rules designed to maintain a healthy environment around village wells. Extension programs could build on these existing rules. ◆ <i>Alkalo</i> and villagers have established and enforce <i>tonge</i> on certain tree species. <i>Tonge</i> could form a basis for future conservation programs. ◆ There is individual ownership of trees regardless of landownership. ◆ Villagers expressed interest in planting economical and medicinal trees. This interest could form a basis for forestry extension work, which is lacking at the present time.

Backyard fields	
Constraints	Opportunities
<ul style="list-style-type: none"> ◆ According to Serahuli residents, there is not enough backyard space for new settlers. This situation is a result of the particular settlement histories of the three subvillages and past government interventions to resolve disputes. ◆ Tension exists between the two Serahuli communities over the ownership of adjacent backyard spaces. These tensions remain even after past government intervention. ◆ Farmers perceive all trees as competitors to crops (cassava and maize) grown in backyards. Because backyards are fenced, these areas may hold potential promise for the implementation of agroforestry systems. ◆ Land borrowers are discouraged from planting trees. 	<ul style="list-style-type: none"> ◆ <i>Alkalo</i> and villagers have established and enforce <i>tonge</i> on certain tree species. <i>Tonge</i> could form a basis for future conservation programs. ◆ An individual who plants a tree owns the tree regardless of whether s/he owns the land. ◆ Villagers are interested in planting economical and medicinal trees. This interest could form a basis for further extension work. Women showed a particular interest in planting trees, though they expressed a lack of knowledge to do so. Extension activities are required.

Rice fields and outer fields	
Constraints	Opportunities
<ul style="list-style-type: none"> ◆ Rice cultivation is no longer an economically viable option due to drought conditions. There is a need for barrages and drought tolerant seed varieties. ◆ Original settlers no longer lend or rent out fields to new settlers in Darsilami. ◆ Serahuli farmers report that they no longer fallow their land because, as they state, they do not have enough land. They report that this is a direct result of the land dispute with Sandu Darsilami (Mandinka) farmers. ◆ There is an open-access regime on trees found in this zone. There is no <i>tonge</i>. ◆ Serahuli herders lack sufficient land to create cattle tracks for dry and rainy season cattle herding. ◆ Short-term Serahuli borrowers of land from neighboring villages cannot plant trees. ◆ Land borrowers experience some insecurity over access to borrowed land from one year to the next ◆ Open grazing of livestock and small ruminants hinders tree planting in outer fields. 	<ul style="list-style-type: none"> ◆ Women farmers clearly mark their use rights to land parcels and their individual ownership of crops by cultivating sorrel and okra bushes along field boundaries. This strategy reduces the risk of disputes and could also form the basis for agroforestry research. ◆ There are flexible borrowing arrangements among household members. The ability to borrow land enables farmers to employ a rotational agricultural system even if they possess only a small number of plots over a dispersed area. ◆ Flexible borrowing arrangements between the Taxotala and Bulembu and neighboring villages have relieved some of the pressure from the disputes raging between Taxotala and Bulembu residents and Sandu Darsilami residents. ◆ <i>Tonge</i> is imposed by Sandu Darsilami alkalo and enforced by the Male Youth Group.

Rocky ridge area	
Constraints	Opportunities
<ul style="list-style-type: none"> ◆ There is an open-access tenure regime on land and trees. ◆ There is open grazing of livestock and small ruminants that hinders any possible tree planting initiatives in this area. ◆ There is a lack of water for cattle and tree planting activities. ◆ Bush fires are a constant threat to crops and tree regeneration. 	<ul style="list-style-type: none"> ◆ Because the soil is not conducive to agriculture, this zone remains relatively wooded. ◆ Indigenous knowledge exists concerning firewood species—that is, their usefulness, their availability, and their ecology. ◆ Knowledge of acquisition of forestry permits exists; however, discussion indicates that procedures are time consuming and costly. ◆ Villagers complain that there is little forestry extension or enforcement of forestry regulations in this area.

Bambadala	
Constraints	Opportunities
<ul style="list-style-type: none"> ◆ Farmers must travel very far from the village in order to undertake agricultural activities. ◆ There are no water sources. ◆ There is a grazing regime during the dry season. 	<ul style="list-style-type: none"> ◆ Landownership is vested in the hands of Serahuli farmers.

AGRO-ECOLOGICAL HISTORIES

Through the construction of agro-ecological matrices, the village participants described the ecological changes experienced by past generations in Darsilami. As the village participants noted, the dominant ecological changes have been the declines in rainfall and soil fertility levels, both of which have had far-reaching effects on the farming systems of Darsilami residents. Some of these effects include:

- ◆ increase in youth out-migration,
- ◆ increase in the amount of land cultivated,
- ◆ abandonment of fallowing,
- ◆ increase in the use of animal traction when possible,
- ◆ shift from drought-intolerant to drought-tolerant crop species and varieties,
- ◆ increase in the use of chemical fertilizers when possible,
- ◆ increase in *Striga* infestation,
- ◆ modification in the types of tree species used, and
- ◆ modification in diets.

More youth of Bulembu and Taxotala have migrated to urban and overseas locations in order to obtain employment. Sandu Darsilami youth, however, have not migrated in numbers similar to those of their Serahuli peers. In fact, the Sandu Darsilami farmers who participated in constructing the ecological matrix said that the village's population has actually grown. (As they noted, their population has increased because of improved medical and health care facilities.)

With less rainfall and degrading soil fertility, Serahuli and Mandinka farmers now need to cultivate more land in order to maintain comparable harvests. To cultivate more land with less labor, Bulembu and Taxotala farmers do not fallow their fields. Bulembu farmers argue that they cannot fallow their land for two reasons: first, the Sandu Darsilami residents did not give them enough land to cultivate at the time of their settlement; second, less rainfall and greater mechanization have required the cultivation of more land. Respondents have also increased their use of animal traction.

In the past, Mandinka women cultivated more than half of all arable land in the Sandu Darsilami territory. Also in the past, women cultivated rice as well as groundnuts and maintained vegetable gardens. Women farmers' present use of the land has decreased whereas men's use of land has increased; women are no longer able to cultivate rice due to inadequate rainfall while men could increase their use of land because they have had access to mechanization. Because of the enlargement of population among families with fewer landholdings, the amount of land lent out to borrowers has increased. Today, because of the higher demand for land, less land is left unused than in the past.

Both Mandinka and Serahuli farmers in Darsilami have responded to less rain and lower soil fertility levels by a shift in crop emphasis. However, the two ethnic communities diverge in their choices of crops. Whereas in the past Bulembu and Taxotala farmers cultivated more groundnuts and sorghum, they have shifted to early millet and maize. Even though Mandinka farmers are growing more early millet, maize, and beans than they did in the past, their main emphasis is the cultivation of sorghum and groundnuts. The fact that the Serahulis emphasize early millet and maize and the Mandinkas favor sorghum and groundnuts may in part be explained by differing settlement histories. The Mandinka farmers, being the original settlers of Darsilami, have access to more fields located on the rich, well-drained soils (called *signbinai* in Serahuli) best for

sorghum and groundnut cultivation. Being late settlers to the area, the Serahuli farmers were not given many fields located in the *signbinai* soils zone. What *signbinai* lands they possess have been degraded, and thus they cannot grow as much sorghum as they did in the past.

Because of less rainfall, few farmers in Taxotala and Bulembu cultivate pumpkins. In addition, women farmers of Sandu Darsilami no longer find rice cultivation a productive and lucrative endeavor. Even with the lack of markets, women farmers of Sandu Darsilami find that gardening is a more profitable agricultural activity than the cultivation of rice.

To offset the decreasing trend in soil fertility (a situation further exacerbated by the lack of fallow), some Bulembu and Taxotala farmers try to purchase fertilizer. However, given the high price of chemical fertilizers, this option is not open to many. The weed of *Striga* species wreaks greater havoc on millet crops every year. While Bulembu farmers said that manuring fields could reduce *Striga* infestation, they added that manuring fields is difficult due to the lack of cattle watering troughs at field sites.

Lower rainfall has also adversely affected the health of the village's forested parklands. Certain tree species are not as available as they were in the past, which in turn has led to a change in tree species use and cropping patterns. Today, farmers are forced to use inappropriate tree species for fencing. For example, Bulembu farmers use *jaba katango*, which neither resists termite infestation nor withstands waterlogging. Also, Bulembu and Taxotala farmers no longer cultivate as much cassava and potatoes as they did in the past when they had enough fencing material to protect these crops from animal grazing.

The Bulembu participants in the agro-ecological matrix also remarked that today there are more cattle but less milk.¹⁰ Again they attributed this change to rainfall that is insufficient to recharge naturally occurring water pools and to rejuvenate fodder species.

Men from Bulembu used to fish in the river waters that flooded the fields near Darsilami. In the past, the fish catch from one day would be sufficient to feed a whole compound for two days. Now the river no longer floods. As a result, villagers must purchase most of their fish from fishmongers who travel from fishing points along the River Gambia.

¹⁰ Whereas in the past they used to have 1 to 2 calabashes of milk from one cow, now they may have only ½ to 1 calabash.

FIGURE 3: Agro-ecological matrix with three elders: Bulembu, Darsilami

Important resources	Availability – Past ¹	Availability – Present ²
Rains	25	17
Fields planted in maize	25	50
Fields planted in sorghum	25	10
Fields planted in groundnuts	25	13
Fields planted in cassava and potatoes	25	10
Fields planted in pumpkin	25	10
Trees for fencing	25	7
* Cattle	25	45
Milk from cattle	25	10
Gardening vegetables	25	25
* Fish from the floodplains of the river	25	0

¹ Past = about thirty years following Serahuli settlement in Darsilami in the 1930s.

² Present = past five years. Numbers represent “present” availability in relation to “past” availability (25).

* Resources suggested by the team members.

Note: Participants were asked first to list out resources that are important to them. The RRA subteam then placed 25 beans next to each of the resources they suggested. These 25 beans were to represent the past availability of the resources. The RRA subteam next asked the participants to add or subtract from the 25 beans in order to represent present availability of the particular resource. For example, participants stated that fields planted with sorghum have decreased from 25 beans to 10 beans.

Settlement histories and land tenure arrangements

Contemporary tenure arrangements and tenure disputes in Darsilami, Sandu District, are the results of historical processes. To reconstruct the path leading from the historical to the contemporary situation in Darsilami, each RRA team tape-recorded the settlement histories of Bulembu, Taxotala, and Sandu Darsilami as told by male elders in these communities. These three histories are presented below. They are similar in that all three versions relate that the Mandinkas of Darsilami hosted the immigrant communities of Taxotala and Bulembu around the 1930s. They also recount how the Mandinka hosts gave their Serahuli guests land upon which to build compounds and grow subsistence crops. However, the settlement histories diverge from each other in two important ways. First, the history presented by the Mandinka residents of Darsilami differs from that presented by the Serahuli residents in its account of how much land was given to the Serahulis by the Mandinkas. Second, the Mandinka and Serahuli histories differ in their description of the conditions imposed by the Mandinka on land given to the Serahulis. Where these settlement histories diverge helps to explain the occurrence of recent land-use disputes in Darsilami. Therefore, the section immediately following the settlement histories will describe one of these land-use conflicts. This section traces a path from the settlement and agro-ecological histories to the contemporary agro-ecological situations in Darsilami. It will illustrate how historical and contemporary events converge around the recent land-use dispute and have shaped the tenure systems of today’s Darsilami.

Settlement history as narrated by Taxotala and Bulembu elders

Darsilami was settled by a Mandinka man and a Serahuli man, both of whom were powerful marabouts. Indeed, the grave of the Serahuli marabout is located in front of Darsilami Mandinka mosque. The son of this Serahuli marabout was Kekorah Sillah. Kekorah Sillah later became the leader of the Serahulis who emigrated from Darsilami to a village named Banilcokekora near Basse. The reason for this migration of the Serahulis is unknown.

An intertribal war caused another group of Serahulis from Bundu, Casamance, to scatter. After the war ended, the scattered population regrouped and eventually settled a new village called Bulembu, Senegal. After some time, this same group of Serahulis migrated again to Manato in Casamance. After spending some time in Manato, they migrated a third time to the village in Senegal called Taxotala.

While in Senegal, the French colonial government periodically imposed a *serewiso*, or decree, which required able-bodied Senegalese to work on designated public works projects. For example, the forefathers of the oral historians for Sandu Darsilami were required to transport boulders on their heads in order to build a wall 7 meters long and 7 meters wide. The French colonial government also imposed a *serewiso*, which conscripted male youth into the French army. Youths were taken to Nginginew, Senegal, where they were forced to do hard labor for military training. At that time, the father of the narrator of this story, Massireh Drammeh, was a district authority in Senegal. Fearing that his young people would all be taken away, Massireh Drammeh sent a delegation of elders to *seyfo* Batapa Drammeh of Diabugu, Sandu District, The Gambia. He did this because the Drammehs in Diabugu were related to the Drammehs in the Casamance. Through the delegation, Massireh Drammeh requested that his people be given refuge in The Gambia from the hardship in Senegal. Seyfo Batapa Drammeh and his advisors met and decided to give Massireh and his people sanctuary. Batapa Drammeh chose the area presently known as Darsilami Taxotala. The delegation went back to the Casamance to inform Massireh Drammeh that a site had been found not far from relatives in Diabugu. Thus, 67 years ago, 40 Serahuli compounds, the predecessors of present of Taxotala Serahulis, came to settle in Darsilami.

Approximately 30 Serahuli compounds, the predecessors of present-day Bulembu Darsilami, arrived two to three weeks after the arrival of the Taxotala Serahulis. Upon arrival, the Taxotala and Bulembu Serahulis had no permanent shelters; thus, several Mandinka families hosted the Serahulis for one dry season. During this time the Serahulis were able to build their own houses and to transport their belongings from Senegal to Darsilami, The Gambia.

After the rainy season was over, one Sandu Darsilami family gave land to the Bulembu Darsilami people to farm. This farmland, given in perpetuity, was located to the northeast of Sandu Darsilami (to the border with the village of Touba). In addition, two Mandinka families in the village of Touba lent the Bulembu Serahulis farmland located adjacent to the farmland given by the Sandu Darsilami family. Because the Touba family was not using this farmland, they agreed to a long-term lending arrangement. The Touba family, however, retained the right to annul the borrowing contract.

Land was given to Taxotala Serahulis in a similar fashion. The village of N'Jenne also gave the Bulembu Serahulis farmland located to the south of Darsilami. When both the Taxotala and Bulembu Serahulis settled in Darsilami, the Fula village of Sena N'Gye Kunda was located to the west of Darsilami. After a short period of time, these Fulas emigrated from the area. The Sandu Darsilami residents claimed ownership of the Sena N'Gye Kunda farmland. The

Mandinka residents of Darsilami then gave some of this land to the Taxotala Serahulis in perpetuity.

According to the narratives of Taxotala and Bulembu historians, the territory immediately to the north of Darsilami was “virgin” land when they settled in Sandu District. After the Serahulis built their homes, and in preparation for their second rainy season in Darsilami, individual compound members in Taxotala and Bulembu cleared this land. Because of this act of clearing, the farmers from Bulembu and Taxotala consider themselves owners of the farmland to the north of Darsilami.

The physical strength of the original Serahuli migrants to Darsilami determined the number of fields individual compound members own today in Taxotala and Bulembu. But physical strength alone does not account for the present-day land distribution in Bulembu. Two other factors interceded. Two families of the original Bulembu settlers came with large herds of cattle. These two families cleared and then tethered their cattle in this northern area. Other Bulembu families, fearing crop damage by cattle, were reluctant to clear farmland next to these herds. Thus, descendants from these two families are the major landholders of land located to the north of Darsilami.

In 1946, the Sandu Darsilami residents claimed ownership of some of this northern land. A land dispute erupted between Taxotala and Bulembu residents and Sandu Darsilami residents. Seyfo Batapa Drammeh interceded. To settle the dispute, the *seyfo* established boundaries among the three sections of Darsilami. A boundary was established between the territories of Taxotala and Sandu Darsilami and between the territories of Taxotala and Bulembu. The Taxotala-Mandinka border is marked by a road that extends approximately northwest. The Taxotala-Bulembu border begins at the boundary between the two village settlement areas and extends northward toward the Senegalese border. A Taxotala oral historian stated that the Taxotala people lost portions of their territory to both the Mandinka and Bulembu residents of Darsilami. Also, the *seyfo* divided land unequally among the different compounds in Taxotala. As a result, some compounds have more land than others. Because of this, disagreements occasionally arise among *kabilos* in Taxotala concerning field boundaries.

Both residential and farmland is nominally “owned” by men in Taxotala and Bulembu. When the eldest man in a compound dies, his eldest son inherits the land. Thus, land is inherited patrilineally. It is interesting to note, however, that the elders with whom the RRA teams spoke stated that both men and women inherit land. Occasionally, if the deceased man’s daughter is married and living in Taxotala, then she can inherit a piece of her father’s land. If the daughter lives outside the village, however, she will not be entitled to inherit any land. It is also important to note the indigenous perceptions of inheritance. Both male and female elders in Bulembu said that women have rights to land used by their mothers-in-law and managed by their husband and his family. Thus, while land is held by men in Bulembu and Taxotala, women have use and inheritance rights to land belonging to their fathers and their mothers-in-law (through their husbands).

Settlement history as narrated by Sandu Darsilami elders

This village was founded Foday Mamudu Barrow who came from Hireh in Futa Toro. The ethnic origin of the Sandu Darsilami people was Fula. Before Mamudu Barrow settled in Darsilami, there was a Soninke settlement. However, they left before Foday Mamudu’s arrival. Thus, when Mamudu Barrow arrived no one was present in the village.

Foday Mamudu was a marabout. He arrived in Darsilami in the morning and, because he saw a mosque and a *bantaba*, he decided to stop for a rest. That same evening a Serahuli man and his family arrived. The Serahuli man's name was Nfa Alimaneh Sillah. Foday Mamudu advised this Serahuli man to spend the night till the following day. The third man to arrive on that day was Sirimang Darboe, a Mandinka.

The next morning the Mandinka and Serahuli men asked each other what they had seen the previous night since both of them were marabouts. They agreed that present-day Darsilami was a place they could settle and worship Allah.

Foday Mamudu then told the Serahuli man that since he came in the evening whilst he, Foday Mamudu, arrived in the morning, he was to be the host. He therefore gave the Serahuli the imam-ship while he became the *alkalo* of the village.

In the days of the Serahulis, this village was called Kutafara. Nfa Alimarieh Sillah later died and was buried behind the small Mandinka mosque. After his death his family members and his followers migrated to Kumbija and to Sabi. After the Serahulis migrated, Foday Mamudu decided to rename the village "Fi Dari Islam" from which the present name "Darsilami" is derived. There was a period of 153 years between the arrival of Foday Mamudu and that of the present Serahuli community.

Foday Mamudu had three sons: Bakary Barrow, Foday Barrow, and Ebrima Barrow. It is not known whether he had any daughters. The first son, Bakary Barrow, succeeded his father as *alkalo*. Foday Barrow succeeded Bakary. Next in line was Foday's eldest son, Kebba Barrow. After Kebba Barrow's rule, because the present *alkalo* was too young to become *alkalo*, it had to be given to someone outside the Barrow family. It was then that Malamin Sanyang became *alkalo*. Then came Bokari Jarra. At this time, the practice was that the eldest man in the village was given the post of *alkalo*. Through this practice, Bakary Bintou Sanyang, Ngaleng Sanneh, Malang Sanyang, and Ebrima Karumba Jarra all became *alkalolu*. Because he felt that he could no longer perform his duties, Ebrima Karumba Jarra resigned as *alkalo*. After his resignation, the village elders met and decided to change the practice once more, that is, instead of giving the *alkalo*-ship to the eldest male member of the village, they decided to return it to the Barrow family. So the present *alkalo* became *alkalo* only because the village elders decided to go back to tradition.

There were late settlers also. Most of these late settlers were Serahulis from Guinea (including Sadou Sowe and Muhammadu Keita). When the late settlers came, the farmland surrounding Darsilami belonged to those of the Mandinka community. When Foday Mamudu came, this whole area was forested. Gradually, the Mandinkas cleared the forest so that, by the time the Serahulis arrived, the area had been opened.

The two Serahuli villages of Bulembu and Taxotala arrived together, each with an imam and an *alkalo*. As the elders explained, they migrated from Casamance because of a war. They wished to stay in Darsilami in the name of Allah and his messenger. The Mandinka community accepted them and provided them with food and shelter. The Mandinkas allowed them to settle in Darsilami side-by-side. The Serahulis were each given a place to reside and a backyard. However, the Mandinka ancestors realized that the land had to be preserved for the future generations of Mandinkas, so they decided to retain ownership of the farmland. Thus, as one elder remarked, "It is true that this is all Darsilami but there are different sections and Sandu Darsilami is the host section.... The other settlements all originated from Sandu Darsilami. However poor Sandu Darsilami may appear, we are the original settlers of Darsilami."

Land dispute crisis in Darsilami

On the road to Touba and Wuli Touba, a 6-foot cement wall encloses a 3-hectare cemetery. Two large steel doors painted starkly in red break the impenetrability of the cement wall. Through these doors, residents of Taxotala and Bulembu enter, separately, to bury their dead. The cemetery is located on land previously held under customary tenure by residents of Sandu Darsilami—and herein is the cause for the tense land dispute which has pitted Mandinka and Serahuli neighbors against one another and which has adversely affected the religious and social fabric binding Darsilami together as one village.

Residents of Sandu Darsilami, Taxotala, and Bulembu no longer attend the central mosque for Friday prayers. Instead, residents attend their own mosques located in their respective sides of town. Taxotala and Bulembu residents perceive social institutions and infrastructures located in the Sandu Darsilami side of town to be “off limits.” For instance, they never draw water from the borehole pump located in Sandu Darsilami territory; they do not use the public health center that is also located in Sandu Darsilami. Although it is immaterial whether this unequal access to infrastructure has resulted from real or perceived interdictions on the part of Sandu Darsilami residents, the fact remains that the Serahuli children and their parents suffer the inconvenience.

In addition, the dispute has altered the land and tree tenure system in Darsilami. One of the main tenets of customary tenure systems in The Gambia has been revoked. This tenet, previously thought to be sacrosanct, held that if a landholder were not using a piece of land, it was that person’s social obligation to lend the land to those in need. Now the original settlers of Darsilami allow land to lie unused, refusing to lend or even rent land to Serahuli residents who could use it. The Mandinka families who had lent fields to Serahulis before the land dispute now threaten to take their plots back. The imam of Bulembu and other members of his family, for example, cultivate groundnuts in land given by the Mandinkas to the imam’s forefathers. The land is located near the Mandinka’s rice fields to the southeast of town, and Mandinka youth are threatening to repossess it.

Serahuli residents are reluctant to plant trees on land given to them for gardens. They are also wary that the trees they have already planted in these areas will be appropriated or uprooted. In fact, this has already happened. One Sandu Darsilami family rescinded a land-borrowing arrangement of a Taxotala woman. This woman is trying to negotiate with the Mandinka family to retain her right to harvest the fruits from the trees she had planted.

Needless to say, residents of Darsilami suspected that this RRA research mission was a government investigation. As a result, people feared that the team would favor one part of town over another. To dispel these apprehensions, the RRA team divided into three separate groups and provided each of the communities with equal research time. The three RRA subteams decided not to avoid the land dispute. While the team agreed not to judge, it felt that listening to problems arising in the management of land in and around the village of Darsilami was important. The subteams thus decided to listen and record, as accurately as possible, the three sides of the cemetery dispute in Darsilami. What follows is a description of what was heard.

Dispute as narrated by Bulembu and Taxotala residents

In the past, residents in Bulembu and Taxotala buried their dead in the backyard areas of their compounds, usually under a large shade tree. Because of government health campaigns, the Serahulis learned that this burying arrangement was not a good practice. So, in 1976, the

Serahulis of Taxotala and Bulembu joined the graveyard of the Mandinkas in Darsilami. This solution worked for only a short while, for after they had joined the Mandinkas in burying their dead in one graveyard, it appeared that more and more Serahulis were dying in rapid succession. Therefore, evil spirits were thought to inhabit the communal gravesite. The Sandu Darsilami residents then transferred the graveyard to the west of the village. Since this was located at a distance from the Serahuli neighborhoods, the Serahulis started once again to bury their dead in their backyards. This arrangement soon became untenable, however, because the Serahuli populations have been growing, and, at the same time, many farmers have mechanized their farming operations. Thus the Serahulis faced increased need for compound and agricultural land. To expand their compound areas, Taxotala and Bulembu residents would occasionally dig up or build on top of old graves.

At this point, the Taxotala and Bulembu residents requested land for their own graveyard from the Sandu Darsilami families. They even offered to purchase the land for the sum of 21 million pesos (to be sent by expatriate Serahulis). At first, the then-*alkalo* of Sandu Darsilami agreed to sell the land. However, when he did allocate the Serahulis a plot of land, its customary owner refused to give it up. An internal political dispute ensued in Sandu Darsilami. This infighting led to the resignation of the then-*alkalo* (in fact, this happened the day before the RRA team arrived). The Serahuli communities requested that the commissioner become involved in settling the dispute. The Serahulis made this request under the presumption that disputed land becomes the property of the state, and thus the commissioner could allocate the land as he deemed fit after judging the situation. The then-commissioner interceded and allocated land for a graveyard to the two Serahuli communities. No monetary compensation was given to the Sandu Darsilami family that had lost its land since they had refused to agree to the decision of the previous commissioner. As far as Taxotala and Bulembu residents are concerned, the matter is closed. The Sandu Darsilami residents, however, regard the dispute as far from over, as will be seen in the following section.

Dispute as narrated by a group of men from Sandu Darsilami

One man, called Kebba Kayo, came to the village of Darsilami from Nyakoi Kerewan for Friday prayers. After the prayers he announced that the elders should stay because he had something to discuss with them. He said it concerned the graveyard issue. He said that while the Mandinka had a graveyard, the two Serahuli communities did not, and it was high time that they did. The matter was referred to the three *alkalolu* of Darsilami Mandinka, Bulembu, and Taxotala. They suggested that the matter be laid to rest until after the rains because no land could be identified until that time.

After the rains Kebba Kayo reminded the elders, and the matter was discussed by the three *alkalolu*. The two Serahuli *alkalolu* said they did not have any lands. The Mandinka then-*alkalo*, Ebrima Kasamba Jarra, said that he did not have any land on the eastern side of the village but would contact those who did and get their reaction.

The Serahulis later asked Kuuti Sanneh, a Sandu Darsilami farmer, to give them part of his land for a graveyard. Kuuti refused on the grounds that the Serahulis themselves owned land in the same area, east of town, and should therefore use that instead of asking for more.

However, the two Serahuli *alkalolu* with the Mandinka then-*alkalo* and Karamo Jatta (now deceased) went around to the Serahuli and Mandinka eastern lands and identified Kuuti Sanneh's land without his consent. They sent people to measure the land, again without the owner's

consent. The Mandinkas then accompanied Kuuti to his piece of land to object that the land should not be taken without the owner's consent.

The Serahulis went to report the matter to the then-commissioner, Omar Khan. Two or three days later the commissioner paid the Serahulis a visit, inviting both the Mandinkas and the Serahulis to a meeting to discuss the graveyard issue. He asked Kuuti Sanneh why he refused to give up his land. Kuuti replied that he refused because the Serahulis themselves had land in the same vicinity. The commissioner said that if the matter could not be resolved amicably, he would use the powers conferred on him by law to take the land compulsorily. The Mandinka *alkalo* at the time, Karamba Tana, offered to give his land in exchange for Kuuti's. The Serahulis objected, because the *alkalo*'s land was less fertile than that of Kuuti and was located far into the bush. The Serahulis suggested that the *alkalo* offer his land that was located immediately behind the village and was fertile. This suggestion was not accepted. At this stage, the commissioner called another meeting, threatening to seize the land if the parties could not agree on a land exchange. The commissioner then called for the "Fatiha" and declared the meeting closed.

The Serahulis subsequently came with fencing poles to the land owned by Kuuti and started to build a fence. The Mandinka elders, objecting to the action, pulled out the poles erected by the Serahulis. The Serahulis, insisting that the land had been given to them legally, again sent for the commissioner. The commissioner dispatched a contingent of Tactical Support Group officers to the village. These officers stood guard at the land in dispute while the Serahulis constructed a cement wall around the area. Although the tactical support officers had forbade any Mandinkas from going to the area, a group of Mandinka youths visited the location one night and were promptly arrested. Later that night the Mandinka elders went to ask about the fate of their young and were also arrested. They spent three to four days in police cells.

Before this, a senior police officer, Mr. Bojang, had come to the village to discuss the dispute. He asked the Mandinkas to share their graveyard with the Serahulis; the Mandinkas replied that they were willing to do so and were also willing to extend their present graveyard to accommodate the Serahulis. Mr. Bojang then suggested that the Serahulis join the Mandinka's present graveyard; the Serahulis, wanting their own graveyard, rejected this suggestion.

The commissioner interceded again. He acquired the land and gave it to the Serahulis. The Sandu Darsilami residents are now contesting this action. They hired a private lawyer and intend to pursue the issue in court.

SOCIAL STRUCTURE AND RURAL ECONOMY IN DARSILAMI, SANDU DISTRICT

Social structure in Sandu Darsilami

There are two *kabilo*¹¹ in Sandu Darsilami. If a stranger farmer comes to Darsilami wishing to farm, he is hosted by one compound in a *kabilo*. His host will provide accommodations, food, and land to farm during his stay. In exchange, the stranger farmer will work on the fields of his host and provide some remuneration to the wives of his host for the cooking and laundry work

¹¹ Mandinka term meaning ward or neighborhood in English.

they do for him. However, if the stranger farmer comes with his family and wishes to settle in Darsilami, then the stranger farmer can establish his own *kabilo*. This is what happened with one of the two *kabilos* in Sandu Darsilami. One of the *kabilos* settled with a large family and an entourage of slaves, so the founding *kabilo* allowed them to establish their own *kabilo*.

Social structure of Bulembu and Taxotala Darsilami

The main units of social organization in the two Serahuli communities are the *xabila* (that is, clans or lineage groups). Members of the same clan live together and form neighborhoods. In Bulembu there are two such neighborhoods. The Bulembu *alkalo*-ship descends from one of these neighborhoods while the imam-ship descends from the other. The *xabila* within Bulembu and Taxotala are further divided into *kane*, or compounds, composed of a patriarch, his wives, their unmarried children, and the families of his married sons. A *ka* (singular form of *kane*) is traditionally headed by the eldest male member (or *kagume*) of this patrilineally extended family. Often, however, due to out-migration of men or personal circumstances of particular women, women become “heads” of compounds. The descriptive box details one such female-headed household in Taxotala, Darsilami (see box).

The *kagume*, or compound head, has two main management responsibilities. One, the *kagume* has a certain amount of control over the labor of the male relatives in his compound. Traditionally, all male relatives within one *ka* cultivate collectively a *kirsenteh* or *hurubanteh* field. *Kirsenteh* or *hurubanteh* fields are, in essence, communal fields, with the *kagume* deciding which crop is to be grown (usually groundnuts). Two, the *kagume* controls the harvest from these fields. He is responsible for storing the harvest in a central granary. He is also responsible for unlocking the granary so that the women, who are responsible for cooking the *huruba*¹² meals, can measure out the daily grain allotment. Traditionally, all members of a *ka* eat from this common (*huruba*) breakfast and lunch bowl.

There are two other types of fields cultivated by Bulembu and Taxotala farmers—*duranteh* and *salumateh*. *Duranteh* is the Serahuli term for individual fields used by women farmers. As several Bulembu women explained, every woman has her own field, which she cultivates sometimes with the assistance of her unmarried daughters. The harvests from these *duranteh* fields are controlled solely by the women. Likewise, male farmers have their individual fields. The Serahuli term for these fields is *salumateh*. The male farmers who cultivate *salumateh* retain control over the harvest. Male labor allocation on *salumateh* and *hurubanteh* fields is arranged so that all men of one compound will work on the *hurubanteh* in the morning and the *salumateh* in the afternoon.

¹² *Huruba* is a Serahuli term referring to the common meal shared by all members of one *ka* or compound.

Descriptive box: Woman-headed household, Taxotala

Traditionally, the eldest male of a compound is referred to as the head of the household. In reality, however, the responsibilities and duties of a head of household can be often assumed by other members in the compound. Increasingly, women are becoming de facto heads of households as their husbands migrate to urban centers or die. One RRA team member spoke with a woman resident of Taxotala who, at the death of her husband, has become the de facto head of her household. While she has “married” another man in the village, as she describes, this marriage is in name only. This woman has remained in the compound where she lived with her deceased husband. The wives of her sons also live with her while their respective husbands live in Spain. She receives no financial maintenance from her “husband,” who only comes to visit her “from time to time.” This woman undertakes all the duties male heads of household undertake. For example, she negotiates land-renting agreements with one family in Sandu Darsilami. Through this agreement, she rents two groundnut fields and one late millet field. She has also borrowed land for a garden and fruit tree orchard under a tenuous borrowing arrangement.

The Sandu Darsilami family prohibited her from planting trees; nonetheless, she went ahead and planted a few fruit trees. As she remarked, the Sandu Darsilami family could take back the land upon which her garden is situated at any time. The Mandinka family could also appropriate the trees she planted.

Two, aside from these land administration and cultivation tasks, this woman, as the head of her household, distributes the daily food portions to her daughters-in-law. This woman undertakes three income-generating activities to make additional food and clothing purchases. She makes necklaces from clay and scented body oil from the sap of the *sonke* tree. With these two items, she sells to or barter with people in Darsilami or in Sera Gye during *lumo*¹³ days.

This woman interviewee responded to the question of whether there is a difference between a woman’s and a man’s ability to head a household by saying, “There is no difference between men and women when it comes to work. I go out into the groundnut fields...to hoe, weed, and harvest my groundnuts just like a man. I look after my family and provide food for them.... There is no difference in reality; it is just tradition which makes that distinction between men’s and women’s roles.”

The caste system plays an integral part in the social system of Bulembu and Taxotala. Villagers of Bulembu and Taxotala still draw distinctions among nobles, slaves, cobblers, and smiths. In the past, each *kane* of the noble caste would have their associated *ka* of slaves, cobblers, and smiths. Slaves played a major role in the system of production. Nobles controlled the labor of their slaves; slaves were required to work in their fields. They were also responsible for the processing of the harvest. Cobblers and smiths were responsible for activities such as tanning leather, preparing women for weddings, and preparing and performing circumcisions. All these tasks were undertaken without remuneration.

While the caste system was officially abolished at The Gambia’s independence, its remnants can still be found in the division of labor within Bulembu and Taxotala. For example, those of the noble caste still request that their slaves process their harvests. However, the crucial difference is that now nobles pay the slaves for their labor. Those of the slave, cobbler, and smith castes can never become *alkalolu* or imams. They do, however, enjoy political representation in

¹³ *Lumo* is a Mandinka term referring to a traveling market. A market day is held once a week in a village neighboring Darsilami.

the various village organizations such as women's *kafos*. There is also a sense of pride among these different social groupings. Descents of the cobbler caste, for example, gain pride from exhibiting their knowledge of leather making and the role they play in their community. As will be seen in the section on wealth status, caste affiliation had no correspondence to an individual's wealth, for some descendants of the slave caste were ranked "wealthy" by their peers.

Wealth and income generation

The following list represents a composite definition of wealth, which was generated by four Bulembu villagers¹⁴ during the RRA wealth-ranking exercise. As was expected by the team members, the mere fact of having capital is not the sole indicator of wealth. Other endowments are equally important. As will be seen, farmers who possess farming equipment and who have relatives overseas seem to be better off than other farmers who do not possess these endowments:

- ◆ having children;
- ◆ owning livestock (i.e., cattle, sheep, goats);
- ◆ having extended family members;
- ◆ owning gold;
- ◆ owning horses, which enable male farmers to go to distant farms;
- ◆ owning carts and donkeys, which enable male farmers to go to distant farms;
- ◆ having a small business;
- ◆ having good health;
- ◆ knowing a skill (e.g., baking);
- ◆ gardening (but only with good fences); and/or
- ◆ having money.

In Taxotala, slave compounds were found to be the poorest. No slave compounds were ranked among the six wealthiest compounds, and only two slave compounds are among the eighteen wealthiest compounds. Interestingly, village participants ranked cobbler compounds at various levels of wealth. One cobbler compound was ranked among the three wealthiest compounds in the village.

During various interviews with residents of Sandu Darsilami, two factors emerged which differentiated the livelihood strategies of these farmers from the livelihood strategies of Taxotala and Bulembu farmers. One differentiating factor was that few residents of Sandu Darsilami had traveled abroad. Thus, remittances played only a minor role in the wealth profile of these Mandinka farmers. A second factor was that residents of Sandu Darsilami had greater access and more secure tenure rights to the agricultural land surrounding Darsilami. Thus, residents of Sandu Darsilami were observed to place a greater reliance on gardening, tree planting, and other agricultural activities than did their Serahuli neighbors. This observation is revealed in the revenue matrix constructed with the women's *kafo* in Sandu Darsilami; the matrix features various vegetables and fruits as sources of income.

As shown by a revenue matrix, male farmers in Sandu Darsilami placed greater significance on petty trading and livestock sales as sources of revenue than did the women farmers. Male

¹⁴ Three women and one man.

farmers have increasingly pursued these various revenue-generating activities, particularly maize and cotton cultivation and livestock production.

Connections among access to sources of wealth, landholdings, and livelihood strategies

As several Bulembu and Taxotala residents remarked, the amount of land held had little to do with wealth or caste affiliation. The main determinant of the extent of landholding was the strength of one's ancestors to clear land. Thus, if an ancestor, whether slave, cobbler, or noble, was able to clear land when he first came to Darsilami, then the descendants would own land today. Regardless of this aspect of the Serahuli tenure system, which does not appear to discriminate on the grounds of caste or present wealth status, there is inequality in landholdings among families in Bulembu and Taxotala. For example, only four families in Taxotala own backyard farmlands. These four families were ranked "better off" in the wealth-ranking exercise; no poor families owned land in their backyards. As Taxotala residents explained, this unequal land distribution was more a result of how land was originally allocated to the Taxotala Serahulis by the Mandinka rather than of a family's access to sources of wealth. Indeed, few compounds in either Taxotala or Bulembu actually own land. This scarcity of land is due to the fact that about 75 percent of the area surrounding Taxotala and Bulembu is owned by Sandu Darsilami families.

From the wealth-ranking exercise, the Bulembu RRA team proceeded to select three individuals from the different wealth groupings. The team then interviewed these three people to obtain a more detailed picture of (1) the main determinants of wealth and (2) the connections between access to sources of wealth and the livelihood strategies pursued by particular farmers.

Determinants of wealth

As the revenue matrices illustrate, the wealth in individual compounds is strongly determined by whether or not members from the compound have traveled abroad. By traveling abroad, the expatriate Gambians can send remittances home in the form of either hard currency or farming equipment. Also by traveling abroad, the expatriate Gambians can save money from which to start their own businesses either overseas or when they return to The Gambia.

The RRA subteam tried to find out the aspirations of the male youth in Bulembu. During an interview the subteam asked four members of the Boys Youth Group of Darsilami to assess the proportion of their male peers who wanted to be farmers when they grew up. The four boys replied that none of their peers wanted to be farmers. As the leader of the Boys Youth Group said during an interview, most of his friends want to leave Darsilami to travel abroad: "If we all stay here, then we won't have enough land. Already we have to rent land."

Other important sources of wealth are groundnut cultivation, cattle, and small businesses.

Access to wealth and livelihood strategies

The livelihood strategies of Bulembu farmers are affected by their access to sources of wealth in three important ways: (1) reliance on agricultural activities to survive; (2) who in the community gets better-quality land; and (3) gender division of labor.

(1) Reliance on agricultural activities to survive: Without remittances and outside employment opportunities, members of poorer compounds try to diversify their income sources while relying heavily on agricultural activities. As one woman explained, "We only do so much

farming because we don't have anyone abroad." An important source of income for several poor Bulembu residents is duties performed for the noble caste; such duties include threshing grains and preparing brides for marriage. It is interesting to note that less wealthy members spoke more frequently of a lack of time to undertake agricultural activities that would be more profitable—this was especially true for poorer women farmers. Lacking any labor-saving devices and having to perform all household maintenance activities, these poorer women had no time to plant beans, which they could then harvest and process into bean balls for sale. It is also interesting to note that poorer members of Bulembu spoke more frequently of periods of hunger and of benefits gained from an open-access tenure regime on certain tree species. As one woman remarked, "During these hungry periods, I cut *nette* in the bush to make into a paste for my children."

A revenue matrix constructed with the women's *kafo* in Taxotala indicated some of the income-generating activities that women try. Groundnut and sorghum cultivation are the most important sources of income for Taxotala female farmers. The collection of wild fruits from the surrounding bush area is also an important source of income. However, the women have experienced a decrease in the revenue they gain from wild fruit collection; they attribute this decrease to poor harvesting habits (for example, using cutlasses). Many women in Taxotala embroider bedclothes, curtains, skirts, and other items with colorful cross-stitch designs. The embroidery pieces either are sold or become the property of daughters upon marriage.

Gardening activities provide only a small proportion of income for Taxotala women. One reason may be that the women have problems getting land for gardening. The Mandinka are reluctant to give them land, and what land the Mandinka families have given to the Serahulis is not secure, for the Mandinkas can take the land back at any time.

Fruit tree cultivation has become an important source of income because of government programs such as the provision of seeds and seedlings. However, the majority of women do not benefit from these programs.

(2) Access to better-quality land: Serahuli farmers who own cattle, horses, and donkeys are able to cultivate better-quality fields located in *bambadala* and in Senegal. These farmers were invariably men. While well over half of the Bulembu women own cattle, no Bulembu women own horses or donkeys.

As the woman *kafo* president described, all land is vested in the hands of the compound heads, who manage the land on behalf of their extended families. It is the responsibility of the compound heads (most of whom are men) to divide and allocate land among both male and female members of the compound. Frequently, however, there is not enough land to give to everyone. The woman *kafo* president said, "However small the portion of family land is, the compound head must share this portion with the women in his compound; still there are some women who do not have any land." While this woman's statement is also true for some men, most Bulembu and Taxotala men do not need to borrow land from neighboring villages. As several of the women pointed out, Bulembu male farmers can use land in *bambadala* and borrow or rent land in Senegal because of their access to horses, donkeys, and carts. Originally, the land located in *bambadala* was virgin bush; the men from Bulembu and Taxotala cleared that land for their use, the act of clearing conferring them ownership rights.

In contrast, women lack the means of transportation that would enable them to cultivate land in *bambadala*. Because of their "double burden" (that is, being responsible for both domestic and agricultural tasks), women must be able to cook breakfast and lunch for their families as well as

perform various morning household chores before they leave for their fields. They must also return to their homes in time to cook the evening meal. Given these obligations, women farmers could not walk to fields in *bambadala* and fulfill these responsibilities. The only recourse for women farmers is to borrow land, on a short-term basis, from neighboring villages. At present Bulembu and Taxotala women farmers can borrow as much land as they want. Borrowing arrangements with neighboring villages remain flexible. However, this type of schedule and borrowing arrangement presents several difficulties for women farmers. First, they may be concerned about their infants' childcare. Second, they may find it more difficult to protect their borrowed fields from bush pigs because of the distance from the village and the need to spend more time at home. Third, women farmers who borrow land are forbidden to plant trees in these fields.

Bulembu women farmers cannot borrow land from Sandu Darsilami families because of the land-use dispute. According to the Bulembu women, the people of Sandu Darsilami have become "bad neighbors," for they are unwilling to lend out land that otherwise lies unused.¹⁵

(3) Gender division of labor: From the description presented by the eldest woman resident of Bulembu, both men and women "held" land before the Serahuli migrated from Bulembu, Casamance (see appendix 2). Men and women farmers cleared, plowed, sowed, weeded, and harvested in their own fields separately. Contact with the Mandinka social systems, the introduction of animal traction and mechanization, and the distribution of remittances changed this traditional gender division of labor. Upon arrival, the Serahuli first remained within the compounds of the Mandinka. Subsequently, the Mandinka first-settlers, recognizing men as heads of household, gave the Serahuli men land upon which to settle and farm. This pattern of land giving appeared to change in the way men and women "held" land within the Serahuli community. Remittances sent home from abroad accrue to the male members of compounds. These remittances have allowed men farmers to purchase horses, donkeys, and farming equipment. Women farmers have not been so lucky. As a result, women farmers must rely on their male relatives to gain access to draft animals and farming equipment.¹⁶ The result is that now male farmers, who mainly cultivate millet, use animal traction and other equipment on their own fields. Only after clearing, plowing, and sowing their millet fields do the male farmers clear and plow the fields (predominantly groundnuts) of their wives. If a husband has several wives, he will plow and sow the fields of his first wife before moving to the fields of his second (and other) wife (or wives).

Once their fields are plowed, women farmers sow and weed their fields. The women with whom we spoke remarked that it can be a problem to have to wait for their male relatives to plow their fields. This situation is especially true for second and third wives in a compound. The wait can cause delays in their sowing time.

During the harvest period, male farmers will assist their female relatives by pulling the groundnuts while the women farmers are responsible for stacking the groundnuts into large heaps. Women are also responsible for processing of groundnuts (for example, pounding the

¹⁵ There are, however, a few exceptions. About four Sandu Darsilami families continue to lend parcels of land to Bulembu farmers—though these parcels were lent out before the cemetery land crisis. The women were unsure whether the Sandu Darsilami residents would ask for this land back.

¹⁶ All of the Bulembu women with whom the team spoke stated that their male relatives share this farming equipment with them free of charge.

seed for certain dishes; roasting and grinding for peanut butter, oil, and soap). Women keep their own stores of groundnuts. To ascertain how women use their groundnut harvests, the RRA subteam asked three women to distribute 20 beans (representing their total groundnut harvest last year) among all the different uses. These women participants allocated 5 beans for the proportion of groundnuts sold; 5 beans for the proportion kept for seeds; and 10 for the proportion consumed.

While women farmers do not help their male relatives cultivate millet, they do process the harvests. Women are responsible for threshing millet, pounding the grain into powder, and cooking the processed product.

Village institutions

Villagers have created various local institutions, associations, and groups that contribute directly or indirectly to the sustainable management of resources and to the day-to-day demands of religious and social life. These institutions may be indigenous to the communities or they may be linked to religious and/or governmental or nongovernmental agencies. Some of these practices may be adequately meeting their goals while others may need help in achieving a more sustainable use of resources. Team members used the RRA tool known as Venn diagramming to discover which institutions are important to Darsilami residents. Extensionists and policymakers should be aware of the fact that different institutions may have particular importance to men as opposed to women and Serahuli as opposed to Mandinka residents.

Religious and educationally based institutions: For many residents, one of the most important institutions for both men and women and Serahuli and Mandinka residents were the mosques located in the three subvillages of Darsilami. However, it is interesting to note that the women of Bulembu and Taxotala did not place much importance on the imam as a key individual in their communities. The women of Bulembu stated, “All he [the imam] does is ask us to persevere through hardship. He doesn’t really understand our problems.” Both the men and the women of the Serahuli communities of Bulembu and Taxotala felt that the Koranic schools in their communities were key to the religious education of their children, most of whom do not go to the government school located in the Sandu Darsilami part of town. In a subsequent meeting with the *alkalo* of Bulembu, the team asked why parents in Bulembu and Taxotala do not send their children to the government school. The acting *alkalo* responded by saying that the Serahulis have little interest in participating in formal education because “it has not been our tradition.” However, as the acting *alkalo* elaborated, attitudes toward formal education are changing for a number of reasons. First, the Serahuli youth, who want to travel abroad, must first apply for visas and other papers—a process which may be difficult (and costly in terms of bribes) for those who cannot read. Second, those who can read and write “take advantage” of those who cannot. To prevent this from happening, many Serahulis now want to learn to read and write. In contrast, the Mandinkas of Sandu Darsilami considered the government primary school to be very important to them.

Wells: Women residents mentioned that wells and large kitchens located in each compound form “the basis of everything,” and thus featured prominently on the Venn diagrams as important institutions. Men residents were more likely to mention that the sources of water for livestock (that is, village wells and watering troughs) were important.

Caste system: For residents of the Serahuli communities of Darsilami, the caste system is an integral part of the Bulembu community. As the women *kafo* members of Bulembu described,

cobblers arrange various ceremonies in the community. Cobblers are also the messengers of those in the noble caste. Likewise, those belonging to the slave caste are responsible for carrying out any directives given to them by those belonging to the noble caste: “If they [the nobles] want them to do anything then they [the slaves] will do it.” Frequently, women slaves process the millet, sorghum, and groundnut harvests from the fields of noble farmers. Male slaves work on the fields of noble farmers, attend meetings on behalf of those of the noble caste, and the like. In the past the activities undertaken by slaves for the nobles were part of their born responsibilities. Now, however, nobles must pay slaves for their labor. Thus, “slave work” has become a source of income that has allowed some slaves to increase their wealth. In turn, if members of the slave caste run out of food during the year, they can appeal to the *alkalo*, who is obligated to give them food.

Women’s *kafos* and prominent women: Women’s *kafos* (women’s groups) and individual women play important roles in Bulembu, Taxotala, and Sandu Darsilami societies. For example, there are two *kafos* in Bulembu: one for middle- to older-aged women, and the other for young girls. The *kafos* are important institutions for the women because it is through the *kafos* that they can generate income. The older women’s *kafo* in Bulembu has 167 female members and 6 male members. *Kafo* activities include: establishing a fund to purchase a horse and farming equipment, cultivating a communal maize field, and hiring out labor to work on other farmers’ fields. In the past, the women borrowed the land for their communal farm from Sandu Darsilami. After the land dispute over the cemetery, the people of Sandu Darsilami took back this land. The Bulembu women’s *kafo* turned to the village of Genda to borrow land for their communal field. The *kafo* also receives some training in income-generating activities such as tie-dye production, soap making, and numeracy and literacy training.

There is also a women elders association. As the *kafo* members described, the women elders help to settle quarrels. They are also practicing herbalists.

The Bulembu women involved in this RRA exercise also said that one woman in their community is known for her peace-making skills. Other women turn to her to settle various types of quarrels.

Institutions related to life cycles: The traditional birth attendants (TBA) and the assistant birth attendants play important roles in the three communities. Circumcision ceremonies are integral rights of passage in Serahuli and Mandinka culture. In the Serahuli communities, the male and female smiths in charge of male and female circumcisions feature in the Venn diagrams of Bulembu and Taxotala. The female leader of the cobbler caste also plays an important role in Bulembu society; as the women *kafo* members said, “She makes the brides beautiful.” Traditional birth attendants also play a role in settling marriage disputes.

Overseas fund: Many men and women from Bulembu and Taxotala have migrated to countries in Europe and elsewhere. For example, taking 22 beans to represent all the youth of Bulembu, women *kafo* members figure that 16 of the 22 beans would represent the proportion of their sons and daughter who have migrated. The remittances these young people to their community are important sources of income, which Bulembu and Taxotala residents use to meet food and farming needs. Some portion of the remittances is pooled into something called the “Overseas Fund.” The *alkalo* manages this fund. In Bulembu, the *alkalo* uses the fund to purchase sacrificial cattle for various Islamic holy days, distributing the meat among all the compounds in Bulembu. The *alkalo* may also use this fund to buy condiments such as salt for

every compound. Fewer Mandinka youth in Sandu Darsilami have traveled abroad. Thus, Mandinka farmers have less opportunity to take advantage of remittances to improve their agricultural operations. In fact, these types of overseas funds do not show up at all in the Venn diagrams for Sandu Darsilami.

Moneylenders: There is one man in Bulembu who constitutes an important institution unto himself. Because he has been “lucky” to have many sons overseas who have sent him remittances, he has been able to amass savings from which he gives out loans to Bulembu’s *kafos* and individual citizens. He charges no interest.

Government and nongovernmental organizations: According to residents of Bulembu and Taxotala, few government and nongovernment organizations offer services in their neighborhoods. For example, several Bulembu women knew of no forestry officer visiting their village. As the women stated, “An agricultural officer came once and promised he was going to help us, but then he never came back.” However, Bulembu women *kafo* members spoke highly of the government’s adult literacy and numeracy trainer. Indeed, they recommended that more of these trainers be provided to their community, especially for the women who are increasingly interested in undertaking petty trading enterprises. Bulembu and Taxotala women also mentioned that Catholic Relief Services (CRS) provides food supplements to pregnant and lactating mothers. However, the Bulembu women with whom we spoke said that the CRS center is located in the Sandu Darsilami part of town, and thus they felt that there was some discrimination in the services provided, with the Mandinka women receiving twice their deserved proportion of food supplements. In contrast to the statements made by Serahuli residents, Mandinka residents of Sandu Darsilami depicted the public health center and the agricultural seed store as important institutions.

Male youth group: The main activity of the male youth group in Bulembu and Taxotala is hiring-out their labor to work in the fields of farmers during the rainy season (say, for clearing fields). Bulembu youth receive about 60 dalasis per day of work. Another activity of the male youth of Bulembu and Taxotala is tethering small ruminants during the rainy season. Young boys are responsible for tethering the ruminants owned by either their mothers or their fathers. During the rains, these small ruminants are usually tied up in backyards or small unused spaces between the fields. Likewise, in preparation for the rains, cattle herders rotate their cattle from one field to the next upon the request of individual farmers. This rotation occurs every Wednesday. The cattle are tethered at no expense to the farmer, and the farmer has complete access and use of the manure. In Sandu Darsilami, the male youth group has assumed an additional responsibility: they enforce any *tonge* placed on resources by the village *alkalo*. The young men police the area and collect any fines. The fines they collect are pooled to help fund village development activities.

District and divisional institutions

***Seyfo* and district tribunal**

The RRA team interviewed the *seyfo* and district tribunal members of Sandu District. During this interview, these district authorities discussed their main roles and responsibilities concerning land administration and natural-resource management, their knowledge of the State Lands Act, and their opinions concerning women’s rights to own land.

Roles and responsibilities: The main role of the *seyfo* and the district tribunal members is that of mediator. If there are problems, disputes, or quarrels within the district, the *seyfo* and the district tribunal members intercede to maintain the peace. The *seyfo* and the district tribunal members will try, first, to divert a dispute away from the courts. Through informal arbitration and negotiation, the *seyfo* and district tribunal members will attempt to solve a dispute amicably. They try to do this with dispatch. If a matter comes to the court, it can take some time before the case is resolved.

Another role of the *seyfo* and the district tribunal members is to ensure that taxes are properly paid and collected. In this capacity, the *seyfo* will meet periodically with the *alkalolu* of his district to insist that they encourage yard and livestock owners to pay their taxes.

The *seyfo* also acts as the district's official representative to other districts, the central government, and nongovernmental organizations. The *seyfo* ensures that district needs are met by development projects.

The *seyfo* and the district tribunal members also call regular meetings with *alkalolu* in their districts to discuss the problem of bush fires. They encourage the *alkalolu* to establish bush fire committees and to construct fire belts around their villages.

The *seyfo* and the district tribunal members stressed that while Sandu District has a population made up of Fula, Serahuli, and Mandinka, the *seyfo* and district tribunal members all operate under the principle of ethnic equality, that is, a person is treated fairly regardless ethnic affiliation. Also, the *seyfo* and district tribunal members are guided by three different sources of law: customary law, Sharia, and Gambian statutes.

Knowledge of State Lands Act: The RRA team asked the *seyfo* and the district tribunal members if they had heard of the State Lands Act. Only one of tribunal members had heard of the act. The *seyfo* and the remaining members of the tribunal had not heard of it. The one member who had heard of the act made the following remarks:

The Government now owns all the land. If a structure is to be built, like a mosque, and the person upon whose land the structure is to be built does not agree, then the commissioner can step in to seize the land. But the act will not really help us.... Unused land should be given freely to those in need without having to pay a rent...the *seyfo* should still retain the right to take unused land from landowners and lend this land to those in need.

Women and landownership: The *seyfo* and the district tribunal members said that women do not, nor should they be able to, own land because this would go against tradition.

Office of the Commissioner

The RRA team also interviewed the commissioner of the Upper River Division (URD). During this interview, the commissioner discussed his main roles and responsibilities concerning land administration and natural-resource management, his opinions concerning women and landownership, and his knowledge of the State Lands Act.

Roles and responsibilities: The commissioner's role in the administration of land in URD differs from urban to rural areas. The Basse urban area has been "designated" as state land under the Physical Planning Development and Control Act. At the point of designation, the *alkalolu* and *kabilo* heads of Basse lost their land-administration powers and responsibilities, which they

had held under the customary tenure system of the area, for such specification makes it illegal for them to allocate land (lend, sell, so forth). Two concomitant activities occurred during the designation process. First, the Physical Planning Department of the Ministry of Local Government and Lands designed an urban plan for Basse; the plan lays out different zones for residential, agricultural, and public use. Second, a Divisional Planning Authority was established to oversee the implementation of the plan. For example, the Divisional Planning Authority will oversee the application for grants of residential plots. While the traditional authorities (*alkalo* and *kabilo* heads) can no longer legally allocate land, they do have a role on this new Divisional Planning Authority (DPA). As the commissioner clarified, “The *alkalolu* have become co-opted into the Divisional Planning Authority boards.” The commissioner is the chairman of this board, and the *alkalolu*, the various *kabilo* heads, and the Physical Planning Officer are members.

The commissioner felt strongly that the customary owners should be compensated if the government appropriates their land for a layout area. Under his direction, the DPA of Basse will provide a “golden handshake” as compensation to the customary owners of land converted to a residential development area. This “golden handshake” will take various forms. The DPA intends to allocate a certain number of plots in the layout area to the customary owners and will allow the traditional owners to continue cultivating an area until the new owner (the lessee) begins to develop the land. Also, the DPA intends to use application fees to compensate customary owners for loss of their land.

The commissioner has a lesser role to play in the administration of land and management of resources in the rural villages of the division. In these rural areas the commissioner relies on the powers and judgments of district and village authorities in matters pertaining to land and resource disputes. From time to time, the commissioner and assistant commissioner become involved as arbitrators in such disputes. The commissioner’s role as arbitrator is discussed below.

The commissioner stated that he will become involved in the management of other natural resources in his division only upon the request of a representative from the Forestry, Fisheries, and Wildlife Department. While he approves (or disapproves) the applications for tree cutting, selling, and transporting which are directed to his office from the various *seyfos* in his division, the commissioner relies mainly on the *seyfos* to determine the validity of the various requests.

The commissioner also recently learned that he has the authority to prevent a leaseholder from felling a tree on leased land, telling the RRA team of a case in which a leaseholder wanted to cut down two silk cottonwood trees (*Ceiba pentandra*). The leaseholder had heard that a bridge was to be built across the River Gambia in Basse. Since his land was located in the path of the planned bridge construction, he thought that he would need to build a permanent structure on the land in order to receive just compensation from the GOTG. Otherwise, he feared, he would receive nothing for his property. The Forestry Department, however, forbade him from cutting the trees. The leaseholder protested. The disputants, that is, the leaseholder and the Forestry Department, appealed to the commissioner. Lacking complete knowledge of the forestry regulations, the commissioner deemed that a leaseholder was free to do as s/he wished on the leased property. Therefore, he gave his consent for the trees to be cut. Only after discussing the case with the magistrate (and after the trees were felled) did he learn that it is within his purview to prevent a leaseholder from felling trees on leased property.

Women and landownership in rural areas: Women traditionally have had only “a minor role in the allocation and management of land, except perhaps rice lands,” the commissioner

said. He went on to say that it is rare for women to inherit land under customary tenure; land is usually passed to the eldest son of a family.

Women and landownership in urban “designated” areas: The commissioner said that more men are granted land parcels than women because the male members of the DPA boards think that women would be less able to develop a parcel of land. He explained:

while I believe in equality of rights, I also believe in equality of responsibilities. Women should therefore be required to develop a parcel of land just as men do. And because of this, I would have to be convinced that a woman applicant was in the position to develop the land.... [Indeed] I know many of these women [applicants] and I know that they don't even have the means to build a hut. I just laugh even though they come in sophisticatedly dressed.

State Lands Act: The commissioner said that he had not received any documentation on the State Lands Act from the appropriate ministerial office. He had only recently been appointed to his position, the commissioner confessed, and perhaps the previous commissioner knew about the act but he did not. He lamented the fact that there was no information sharing between the previous commissioner and himself

RESOURCE USE CONFLICTS AND RESOLUTION MECHANISMS

Villagers and village authorities, conflicts and resolution mechanisms

The three RRA teams interviewed several key individuals and groups to obtain information about the nature of disputes and the resolution mechanisms pursued at village level. As in other parts of The Gambia, Darsilami participants indicated that *alkalolu*, imams, and designated women play important roles in the resolution of disputes, conflicts, and quarrels at the village level. While this section describes the types of disputes these “village institutions” try to settle, separating village from district and divisional institutions is primarily a heuristic tool. The institutions at all these levels interact. The teams’ conversations with the imams and the *alkalolu* of Darsilami, the *seyfo* and his district tribunal of Sandu District, and the commissioners and magistrates of URD all point to the fact that different actors are drawn into disputes and all can exert influence at different times. However, a pattern is discernable. According to several village participants, in the past problems were solved at the village level. Now problems frequently escalate to a point where it is necessary for outsiders (for example, the commissioner) to intercede. According to some village residents, this trend results from residents “feeling more free” about taking their grievances and disputes to the *seyfo* and the commissioner or the youth of today being “more reluctant to follow the directives of their elders.”

Imam of Bulembu

The Bulembu RRA subteam interviewed the imam of Bulembu to determine his role and responsibilities in the community and to discuss what types of dispute he mediates. The Bulembu imam said that, first, he presides over marriages, births, and deaths. Second, he leads prayers at the mosque. Third, he arbitrates disputes. Fourth, he holds Arabic schooling in his compound. In

addition to these official duties, the imam remains a farmer. He stated several times in our discussion, however, that his responsibilities as imam hinder his farming activities.¹⁷

The Bulembu RRA subteam also constructed a dispute matrix with the imam. During this exercise, the imam indicated that he becomes involved in nine different types of dispute. The RRA subteam then asked the imam to describe these disputes; his description is presented below and closely parallels figure 4.¹⁸

Intravillage field boundary disputes: As the imam described, these types of dispute arise when one farmer declares a particular line between fields to be the correct border while another farmer denies its validity. Most of these disputes are resolved by the *alkalo*. The imam becomes involved only as a witness who can attest to the correct location of the boundary in dispute.

The imam estimated that these types of dispute have been on the increase over the last five years. On average three boundary disputes arise per year. Between 1964 and 1979, however, these disputes were almost nonexistent. (The imam placed only 3 beans in this category.) In explaining this trend, he said, "In the past our elders used only their hands. Now farmers are using machines.... In the past what ten people could cultivate, now one person can cultivate with machines." Increased use of mechanized farming equipment thus has contributed to the scarcity of land for the Bulembu farmers and, according to the imam, to the increased frequency of field boundary disputes.

Intervillage field ownership disputes: As the imam discussed, farmers from Bulembu have been borrowing fields from families in Touba (a neighboring village to the east). The imam could remember one case involving a Bulembu farmer who had been borrowing land from a Touba family for nearly forty years. Over this period of time, the Bulembu farmer had begun to consider himself to be the rightful owner of the land. The Touba family contested his claim of ownership. The two parties were unable to come to a compromise at the village level. As a result, the family from Touba went directly to the commissioner in Basse and requested him to intercede. The commissioner summoned the two parties to Basse to hear their testimonies; he also sent a delegation to visit the field. After deliberation, the commissioner said that the field belonged to the people of Touba and that the farmer from Bulembu should return it to its rightful owner.

The imam estimated that intervillage landownership disputes are more frequent today than in the past. Approximately three such disputes arose per year over the period from 1989 to 1993. In the period between 1964 and 1979, these disputes were nonexistent. Reasons for this trend were similar to those given for the increase in intravillage field boundary disputes.

¹⁷ Because the imam holds an unpaid position, he said that while he is busy all the time, he is a very poor farmer. The imam's assessment of his economic position was substantiated by the RRA wealth-ranking exercise: the imam was consistently rated among the poorest of the poor.

¹⁸ Note that the team has included a description of all the types of dispute heard by the imam and other institutions. Nonresource disputes, especially those pertaining to divorce and marriage, show the potential vulnerability of certain members of the Darsilami population. In particular, women who are divorced or widowed may have difficulty obtaining access to, and maintaining control of, resources.

FIGURE 4: Dispute matrix with the imam, Bulembu, Darsilami

TIME/TYPE OF DISPUTE	PAST (1964–1988)	PRESENT (1989–1993)
Bulembu neighbors fighting over farmland borders	3	15
Bulembu citizens quarreling over farmland borders with people from other villages (including Taxotala and Sandu Darsilami)	0	15
Marriage—parents arguing over who their daughter should marry	5	0
Marriage—divorces called for by either the husband or the wife	1	4
Marriage—custody of children	10	0
Marriage—husband prevents his wife from visiting her parents (may lead to wife beating)	5	3
Land dispute over the cemetery	NA	1
Fighting between two brothers	3	1
Crop damage by cattle and small ruminants	8	15
Women quarreling at the well	5	5

Note: The imam insisted on trying to recall the exact number of cases that he has helped to resolve. Thus the numbers above reflect his recollections of actual numbers of cases rather than proportions.

Crop damage: Disputes arise when a farmer's cattle or small ruminants enter into another farmer's field or food stocks. These types of dispute can arise among farmers in Bulembu or among farmers in Bulembu, Taxotala, Sandu Darsilami, and neighboring villages. As the imam stated, the *alkalo* of Bulembu has placed a *tonge* on cattle and small ruminants, that is, livestock owners are responsible for preventing their livestock from damaging crops and food stocks. If this prohibition is violated, the livestock owners must pay compensation to those who have suffered the damage. Although the *alkalo* imposes the fine, damage still occurs, and, in fact, the imam has seen an increase in the number of these types of dispute. Every year there are approximately three major disputes that need arbitration by the *alkalo*. In the past fifty-five years, however, the imam estimated that there were only eight disputes due to livestock damage. The imam attributed the increased incidence of these disputes to two factors: the general lack of discipline, and the shortage of land.

Matrimony: There are cases when two men want to marry one woman. The parents may not agree upon which man should marry the woman. The woman herself may not agree to marry either one of the men. The imam intervenes so that the individuals involved in these types of marriage disputes will not need to go to the *seyfo*. The imam will just talk to the individuals until there is a compromise.

Marriage: A marriage dispute may arise when a wife's request to visit her parents is denied by her husband. The wife may be discontented and harbor ill feelings bred by the husband's denial, while the husband may resort to wife-beating. Eventually the wife may "run away" to her parent's home. The imam said that he will intercede to convince the wife to return to her husband's home. The imam will not get involved, however, in the actual decision of the husband to prevent his wife from visiting her parents.

Divorce: There are two types of divorce case that the imam mediates: one in which the wife wants a divorce, and the other in which the husband wants a divorce. The imam mentioned three reasons for divorce: lack of maintenance from the husband, lack of love in the marriage, and/or ill health of the spouse. With all types of divorce, the imam will intercede to ask each party to persevere. The imam makes a special effort with divorce cases in which the husband and wife are of some "blood relation." As the imam stated, divorce among those who are related will adversely affect the extended family. The imam will grant a divorce after his repeated entreaties fail to convince the couple to stay married. The imam will grant the parties a divorce under Sharia law.¹⁹

Divorce: After a divorce, a husband may seek to recover the *huteh*, or pre-marriage dowry²⁰ given by a husband to his wife's family. In all cases, the imam said, the dowry must be returned to the husband (even in cases of wife beating).²¹

In the last five years, the imam has had to grant only five divorces. Even though small in number, these cases still represent an increase from the previous fifty-five years. The imam could remember only one divorce in the past. He attributed the increase in divorce to "women being less disciplined."

Custody of children: After a divorce, disagreements may arise over who should have custody of the children. The imam could remember no custody cases in the last five years. He estimated that there were ten custody cases in the past fifty-five years, however. He attributed the decrease in custody cases to contemporary sentiments toward children. As the imam put it, "In the past all human beings were valued. Now, even your own children you don't care about."

Quarrels at wells: Quarrels erupt at the wells while women are drawing water. These quarrels can be of two types: disagreements over who should draw water first, or disagreements over issues unrelated to the queue for water.

Over the last five years, women have quarreled rather infrequently at the wells. The imam guessed that there have been about five such quarrels. Even when these quarrels erupt, most are solved by the parties themselves with the assistance of their respective family members. In the past, the imam said, there were even fewer such quarrels. (He placed only 10 beans to represent all such quarrels from 1964 to 1979.) He also commented that people were more respectful in the past.

¹⁹ Under Sharia, the divorced wife is forbidden to remarry until four months have passed since the granting of the divorce. This is a law set down by Sharia called *aido*.

²⁰ In Bulembu, an average dowry price is 3 cattle or 1,500 dalasis.

²¹ The husband, however, has no rights over the *nabureh* (or post-marriage gift given by the husband to the wife's family) upon divorce.

We concluded our interview with the imam of Bulembu by asking him if women can own land. He replied that women farmers living in Bulembu do not and cannot own land because “this is not our tradition.”

Bulembu women involved in dispute resolution

The RRA subteam also interviewed a prominent Bulembu woman who is instrumental in settling disputes in the village. She is called upon to settle disputes arising among women *kafo* members concerning membership fees, administration of *kafo* activities, quarrels between two married people, quarrels at wells, and disputes over a woman’s goat or sheep causing damage to food stocks or crops. Through intermittent discussions, the Bulembu peacemaker strives to negotiate a settlement between the disaffected parties. If she does not succeed in resolving the dispute, she will refer the matter to the *alkalo*.

Imam of Taxotala and dispute resolution

The RRA subteam constructed two dispute matrices with the imam of Taxotala. This interview technique provided insight into the types of dispute arising in Taxotala.

Crop damage: While disputes over crop damage by cattle are rare within Taxotala, they are common between Taxotala and people of other villages such as Darsilami Mandinka. In the past, disputes arising over crop damage by livestock were few. Also in the past, people owned fewer livestock, and any disputes involving a conflict between livestock and farmers were solved interpersonally. Now these types of dispute are the more frequent and no longer solved interpersonally. The *alkalo*, the imam, and a group of elders must intercede if these disputes are to be resolved.

Land disputes: Land disputes are more common now than they were in the past. In the past, the elders of Taxotala were able to resolve land disputes involving Taxotala residents. Now, most land disputes are resolved only with the intercession of the government.

Dispute matrices constructed by two groups in Sandu Darsilami

The Sandu Darsilami RRA subteam found it difficult to discuss disputes with village participants. The team surmised that the *alkalo* and the imam were reluctant to discuss potentially sensitive issues because of their recent experience with the ill feelings bred by the cemetery dispute. The RRA team did, however, talk with two groups, one composed of men and the other composed of women. The types of dispute arising in Sandu Darsilami are similar in nature to those in Taxotala and Bulembu, with the exception of disputes over the post of *alkalo*.

The group of men with whom the RRA subteam spoke assessed that the most frequent disputes arising in Sandu Darsilami related to farmland boundaries, crop damage by livestock, and quarrels among women at the wells. Disputes arising from crop damage by cattle are frequent among the land users of the rice, backyard, and inner-field agro-ecological zones. Bush fires in the outer-field ecological zone can also be a source of disputes, especially when the identity of the person who started a bush fire is contested. Most of these disputes are resolved at the village level either within the home or by a group of elders. The matrix also revealed that, as the post of the *alkalo* has become more politicized, it has been the source of controversy. This type of dispute and that of land use are settled with the intercession of the district *seyfo* and the commissioner.

The most frequent disputes involving the women of Sandu Darsilami are those pertaining to the allocation of beds in the *kafo* garden, quarrels about the queue at the well, and “other” disagreements. It is interesting to note that all the women’s disputes are settled at the village level.

District authorities, conflicts, and resolution mechanisms

The whole RRA team traveled to the village of Diabugu to interview the *seyfo* and district tribunal members of Sandu District. Seven district tribunal court members were present, including the *seyfo*; two members were “absent.”²² Three additional *alkalolu*, from Diabugu and two other villages, were present along with the imam of Diabugu. The court’s interpreter and several badge messengers also attended. In total, we had about twenty-five people participating in the session. With the *seyfo* and district tribunal members, the RRA team constructed a dispute matrix that displayed the types of dispute the group mediated. In the course of constructing the matrix, the team asked the district tribunal members to provide examples of each dispute.

Compound settlement disputes: These disputes arise when two members of the same extended family join one compound. One of the members may decide that s/he wants his or her own house within the compound perimeters. The compound head may then decide not to allow the individual to build another house. A dispute may ensue. These types of dispute arise “once in a while” (and thus the district tribunal placed only 3 beans in this category).

Protection of livestock drinking pools: Farmers are often asked not to plant their agricultural crops near livestock drinking pools in an effort to prevent disputes arising from cattle-damaged crops.

Passage by carts and other transport vehicles along streets in villages and roadways in farmlands: Streets and roadways in villages and farmlands are often too narrow to permit the passage of ox carts. Disputes may arise when the carts knock down a compound fence or damage crops.

Housing disputes due to migration: The tribunal members related that when a member of a family travels abroad, s/he will often come back with money to modernize the family’s compound. The returned migrant will instruct the family to tear down its old structure and erect a new one with a corrugated roof and wooden doors. After reconstruction and some passage of time, the returned Gambian may quarrel with his/her family and decide to leave the compound. S/he may then want to dismantle the house and take away such items as the corrugated roof. The quarrel will turn into a dispute for the district tribunal to help resolve.

Recovery suits over marriage gifts: The district tribunal members said that often a man may marry a woman who owns cattle and may borrow the cattle during the course of the marriage. However, if he divorces the women while still borrowing the cattle, he may be reluctant to return them. The woman will seek assistance from the district tribunal to recover her cattle.

Recovery of property given for safekeeping: One person may give another person money or other property for safekeeping. The other person may end up using the property (“squandering

²² These two members had died and their positions had never been filled—a policy pursued by the Ministry of Local Government and Lands to reduce the number of district tribunal members.

it”), and the owner may enlist the assistance of the district tribunal to recover the value of the property.

Disputes over cattle ownership: Theft of small ruminants and cattle are quite prevalent in Sandu District. Often a livestock owner may find that his or her livestock has been claimed by someone else. The owner may ask the district tribunal to ascertain the rightful ownership of the livestock in question.

Quarrels at water sources: Often quarrels may erupt at hand pump wells when one woman jumps her position in line.

Intervillage boundary disputes: The *seyfo* will usually try to resolve these disputes through informal arbitration. The *seyfo* will first refer the matter back to the *alkalolu* of the villages in which the land dispute erupted. If the *alkalolu* are unable to resolve the difficulty, the *seyfo* will send one of the district tribunal members to the field in question. The member will informally investigate the dispute to ascertain the history of the field from witnesses. If the dispute remains unresolved through this informal negotiation process, then the case will be formally brought to the district tribunal. In court, the *seyfo* can request that the disputants and witnesses swear on the Koran when presenting testimony. The district tribunal members indicated that this procedure helps to solve disputes.

Intravillage boundary disputes: The *seyfo* pursues a similar procedure when an intravillage boundary dispute arises.

Crop damage by cattle: When these types of cases come to court, the *seyfo* and district tribunal members again rely on expert witnesses who can confirm or refute the claim of the plaintiff. If the claim is affirmed, then the *seyfo* will send a badge messenger to the field in question to assess the damage. The assessment of the badge messenger will be accepted, not the assessment presented by the individual farmer whose crops were damaged. If the plaintiff is not satisfied with the assessed value of damage, s/he can take the matter to a higher court.

Agricultural encroachment onto cattle tracks: The *alkalolu*, the *seyfo*, and district tribunal members will advise farmers not to extend their farms onto cattle tracks. As the *seyfo* and tribunal members noted, the *alkalolu*, in consultation with the villagers, will designate the location, number, and size of cattle tracks. When the tracks cross territory boundaries, the *alkalolu* of the two territories will liaise to share information. If stranger cattle owners come into the area, they usually ask the *alkalolu* where they should pass. If a farmer does encroach on a track, a conflict may erupt and the case may be brought before the district tribunal. In these instances, the *seyfo* and the district tribunal will advise the farmer to stop farming in the cattle track. If the farmer does not agree, the *seyfo* will ask the commissioner to summon the farmer to his office.

Bush fires: Bush-fire cases are brought before the district tribunal when the identity of the arsonist is in question or when a fine needs to be imposed. The Forestry Department personnel may bring these cases before the district tribunal. Through a process of investigation and hearing, the district tribunal decides these cases and imposes a fine on the guilty parties.

Divisional authorities, conflicts, and resolution mechanisms

Office of the Commissioner

The RRA team spoke with the commissioner of Upper River Division (URD) about his role in settling land and other resource disputes. The commissioner said that his main role in rural land administration is that of arbitrator. Disputants either will come to him directly before going to a district tribunal or will come to him on appeal from the tribunal court. The most frequent disputes in which the commissioner becomes involved arise from questions of ownership. Disputes often arise because of friction between farmers and cattle owners and herders. There is not enough grazing land in URD; as a consequence, herders must take their cattle to MacArthur Island Division (MID).

Disputants who come directly to the commissioner: In this instance, the commissioner will try to refer the parties back to the district tribunal because he judges the district tribunals to be in a better position to settle disputes. If he personally knows the disputants or if the dispute is “politically motivated,” then he may immediately get involved. The commissioner gave one example of a dispute that was politically motivated and personally known to him. Recently a prominent marabout wished to build a mosque in the Basse area. The traditional authorities (*alkalo* and group of elders) in Basse claimed that the land upon which the marabout wanted to build his mosque was owned by one *kabilo* in Basse. Likewise the traditional authorities of Manneh Kunda (a small town located adjacent to Basse) claimed ownership of the land. The commissioner attributed the occurrence of this dual claim to the potential of the land parcel to generate tax revenues for a particular town once the land was developed with a mosque. As the commissioner said, he was from this area and, fortunately, was able to resolve the dispute amicably by talking to the disputing parties.

Disputants who come on appeal: The commissioner oversees the applications of customary laws by reviewing decisions taken by the various district tribunals in his division. He will also consider the appeals of any disputant who contests a decision. He will either uphold the decision of the district tribunal or refer the case to the Supreme Court for a retrial. He will not refer cases to the group tribunal, for he feels that the group tribunal only encourages people to appeal. As the commissioner remarked, it is rather easy for obstinate individuals to appeal to the group tribunal. However, because it is costly in terms of time and money to appeal to the Supreme Court, these individuals may be more likely to accept the decision of a district tribunal. Thus, dispute resolution would be kept at its lowest level.

Magistrate of the Ministry of Justice for Basse, URD

The magistrate has few responsibilities dealing with land tenure conflicts in URD. Most land conflicts are referred to the district tribunals. Occasionally, however, the commissioner or others may seek the magistrate’s advice on legal rulings. Although the magistrate has litigation powers, he chooses not to use them; he defers to the district authorities in land matters. The magistrate has no appellate powers, however, since the district tribunals and magistrate are parallel courts. The magistrate presides over criminal cases, which sometimes involve natural resource matters such as illegal logging, bush fires, cruelty to animals (poisoning and the like), and illegal hunting. A land dispute may also be the cause of criminal action; for example, two landowners may begin to fight if they have a disagreement. The magistrate also becomes involved in cases of cattle theft. As the law stands now, the district tribunals can impose a maximum fine of only

D1,000. This is an inappropriate fine for cattle theft, because a single cow can cost anywhere from D1,500 to D2,500. To circumvent this limit, the district tribunal may establish a ruling and refer the case to the magistrate court for imposition of a more appropriate fine. Any fines imposed by the magistrate court are deposited into a central revenue fund.

The magistrate also guards the rights of ownership conferred to an individual by lease, that is, the rights to farm, develop, and enjoy the benefits of a parcel of leased land. In terms of the right of a leaseholder to cut down trees on his/her property, the magistrate stated, “A leaseholder may enjoy them [the trees] but it is an understanding that one has usufructuary rights to the trees....” However, whether the leaseholder can cut the trees or not is “a policy matter, not a legal matter.”

The RRA team asked the magistrate if he knew of the State Lands Act. He commented that the act has a provision that recognizes customary ownership and ensures compensation if the state acquires land held under customary tenure.

POLICY RECOMMENDATIONS

Policy concerns raised by resource users

Throughout the RRA teams’ stay in Bulembu, Taxotala, and Sandu Darsilami, villagers expressed their concerns and made several policy recommendations. These concerns and recommendations came out during semi-structured interviews, mapping exercises, and casual conversations during mealtime. In most instances, the concerns and recommendations were expressed with a great deal of frustration; many residents felt that they have talked to various “outsiders” without seeing much change over the years. The RRA team members thought it necessary, at the very least, to document these concerns, which are listed as follows.

PROBLEMS	SANDU DARSILAMI	TAXOTALA	BULEMBU
Land and farming system	<p>Land abundance but lack of mechanization.</p> <p>Declining soil fertility.</p> <p>Land left unused; lack of farming implements.</p> <p>Lack of access to chemical fertilizers.</p> <p>High <i>Striga</i> infestation.</p> <p>Fear that their status as original settlers and therefore landowners is threatened.</p> <p>No access to markets for vegetable production.</p>	<p>Land scarcity.</p> <p>Declining soil fertility.</p> <p>No following because of land scarcity; fertilizer use more necessary.</p> <p>Fertilizers not easily available or expensive.</p> <p><i>Striga</i> infestation.</p> <p>Unequal distribution of land among compounds; poorest compounds have no backyard fields and no means to travel to Senegal to rent land.</p> <p>The poor use the unproductive Koche land.</p> <p>Disputes are more common now than in the past.</p>	<p>Land scarcity.</p> <p>Declining soil fertility.</p> <p>No following because of land scarcity; fertilizer use more necessary.</p> <p>Lack of access to chemical fertilizers.</p> <p><i>Striga</i> infestation.</p> <p>Inefficient use of mechanical agricultural implements.</p> <p>Unequal distribution of land among compounds; poorest compounds have no backyard fields and no means to travel to Senegal to rent land.</p> <p>The poor use the unproductive Koche land.</p>
Livestock	<p>Inadequate grazing areas for small ruminants.</p> <p>Crop damage by cattle and small ruminants.</p> <p>No livestock services extentionist.</p> <p>Disease among chickens.</p>	<p>Inadequate grazing land for cattle and small ruminants.</p> <p>Inadequate amount of cattle tracks.</p> <p>High incidents of crop damage disputes.</p> <p>Inadequate watering points for cattle in the dry season.</p>	<p>Inadequate dry-season grazing areas for cattle and small ruminants.</p> <p>No cattle tracks for Bulembu herds.</p> <p>Inadequate penning space for small ruminants both within and outside settlement area.</p> <p>Inadequate watering holes.</p> <p>Lack of extension services, especially pertaining to vaccinations.</p>

Trees and forest related	<p>Lack of access to tree seedlings.</p> <p>Forestry laws can create bush fires—need early burning policy.</p> <p>Knowledge of various forestry regulations is limited—they know only about what species not to cut.</p> <p>Bush fires.</p>	<p>Borrowers have difficulty in planting trees.</p> <p>Women want to plant fruit trees but are not allowed to do so on borrowed land.</p> <p>No well for the youth's orchard.</p> <p>Improper harvesting of wild fruits, especially <i>nette</i>.</p> <p>Bush fires.</p>	<p>Borrowers have difficulty in planting trees.</p> <p>Lack of extension services, especially pertaining to sale of tree seedlings.</p> <p>Sabotage of tree planting activities of Bulembu youth by the Sandu Darsilami youth.</p> <p>Bush fires.</p>
Relating to specific user groups	<p>Neither income-generating activities or skills training for youth and women.</p> <p>Women farmers recommend that the swamplands should be reclaimed for rice production.</p> <p>Women lack equal access to markets for agricultural crops; only men can be members of the Cooperative Union.</p>	<p>No land is available for an orchard or garden for either men or women.</p> <p>Women receive little recognition by NGOs for project development.</p> <p>Women farmers would like to receive skills and numeracy and literacy training.</p> <p>Women lack equal access to markets for agricultural crops; only men can be members of the Cooperative Union.</p> <p>Women have no access to credit or small loans.</p> <p>Women do not own farm machinery but must rely on good will of male relatives to gain access to implements owned by male farmers.</p> <p>Women lack permanent ownership of land and therefore have problems planting trees.</p> <p>Poorer farmers are forced to farm less fertile soils.</p>	<p>Women do not own farm machinery but must rely on good will of male relatives to gain access to implements owned by male farmers.</p> <p>Women lack permanent ownership of land and therefore have problems planting trees.</p> <p>Poorer farmers are forced to farm less fertile soils.</p> <p>Women lack of access to labor-saving devices such as milling machines.</p> <p>Little access to public services.</p>

Policy recommendations suggested by *seyfo* and district tribunal

State Lands Act: The *seyfo* and district tribunal members insisted that they do not need any changes in land tenure in their district, believing that it would be a problem if the government were to say that it owns all of the land. A policy of state ownership would directly contradict the precepts of their customary tenure system.

Forests: The *seyfo* and district tribunal members proposed that the *seyfo* be given the power to issue licenses for tree cutting, because these persons intimately know the people in the district and will better be able to assess who will and who will not destroy the forests.

Protocol procedures: Government and nongovernment organization should inform the *seyfo* of any development activities planned for his district; once informed, he can assist in the coordination of development projects.

Discipline and security measures: The district tribunal suggested that their badge messengers be supplied with handcuffs, a baton, and a cell, because the tribunal is frequently unable to enforce its decisions since the guilty party may become unruly, commit contempt of court, or escape outright before being taken to the police station in Basse.

Transportation: The salaries of the *seyfo* and district tribunal members do not cover their transport costs of attending tribunal hearings and meetings in Basse; they are not given any allowance for transportation. The tribunal members also noted that transportation is sometimes difficult for their badge messengers, who often need to go long distances to deliver summons, investigate cases, and assess damages; the tribunal suggested that the badge messengers be given bicycles.

Policy recommendations suggested by commissioner

The commissioner needs a strategy for preserving grazing land while encouraging agricultural development, finding that disputes over crop damage by cattle are too frequent in Upper River Division.

Policy recommendations suggested by magistrate

State Lands Act: The magistrate thought that individual leases would be inappropriate for the rural areas; he suggested that government officials consider group leases.

Group and district tribunals: Group tribunals should be re-activated because, the magistrate stated, disputants are often dissatisfied with the decision of the district tribunals. Disputants should therefore have some means of appeal, and the group could act as a check on district tribunal decisions.

Review of district tribunal court cases: The magistrate was critical of the district tribunals. From an informal review of tribunal decisions, he felt that the tribunals frequently violated the “natural justice” clause of the constitution as well as various Islamic laws concerning divorce, custody of children, marriage, and inheritance. Because of these legal deviations, the magistrate suggested that someone with legal training, such as the magistrate, should review tribunal cases; that is, magistrates could act as legal advisors to commissioners.

Amelioration of land tenure disputes: Since land tenure disputes usually arise from misunderstandings between landowners and long-term borrowers, the magistrate thought there should be some legislated length of time after which long-term borrowers of land could become owners (except for squatters). The magistrate supposed that such legislation would have to be founded upon social equity concerns.

Islamic jurisprudence: Cadi courts should be established in provinces because district tribunals do not always apply Islamic law properly, for example, in the area of women's inheritance rights.

Findings and policy recommendations of research team

Particular tenure rules: Villagers implement tenure rules tailored to particular resources and agro-ecological zones. Some of these rules have direct historical antecedents while others have evolved or have been constructed more recently due to changing environmental, economic, and social conditions.

An example of a tenure rule that is strongly rooted in historical antecedents is the *tonge*; local leaders such as *alkalolu* and women *kafo* presidents continue to establish and enforce *tonge* against the cutting of unripened fruit from selected trees. An example of an "evolved" tenure rule concerns the lending of land. Gambian farmers have had a long tradition of lending land to one another without exacting a usury price. The terms of these lending arrangements have changed recently, however. In Darsilami, although some farmers still lend land, they are now more likely to charge a monetary rent. Some farmers lend out land for shorter periods of time to ensure their ownership rights. A relatively new tenure rule reflects the commoditization of land; a few Serahuli landowners have used their landholdings as collateral for loans from local moneylenders.

The research team concluded that RRA tools such as participatory mapping are useful in discovering these different tenure rules that pertain to different agro-ecological zones, resources, and land users.

Tenure constraints and opportunities: Some natural-resources tenure rules are constraints to sustainable resource management or cause tension among land users while other rules are opportunities for the sustainable use and conservation of resources.

An example of a resource tenure opportunity is village regulations designed to maintain sanitary conditions around drinking wells. Women prohibit washing cooking pots and clothes close to these wells. Such rules and their enforcement are crucial since both villagers and livestock share these wells. Also, women farmers cultivate sorrel and okra bushes along the boundaries of the rice and outer agricultural fields they are using for the season. This strategy reduces the risk of disputes; it could also form a basis for agroforestry research. An example of tenure opportunities is flexible borrowing among farmers. Such arrangements are opportunities in the sense that borrowing allows farmers to practice rotational agriculture regardless of their original landholdings.

The research team determined that RRA tools and focus group interviews are useful in uncovering tenure constraints and opportunities. Tenure opportunities could form the foundation for extension activities as well as general land policies and specific laws.

Tenure insecurity of women: Most women gain access to land by borrowing from their husbands or their husbands' families, from their own families, or from female and male friends and neighbors. These borrowing arrangements confer seasonal usufructuary rights to land parcels. Women have individual ownership over the crops they plant on these borrowed parcels but are discouraged from planting trees.

There are instances when women inherit land from their parents. These women possess individual ownership to these land parcels and can bequeath them to their children.

Increasingly, women are expressing frustration over the tenure insecurity they are experiencing as land borrowers. They claim that this insecurity is not commensurate with their responsibilities, which have increased in recent years due to male out-migration.

Through a participatory planning process, greater security of tenure for women needs to be created perhaps by writing contracts, recording verbal testimonies of land borrowing arrangements, and/or taking out leases.

Cemetery land dispute: The cemetery land crisis in Darsilami has caused ill feelings among the residents. This crisis poses a serious impediment to any present or future natural resource development in the area.

Before any developmental programs are initiated in this area, the RRA team recommends that government officials, religious leaders, and others make every effort to assist Taxotala, Bulembu, and Sandu Darsilami residents settle the cemetery land dispute.

Tenure insecurity in Darsilami: Stemming from the cemetery dispute in Darsilami, certain reversals, revisions, and even abrogations of customary tenure principles have created a number of tenure pressure points for the Serahuli farmers. One tenet, for example, holds that a farmer who owns a large amount of agricultural land is obliged as a neighbor and community member to lend out the unused portions. In Darsilami, however, Sandu Darsilami farmers no longer lend or rent land to their Serahuli neighbors; Serahulis feel bitter about this situation, for they must go to other villages to obtain land for agricultural activities and cattle tracks.

Also, trees planted by an individual are customarily owned by that individual regardless of whether s/he owns the land, provided that s/he obtained permission from the landowner to plant trees. In Darsilami, however, trees planted by Serahuli farmers on land borrowed from Sandu Darsilami farmers have been appropriated by their Mandinka landowners even though the Serahuli farmers claim that they received planting permission. (Free-roaming cattle and bush fires probably play a greater role in hindering tree planting in fields surrounding Darsilami.)

The reversal of the tenet that a farmer is morally obliged to lend out land which s/he is not to another farmer who has the means and desire to farm illustrates the contradictions of government policies operating in many urban areas. On the one hand, Land Allocation Committees²³ often threaten to take back plots of land which fall in "development planning zones" or which have been transferred from one individual to another if the owner does not "develop" the land. On the other hand, government officials uphold the principle that land belongs to the original settlers in

²³ Land Allocation Committees have been established under the new lands acts of 1990. These committees, with both citizen and official members, are empowered to make allocations of land parcels in state-designated developmental zones.

rural areas where customary tenure regimes operate, regardless of whether these settlers develop the land.

Serahuli farmers maintain that they do not have enough land to farm because they are more likely to possess farming equipment. They need to borrow land from farmers in neighboring villages because they cannot borrow from Sandu Darsilami families. This high demand for land along with a rather reliable source of nonagricultural income (remittances) has resulted in certain land transactions being monetized. For example, Bulembu and Taxotala farmers rent land from Sandu Darsilami farmers as well as from Senegalese farmers; Taxotala farmers may use land as collateral when seeking loans from local moneylenders.

Sandu Darsilami residents feel that their ownership rights to the agricultural land surrounding the community are being threatened. While these residents attest to their absolute right to these lands because of their descent from the first settlers to Darsilami, they feel that Bulembu and Taxotala residents are squeezing them out by virtue of their greater populations and economic endowments. Bulembu and Taxotala residents have expressed insecurity over the land which they have been either given or lent from their Mandinka neighbors. These insecurities have been accentuated by the cemetery dispute.

Within particular families, members possess a strong sense of their usufructuary rights over family-held agricultural land. There is also a strong sense of individual ownership of agricultural land that is “self-acquired” and that can be subsequently given as a gift or inherited.

Some residents in Darsilami have expressed wariness of the government’s acquisition of land; some believed that having leases to land would protect them from uncompensated government seizure of land.

The RRA research team recommends that residents acquire greater tenure security before development activities are undertaken in Darsilami. Rent agreements or contracts may be useful for some farmers, family leases that list usufructuary rights may be applicable in Darsilami, or individual leases may be applicable in particular cases.

Further, focus group discussions could be held to assuage the tenure-insecurity fears of these two ethnic groups.

Administrative requirements: At the village level, the traditional authorities of the *alkalo*, his group of advisors, the imam, women *kafo* presidents, and individuals noted for their peace-making skills all play important and overlapping roles. These roles include resolving disputes, authorizing wood cutting permits, enforcing *tonge*, fulfilling settlement requests of new immigrants to the area, organizing community members for development activities, galvanizing community members to fight bush fires, and hosting government and NGO visitors who stop the area. In addition, the *seyfo* and the district tribunal play important parts in the management of resources and the resolution of disputes. However, the government has paid insufficient attention to the administrative requirements of these diverse institutions.

The *seyfo* and the district tribunal members lack the necessary depth of knowledge about recent resource legislation. Also, none of the village residents knew about the new land laws of 1990. Many residents, however, were aware of certain forestry regulations, for example, the need for timber-cutting permits and the prohibition on burning agricultural residues and grasses in the bush.

The RRA team advises that the GOTG address these administrative concerns raised by village and district institutions. The GOTG could sponsor a legal education process for local leaders and district tribunal members—a process aimed at informing citizens about the different laws of The Gambia while also listening to their suggestions for reforming these laws to make them more applicable to, and thus more enforceable by, a diversity of resource users.

Dispute resolution: Other governmental agencies intervene at various times and at various levels to settle disputes. Their interventions may or may not be necessary at any given time. Policymakers must facilitate the coordination of individuals and institutions involved in dispute resolution.

Pressing problems: The three communities are keenly aware of their own agricultural and ecological problems, some of which were voiced during the RRA:

- ◆ land scarcity for Serahuli farmers;
- ◆ lack of credit and farming equipment for Mandinka men and women farmers and Serahuli women farmers;
- ◆ high cost of fertilizer;
- ◆ *Striga* species infestation;
- ◆ rice cultivation no longer economically viable option for women farmers because of the drought conditions (there is a need for barrages and drought-tolerant seed varieties);
- ◆ inadequate cattle tracks for Serahuli farmers;
- ◆ lack of ownership of land for women farmers; tree planting restriction on land borrowers; and
- ◆ threat of bush fires.

Residents may lack sufficient skills, however, to prioritize these problems or to recognize where solutions may lie.

Thus there is a need for NGOs and government extensionists to promote development planning with the three communities. After a peaceful solution to the cemetery land dispute is found, the RRA team recommends that GOTG facilitate a development planning process with the villagers in Darsilami. This process should assist villagers in the creation of a resource management plan. The RRA work indicates that pressing agricultural and ecological problems in the area could be addressed in this plan by:

- ◆ helping villagers establish a deferred grazing scheme;
- ◆ facilitating access to fertilizers and farming implements (for example, through credit);
- ◆ demarcating grazing areas for cattle and small ruminants;
- ◆ encouraging Serahuli youth to attend primary school in Darsilami;
- ◆ facilitating access to improved vegetable and some agricultural crops;
- ◆ facilitating access to tree seedlings;
- ◆ helping villagers secure funding for cattle watering holes;
- ◆ facilitating access to markets for vegetables;
- ◆ providing skills training for women;
- ◆ linking women farmers with the Soil and Water Management Unit of the GOTG to acquire soil-conservation services for rice-growing areas; and
- ◆ facilitating a legal education process.

MLG&L awareness building: Government officials have inadequate knowledge of what powers certain land administration acts confer upon them as government officials. The following

quotes illustrate some of the misconceptions: “The new lands act increases the land administration powers of the commissioner to acquire land”; “The commissioner can acquire land whenever it is in dispute”; “All land is owned by the state”; and “Land in dispute is owned by the state.”

Misconceptions on the part of government officials and citizens alike have led to problematic government conduct and fear among residents of losing customary inheritance rights.

The RRA team recommends that the MLG&L undertake an awareness-building campaign to inform both divisional and district authorities about the implications of the State Lands Act, the Physical Planning and Development Control Act, and the Compensation Act, along with the Forestry Act, the Wildlife Act, and so forth. There is also a need to initiate a legal education process that will include not just the distribution of written pamphlets but also radio broadcasts and focus group meetings (especially among women, who have the most to lose from not knowing about new land laws and much to gain from this knowledge).

ANNEX 3.1: STRENGTHS AND LIMITATIONS OF DARSILAMI STUDY

The two strengths identified by RRA team members were historical emphasis and research flexibility. The research methodology's emphasis on collecting the settlement histories of Sandu Darsilami, Bulembu, and Taxotala opened an opportunity for village participants to tell their own stories in their own words; they also provided invaluable insights into how the tenure arrangements came to be configured as they are. The research methodology's emphasis on flexibility enabled the nine-member research team to adapt to unique circumstances, dividing itself into three subteams to evaluate the situation in Darsilami.

The limitations enumerated by team members and village participants concerned report writing, length and timing of information collection, and focus of RRA activity. The writing of the report was constrained because the author participated in only one of the three RRA subteams (that is, Bulembu team). As a consequence, the report contains descriptions of resource use and tenure arrangements in Bulembu that have greater detail than those of Taxotala and Sandu Darsilami. This problem could have been averted if each subteam had contributed to the final report.

The timing of the research was inadequate in two respects. First, several RRA team members felt that two weeks was an insufficient time period to obtain and verify in-depth information on resource use patterns and tenure arrangements. The cemetery land dispute, in particular, contributed to delays in collecting information because the first days of the visit had to be spent explaining the team's purposes and dispelling the idea that it was investigating the land dispute. Second, the RRA was scheduled for November, one of the busiest times of the year for Darsilami farmers. November, after all, not only is the time for harvesting but also is the season when bush fires threaten forested parklands, fields, and villages. Village participants, therefore, found it difficult to take time away from their fieldwork to enter into lengthy discussions with RRA teams.

Research team members expressed frustration that the RRA was only an information-gathering exercise rather than a participatory research process. They felt that an opportunity had been missed to assist village participants with the development of a resource management plan. Villagers themselves echoed this frustration: "We are tired with the way things have happened over the past years. Outsiders come and do research; they ask questions, we participate, and they write reports—but nothing ever comes from this talk." RRA team members also felt that too many probing questions were posed—that these probes in essence acted as leading questions for which interviewees offered answers only to please the interviewers.

ANNEX 3.2: ORAL HISTORY WITH ELDEST WOMAN OF BULEMBU

I am Asa Gaku. My mother's name was Agena Saho and my father's name was Hakura Gaku, whom they called Masair Gaku. I was born in old Diabugu. I don't know my age. I can recall when we came from Bulembu. When we came from Bulembu my father was the chief..... I don't know the date but I can remember that we found the Mandinka here. The Mandinka host of my family was called Madina Tourey. Other Mandinka families hosted the rest of the families in my village. Slowly we made our compound area.... Because we found the Mandinkas here they gave us space to build our compounds. We found a *kolongba* (large well) in the Mandinka settlement area which was supposedly built by Serahulis called Sillah....

In the past, we used to farm, weave, and tie-dye cloth. I used to do all these things with my daughter. We also did pounding and drawing water from the well. We used to sell the harvested groundnuts to the *toubabs* back then. When we weaved material, we used to keep it for our daughters' marriage chests. After our daughters were married, any remaining cloth we would sell.... In the past, women bought gold for savings. If women had a lot of money, some would buy cattle...so cattle was a form of wealth for women...some even had whole herds. We didn't do anything with these herds; we just let them multiply. We would milk the cows though. If our daughters were getting married, her husband would give cattle as the form of dowry.... We used to have many cattle, so many that when more than one died at a time we would not eat them but just bury them.

In the past, we used to cultivate a lot of *findo*. We would broadcast the seed then take a hand hoe and work the seeds into the soil. We did not have to weed *findo*; we would just wait till it was ready and harvest it. We did not sell any *findo*. Rather we processed and consumed all of our harvest. We would thresh the seed by first crushing it with our feet and then pounding it. *Findo* was very difficult to pound. We would then steam it by putting 2 to 3 parts water to 1 part pounded *findo*. After steaming it, we would cook it to prepare fish meals...we would buy fish from the Mandinkas who used to catch it on their lands located near the river.

We used to cultivate rice, also. We used to do all the farming ourselves. Women would plow, sow, weed, and harvest from our own fields. Men didn't help us sow seeds. Men cultivated their own millet and groundnut fields. Men cultivated more groundnut fields than women in the past because they had to pay the *netitanka* (rates and taxes). The men help women now because they have the machines. Even the men now don't have to work hard because they have machines...and women don't need to go look for leaves and fruits in the bush as they did in the past. Now we all eat polished rice and life is a little easier.

Before we migrated from Bulembu, both sons and daughters had land to work. Now women must rely on their male relatives to give them land to farm. This was because when we came here we met the Mandinka, so we only have what the Mandinka gave our men.

In the past, members of the cobbler and slave castes would arrange the marriages of female nobles. The cobblers and the slaves, with the consent of the woman's parents, would choose a suitable day for the marriage. Thursday was usually the day chosen. At that point the woman would be told she was to be a bride. Only the father of a woman could decide whom his daughter could marry; the daughter had no choice. If the daughter's husband did not have enough land, then the daughter's father would give her land.