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**Grassroots Legal Empowerment Strategies for Protecting
Rights to Land, Natural Resources, and Environment**

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Abstract

Around the world, communities face increasing threats to their lands and ecosystems from large-scale land acquisitions and expropriation for industrial agriculture, mining, deforestation and infrastructure investments. Many of these activities dispossess communities from their lands and lead to environmental degradation, human rights violations, loss of livelihoods, and inequity. While action is needed at national and international levels, local communities and civil society need more immediate and practical tools to protect their lands, natural resources, and ecosystems.

Namati is an international organization dedicated to strengthening people's capacity to exercise and defend their rights in practical ways. Namati specializes in developing innovative ways to empower and mobilize civil society organizations, communities, and vulnerable groups to protect their rights to land, natural resources and a healthy environment.

In this paper, we provide an overview of Namati's approaches, tools, and research findings. We focus on Namati's Community Land Protection Program, which since 2009 has supported over 80 communities in Liberia, Uganda, and Mozambique to document, protect, and manage community lands and natural resources. This work has generated unparalleled comparative and cross-national data on the effectiveness of legal empowerment strategies for protecting land and resource rights. We also draw examples from Namati's work on land rights and environmental justice in Sierra Leone, Myanmar, and India. We offer specific and practical recommendations for policy and practice, focusing on strategies for effective use of paralegals and legal aid to strengthen, defend, and enforce land and environmental rights.

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1 Introduction

Legal empowerment - enabling people to understand and use legal systems to secure justice, meet basic needs, and have greater control over decisions that affect them - is often discussed as part of law and justice programs (Cotula and Mathieu 2008, 15; Domingo and O’Neil 2014, 4). However, its potential extends much further. This paper illustrates some of the powerful and effective ways that legal empowerment approaches can support individuals, communities, and civil society to protect lands, natural resources, and ecosystems. We share experiences and strategies from Namati,[†] an international legal empowerment organization working to strengthen, defend, and enforce rights to land and environment. We also discuss strategies for overcoming three challenges to effective participation of civil society and vulnerable groups in land and environmental governance efforts.

2 The Global Rush for Land and Natural Resources

Increasing global demand for natural resources, energy, and agricultural products is incentivizing governments to open lands to resource extraction and agri-business. Since 2000, transnational entities have secured control over 35.92 million hectares through ‘large-scale land acquisitions’ (Land Matrix 2014). The World Bank reports that in 2009 alone, transactions covering at least 56.6 million hectares were concluded or under negotiation (Deininger et al. 2011).[‡] These land deals are disproportionately concentrated in less developed regions (Land Matrix 2014) and in countries with weak land rights systems (Arezki, Klaus, and Harris 2012, 49).

Over three billion people live in rural and forested areas of Africa, Asia and Latin America, and predominantly use customary and indigenous systems of rights and laws to manage their traditional lands and resources (RRI 2014). However, lack of legal recognition of customary land claims makes these lands vulnerable to exploitation and dispossession by governments, elites, and investors. Insecurity of customary rights, combined with pressure for investment and growing competition for land and resources, is increasing instances of fraudulent land transactions, land-related conflicts, and inequitable and negligent land-use decisions (Maru 2014). Even where contractual and legal requirements attempt to limit negative impacts, compliance and enforcement often fall short. The resulting damage to local livelihoods and landscapes undermines not only local sustainability but also global efforts to reduce poverty, end conflicts, and protect ecosystems and climate (Deininger et al. 2011; Oakland Institute 2011; Kugelman and Levenstein 2013; RRI 2014).

In response, a global movement to protect customary and indigenous community rights to land and environment is emerging. International advocacy efforts can help address to hold governments and multinational companies accountable to international principles, such as the

[†]Both authors work for Namati in the Community Land Protection Program. This paper was prepared in collaboration with staff in Namati’s other programs.

[‡]In addition to transnational deals, domestic land deals by national elites and investors or state agencies have claimed millions of hectares but reliable data on these deals is not available.

Guiding Principles on Business and Human Rights[§], the principle of Free Prior and Informed Consent, and the *Voluntary Guidelines on the Responsible Governance of Tenure*.^{**} However, communities facing immediate threats to their land and environmental rights also need direct and practical support from local civil society organizations.

3 Paralegals for Land & Environmental Justice: Namati's Model

Legal empowerment strives to build the capacity of citizens to exercise their rights and participate in processes of governing (Golub 2005; Goodwin and Maru 2014, 4; Domingo and O'Neil 2014). Programs use a wide range of approaches and tools, from public interest litigation, to provision of paralegal support, to legal literacy training (see Cotula and Mathieu 2008; Rashid 2010; Hatcher et al. 2010; and Cotula 2010). In the context of land and environment, legal empowerment efforts may support individuals and communities to exercise, claim, and defend their land and resource rights; mediate land conflicts; assist negotiation of fair contracts and agreements with governments or the private sector; and/or help communities enforce environmental regulations.

Namati, an international legal empowerment non-profit organization founded in 2011, develops, tests, and implements a range of legal empowerment programs in Africa and Asia.^{††} Primarily, we use teams of lawyers and technical staff to train and support networks of community-based paralegals and grassroots legal advocates^{‡‡} who work directly with communities. The community-based approach is practical, flexible, responsive to socio-legal context, and inclusive of both state law and customary systems^{§§} (Maru 2010, 83). Our grassroots legal support efforts directly inform our policy advocacy efforts and shape the content of the technical assistance we provide to lawmakers.

Our work on land and environmental issues span a full arc of interventions, as guided by community need and priorities. In some contexts, Namati's grassroots advocates and community-based paralegals work with communities to document and proactively protect their land rights; in others, we support communities during negotiations with investors; finally, we also help communities to demand enforcement of contractual requirements and environmental regulations and seek restitution for abuses of their rights.

3.1 Securing Community Rights to Land and Environment in Africa

Namati's Community Land Protection Program takes a proactive approach to prevent the loss or weakening of communities' land and natural resource rights. The Program focuses on

[§]More at http://www.unglobalcompact.org/issues/human_rights/the_un_srsg_and_the_un_global_compact.html

^{**}More at <http://www.fao.org/nr/tenure/voluntary-guidelines/en/>

^{††}Namati is working in Sierra Leone, Mozambique, Uganda, Liberia, Kenya, Bangladesh, India, and Myanmar.

^{‡‡}Many types of paralegal programs exist, ranging from paid staff to volunteers, and from legal support generalists to specialists trained on a specific legal issue. Some paralegals work within legal centers or government, while others, like Namati's, are community-based. Some countries use a standard certificate process for paralegals; in these contexts, Namati uses alternative, locally appropriate labels for community-based advocates. (For more, visit www.namati.org or see Namati 2014; Domingo and O'Neil 2014).

^{§§}This is an important consideration in many of the regions where Namati works because of the prevalence of legal pluralism, the co-existence or overlapping of different legal systems in the same territory.

protecting the ‘tenorial shell’ or ‘meta-unit’ of a community’s lands, according to customary boundaries. This approach, where allowed by national law, is a low-cost, efficient, and equitable way of protecting communities’ customary land claims. Community land documentation not only protects large numbers of families’ lands at once, but also the forests, water bodies, and grazing areas that rural communities depend on and which are often the first to be allocated to investors, claimed by elites, or appropriated by government. Formal recognition of customary land claims gives communities critical leverage in negotiations with potential investors.

Since 2009, we have worked with national partner organizations in Liberia, Uganda, and Mozambique to assist rural communities who want to document their customary land claims. Mozambique and Uganda both have laws that allow registration of community land but these have not been well or widely implemented. Working with national partners Centro Terra Viva (CTV) and the Land and Equity Movement in Uganda (LEMU), Namati supports rural communities to use these laws and uses these grassroots experiences to advise the governments on how to facilitate more widespread implementation. In Liberia, while new land laws are under development, Namati and the Sustainable Development Institute (SDI) are working with communities to document their lands using a process set out in an MOU between Namati, SDI, and the Land Commission of Liberia.

The Community Land Protection Program draws upon the findings of a two-year randomized controlled trial that investigated how to best and most efficiently support communities to protect their lands (Knight et al. 2012). Sixty communities across Liberia, Uganda, and Mozambique were randomly assigned to one of four groups, each of which received a different level of legal services support, including: 1) Monthly legal education; 2) Monthly legal education and paralegal^{***} support; 3) Direct assistance of lawyers and technical professionals; and 4) Controls that received only manuals and copies of relevant legislation. The study’s cross-national statistical analysis found that communities led by local, elected paralegals progressed most successfully because these communities claimed greater ‘ownership’ over the process than other communities that had lawyers and technicians lead the process (Knight et al. 2012).

Today, the Program trains and supports community-based paralegals to guide communities through an integrated, multi-step community land protection process, summarized in Table 1 (for details see Knight et al. 2012; Kaba et al. 2013). The process leverages land documentation efforts to galvanize significant intra-community change, including establishing community mechanisms for accountable local governance and protecting the rights of women and vulnerable groups. Steps of the process can be adapted to different local contexts, but each step is necessary to ensure successful, and long-term land protection.

Namati and partners work with communities who request our support. Communities are responsible for driving the process forward, supported by their grassroots advocates who are

^{***}Because they were not board-certified paralegals, these individuals had other titles: ‘Community Support Persons’ in Uganda, ‘Community Animators’ in Liberia, and ‘Community Mobilizers’ in Mozambique.

Table 1: Summary of Namati’s Community Land Protection Process

Description of Process Steps	Led by:
<p>Process Introduction & Design</p> <ul style="list-style-type: none"> • Support villages, towns, or other sub-entities within a larger ‘community’ to agree on how to define their ‘community’ and their community lands.* • Decide where to hold meetings, how to involve leaders, and how to share responsibility among sub-units. • Stress importance of full community participation, specifically women, youth, and members of minority groups, and create strategies for inclusive mobilization and participation. • Draft and adopt "Rules of Engagement" that define roles and responsibilities of staff and the community. • Teach community about the national legal framework and explain the community land protection process. 	<p>Staff + Community members</p>
<p>Community Visioning</p> <ul style="list-style-type: none"> • Facilitate community reflection on use and management of lands and resources in the past, present, and likely and desired futures. Identify a common vision. 	<p>Staff+ Community members</p>
<p>Selection of ‘Coordinating Committee’ and Community ‘Paralegals’</p> <ul style="list-style-type: none"> • Establish a “coordinating committee” responsible for spearheading the process, mobilize participation, and ensure that the process is fully representative and not driven entirely by leaders. • Select two community members to act as grassroots advocates or ‘paralegals’ for the process. • Train community paralegals and prepare them to lead next steps in the process. 	<p>Community members Staff</p>
<p>Participatory Community Mapping</p> <ul style="list-style-type: none"> • Facilitate groups of women, youth, elders, and specific land users (e.g. pastoralists, renters) to draw maps that include: borders, landmarks, settlements, neighboring communities, infrastructure, natural resources, and sacred places or other important sites. Bring groups together to share maps and form one shared map. 	<p>Paralegals</p>
<p>Boundary Harmonization</p> <ul style="list-style-type: none"> • Select a boundary harmonization team to negotiate shared boundaries with neighbors. Conflict may arise; often multiple meetings and mediation are necessary to resolve disputes and reach agreement. • Once agreement is reached and accepted by each community in a formal ceremony, document boundaries with signed paper agreements and physical boundary markers (e.g. trees). 	<p>Community members Staff + Community</p>
<p>By-laws and Management Plan (May be done in parallel to Boundary Harmonization)</p> <ul style="list-style-type: none"> • 1st Draft: Facilitate large community meeting to brainstorm freely all existing or historical rules, norms and practices relating to land and natural resource use and management. • Educate community members on relevant rules set out in the national constitution, national law, and basic human rights principles, including protections for rights of vulnerable groups. • Facilitate small group meetings (women, youth, elders, etc.) to analyze and discuss 1st draft and to prepare amendments. Prompt to ‘remember’ old rules and create new rules for land and resource management. • 2nd Draft: Facilitate large community meeting(s) to discuss amendments until consensus. • Review of draft by a technical expert to ensure compliance with national laws and basic human rights and identify necessary changes. Facilitate community meeting to review and revise until a final draft is agreed. • Support community to separate rules into sections for governance and natural resources management. Latter should include a map or zoning plan indicating resources, protected areas and growth plans.* • Convene community to formally adopt by-laws, with male and female heads of every household participating. Any final objections are discussed, vote is held, and all present witness the adopted draft. 	<p>Paralegals Staff + Paralegals Paralegals Paralegals Expert/Staff + Paralegals Paralegals (+ Staff) Staff + Paralegals</p>
<p>Establish Land Governance Structures</p> <ul style="list-style-type: none"> • Facilitate application of community by-laws to elect or appoint a diverse council to oversee management of community lands and natural resources and ensure compliance with by-laws. • (By-laws and/or monitoring may be needed to ensure elections and councils are participatory and operate fairly and transparently. Communities may choose to create a watch-dog group to monitor their council.) 	<p>Staff + Paralegals</p>
<p>Formal Documentation</p> <ul style="list-style-type: none"> • If a community chooses to pursue formal state recognition and documentation of its land claims, additional steps to apply for a formal title, deed, or certificate of registration are needed, according to national laws. 	<p>Staff + Paralegals</p>

*Defining a ‘community’ is a complex, political process with numerous socio-cultural and geo-spatial implications. As a result, accurately identifying the authentic users and owners of each area may be challenging. Namati facilitates meetings with leaders and local land uses to help ‘communities’ define themselves.

trained on: the stages of the community land protection process; their national legal framework for community land rights; the process for documenting community lands; and the practical skills required to lead the process, such as facilitation, mediation, negotiation, participatory mapping, and liaising with government officials. Motivated communities and their paralegals can complete much of the process on their own, but we have found that they do need target assistance from legal and technical professionals, specifically:

- An introduction and explanation of the process and all its steps;
- Periodic legal education and capacity-building training concerning the community's legal rights to their land and the legal process for formal documentation;
- Mediation and conflict-resolution support during particularly contentious land conflicts or boundary disputes that communities are unable to resolve on their own;
- Assistance during completion of second and third drafts of by-laws;
- Strategies for women's empowerment to ensure women's full participation in all community land documentation activities;
- Support during all administrative processes, including: contracting and liaising with government agencies, working with land surveyors/GPS technicians, and completing and filing of application forms and related documents; and
- Regular monitoring and communication, partly for quality-control of the process but also to demonstrate to stakeholders that a community has support for taking legal action if necessary.

Namati is now scaling-up the Community Land Protection Program to over 100 new communities in Liberia, Uganda, and Mozambique and expanding to new countries. We are also participating in a cross-country longitudinal study to evaluate long-term impacts. We continue to test our model in varying contexts and refine the process and paralegals' tools. For example, one of the communities that we worked with in Liberia went on to sign an unfavorable land deal, despite having completed the full land protection process. In response, Namati is adding training modules to empower communities to plan and steer their own development, including: a land valuation toolkit, negotiation skills training; financial management training; and participatory rural planning tools.

3.2 Navigating a New Framework for Land Rights in Myanmar^{†††}

In Namati's program in Myanmar, we strengthen land rights and defend them in practice. In 2012, the Myanmar government passed two land laws that established a new process for the registration of rights to farmland and began a process of repairing the enormous number of land grabs that took place under military rule. Yet despite these changes, little has changed for the majority of Myanmar's 40 million farmers, most of whom are unaware of the new registration and claim options, do not understand the official processes, have difficulty accessing the process, or are too afraid to interact with the officials in charge.

To address these issues, Namati and its national partner organization, the Civil and Political Rights Campaign Group (CPRCG), have trained a corps of more than 30 paralegals to support families to register and protect their land rights. Namati's paralegal program is the

^{†††} Details in this section were provided by Laura Goodwin, the Director of Namati's program in Myanmar.

widest-reaching community-based paralegal network and the largest grassroots land protection effort in Myanmar: In just the first 6 months of the program, paralegals handled thousands cases from 150 village tracts located across six states and divisions. The paralegals educate individuals, farmers' groups, and communities about Myanmar's legal framework on land and how to complete the administrative processes to register farmland claims. Paralegals help families and communities navigate the registration process, and, in more complex cases, accompany clients to government offices and follow-up with officials to troubleshoot obstacles and ensure that cases are processed in a timely fashion. In other cases, paralegals are helping groups and communities resolve land disputes and seek restitution in cases of land grabbing, expropriation, or environmental damages.

Namati is rigorously researching this application of the paralegal model. Paralegals collect detailed data on implementation of the land laws, recording: the amount of time taken to process a case; the documents that government officials request; obstacles confronted; instances of outright corruption; and which government actors and departments are involved in a given case. Namati compiles and analyzes the data to inform suggested improvements to Myanmar's land laws and administrative procedures, as well as our own programming.

We have found three major patterns of practice that are leading to injustice: gaps and errors in land records; incorrect classification of lands; and a lack of protection for community-level land rights. Many official land records are not accurate because of decades of informal land sales and transfers, driven underground because of a prior ban on individual land transactions. As well, the recent official classification of land across Myanmar has created numerous situations where land that people have farmed for decades has been officially classified as protected forest, pasture, or vacant land. Both of these errors are complicating, and in some cases preventing, individuals' registration of their farmland rights. Thirdly, the current land laws only allow registration by individuals. This is a serious concern for ethnic areas of Myanmar where many communities jointly manage and use farmland, pasture land, and forest areas. Without an option to formalize these community land rights, many ethnic communities are vulnerable to elite capture and land grabbing.

Recently, the paralegals have taken on more complex cases involving group claims relating to land grabbed years or even decades ago by the military, government officials, or private firms. Most such cases concern hundreds or thousands of acres of land and hundreds of farmers. Paralegals support groups of farmers to organize the documentation needed to submit their land claim. Already, their efforts have resulted in the government returning thousands of acres of land across the country. After land is returned, paralegals continue to work with farmers to help ensure fair reallocation and redistribution among the claimants and to take action to protect their land rights going forward.

Environmental justice issues are also emerging as individuals and communities feel empowered to challenge the pollution and damages from existing or proposed industrial developments. Namati is expanding the program to address environmental issues, drawing upon our experience with land and environmental protection in other countries.

3.3 Negotiating Fair Land Deals in Sierra Leone and Beyond

By 2012, Sierra Leone had leased an estimated one-seventh of its land - almost a million hectares – to private companies for plantation and mining developments (Oakland Institute 2012). These projects displace local communities who have very little recourse to challenge decisions made by government officials. The vast majority of land in Sierra Leone exists under locally-defined customary land tenure systems, but there is currently no legal framework to allow formalization of these land rights (Maru 2014, 197). As well, in many cases, investors or government officials strong-arm, deceive, or bribe traditional local leaders into agreeing to land deals without understanding the full terms or implications. Namati's work on community land rights in Sierra Leone focuses on supporting communities involved in on-going land negotiations or seeking to challenge an improperly negotiated land deal.

In one recent case,⁺⁺⁺ Namati was contacted by community members from the small village of Masethele in Sierra Leone's Northern Province. Masethele, along with forty-seven other villages, was involved in a dispute with a bioenergy company. The company had signed 50 year leases with three Chiefdom Councils for the use of 58,000 acres of land. The lease terms ceded the entire land area of Masethele (2,796 acres) to the company - including all farmland, common areas, forests, wetlands, water bodies, and house plots. When the villagers learned of the land deal their leaders had brokered, they refused to acknowledge the lease, protesting its terms and the lack of proper consultation. Their opposition continued for two years, despite pressure from their Chiefdom Council, District Council, and various parliamentarians (Maru 2014, 198). The community contacted Namati and requested help to understand the lease terms, liaise between community members and officials, and assist community leaders in negotiations with the company.

Namati staff researched the terms of the agreement and the process by which it had been negotiated. Paralegals interviewed community members to document the potential impacts of the lease, giving everyone, including women and youth, an opportunity to share their concerns. Then, in large community meetings, the staff and paralegals explained the terms and process of the lease, and shared their findings on the potential impacts. After a series of community discussions, the village agreed to lease one-fourth of their land provided that the remaining three-fourths of their land was removed from the lease agreement. Namati's lawyers then supported Masethele's leaders in negotiation meetings with the company. Ultimately, the village's proposal was accepted and the company modified the lease.

While the community of Masethele successfully leveraged Namati's legal supports to renegotiate a lease, hundreds of other communities struggle to access legal services, given that Sierra Leone has less than a dozen lawyers based outside the capital city (Koroma 2008, 79). To address this gap, Namati Sierra Leone is expanding its focus on land and environmental issues, training more paralegals to assist in such cases, and establishing a legal aid call center so people across the country can access legal advice and request paralegal assistance.

⁺⁺⁺Details of this case are drawn from a case study by Sonkita Conteh, the Director of Namati Sierra Leone in a forthcoming collection of case studies published by Namati and Natural Justice.

3.4 Advocating for Environmental Compliance in India's Coastal Regions

The third type of Namati's work on land and environmental justice applies the model of community-based paralegals to the issue of enforcing contractual and regulatory requirements for environmental protection.

Over the past two decades, the coastal regions of India have experienced rapid industrialization that has displaced fishing and coastal communities, degraded ecosystems, and undermined local livelihoods (Maru 2014). Namati's India program and our partners at the Centre for Policy Research are tackling three distinct problems in coastal India: overly complex laws and regulations that are inaccessible to local populations; ineffective monitoring and enforcement of environmental protections; and the lack of participation by local communities in environmental regulatory processes (Mundra Hitrakshak Manch et al. 2013). To address these, Namati is equipping paralegals to support communities to: understand regulations and environmental laws; monitor compliance with regulations and document violations; and engage with regional planning processes and conduct participatory cumulative impact assessments.

Environmental regulations in India are often too complex and inaccessible for coastal populations to understand or use to defend their environmental rights. Namati works with coastal communities to develop materials in various media (pamphlets, radio spots, films, and mobile phone notifications) that explain environmental laws and their procedures. Paralegals distribute these materials and hold educational workshops for communities and local advocacy organizations. Most recently, Namati worked with coastal communities to create a user-friendly booklet and a pocket reference guide on India's 2011 Coastal Regulation Zone (CRZ) notification. The booklet and guide translate the law into clear explanations and practical tools for identifying and reporting cases where industrial developments are infringing CRZs. Using maps and illustrations, these tools demarcate CRZs and provide examples of possible infringement scenarios and how to report them. Namati has published these tools in English, Tamil, and Gujarati.

Namati also directly supports the monitoring and reporting of environmental violations. Along the southern coast of Kutch, in Gujarat, paralegals work with local individuals and organizations to train them in how to research, identify, and document evidence of violations and report them to responsible authorities. The paralegals also advise local efforts to advocate for better enforcement and expansion of protections for vulnerable coastal ecosystems. A case in point is Namati's collaboration with three local associations seeking protection of the coastline around the village of Bhadreswar as a "critically vulnerable coastal area" under the Coastal Regulation Zone notification; a designation that would prohibit heavy industry and support ecological restoration efforts in the area (Maru 2014, 203).

Finally, Namati is working to make environmental planning, assessment, and regulatory processes more participatory. On the northern coast of Karnataka, Namati paralegals support communities to participate in local and district planning processes, as well as implement their own community-driven conservation programs. Namati is also piloting a methodology for

communities to assess cumulative impacts of existing industrial projects, currently overlooked by the regulatory framework for environmental assessments. In the pilot, paralegals are crowd-sourcing local knowledge of cumulative impacts using participatory community mapping tools and then sharing this information with official environmental decision-making processes and with communities to support their advocacy efforts.

Namati plans to apply the lessons and models developed by the India program to develop or expand community-based environmental justice efforts in other regions.

4 Overcoming Challenges to Participation of Civil Society and Vulnerable Groups

In all of Namati's efforts, we aim to empower marginalized and vulnerable groups to participate meaningfully in governance processes, to secure justice and accountability using legal tools, and ultimately to exercise greater influence over decisions that affect them. We continually evaluate our effectiveness towards these goals. This section shares three inter-related challenges that we are working to overcome: navigating power imbalances; building local governance; and empowering women.

4.1 Navigating Power Imbalances

Power asymmetries pervade systems that govern land, natural resources, and environment. Imbalances in power stem from many factors, including differences in capacity to influence decision-makers; mobilize support; access financial and other resources; leverage skills and information; or maintain internal cohesion (Cotula 2008, 10). Legal empowerment directly confronts power imbalances, but to be effective it requires nuanced, context-specific strategies to navigate the complex social, political, economic, and cultural roots of power (Domingo and O'Neil 2014, 9). This is a serious challenge that Namati is critically engaging with three strategies: 1) Equipping our paralegals to navigate power imbalances; 2) Supporting communities in unbalanced negotiations; and 3) Working directly with powerful actors within legal and administrative systems.

Namati has identified that our paralegals are most effective at navigating power imbalances when they are community-based, flexible, and supported by experts. From our experiences to date, we have found that paralegals who are part of, or at least close to, the communities that they work with are more likely to understand the nuances of power relations within local communities. This gives them advantages over outside experts, who are more likely to misread or unintentionally aggravate situations that are rooted in power struggles, such as longstanding land disputes. Therefore, wherever possible, Namati attempts to recruit and train local people to act as community-based paralegals. In their training, we attempt to equip them with tools that are flexible and adaptable to a wide range of contexts, so they can shape their work using their local knowledge. However, we do not leave paralegals entirely on their own. We have learned that paralegals are most effective when they have regular connection with lawyers and other technical staff. A relationship with experts is a source of not only technical guidance; it also bolsters the status of paralegals, which can be important for community-based paralegals who are engaging local leaders and power structures.

When supporting communities in their interactions with governments or private companies, Namati's standard approach is to have paralegals and lawyers work with communities to increase their access to legal information and skills. However, in some cases, particularly land negotiations, external entities attempt to undermine local communities by aggravating internal discord or manipulating weak local governance structures. In these situations, we have found that community-based paralegals can help strengthen communities from within. In the case of Masethele, profiled earlier, several local leaders succumbed to pressure from superiors (and likely their own personal desire for greater rental income) and refused to present the villagers' proposal to lease a reduced area. In response, the paralegals working with Masethele facilitated a community meeting to explain the situation and find a solution. The villagers took a unified stand to demand that their leaders represent the village's consensus or they would revoke the leaders' authority to negotiate for the village. In response, the leaders agreed to present the proposal and negotiations continued, with the paralegals monitoring on behalf of the villagers.

We realize that grassroots legal empowerment is not enough to overcome structural power imbalances, such as those that often pervade legal and administrative systems (Domingo and O'Neil 2014, 9). In addition to advocating for structural reforms, we have learned to engage powerful actors within legal and administrative systems directly. For example, in Uganda and Liberia, Namati directly involves local officials in our land protection efforts, giving them clear roles within the process and providing training and tools to empower them in their own administrative work. Likewise, Namati provides technical advice to lawmakers and governments. However, there is a need to balance relationships with legal and administrative actors with grassroots relationships. For example, in Myanmar we are attempting to build a relationship with the government in order to advise on improvements to its land laws; but, at the same time we need to build trust with rural communities, many of whom distrust the government. We continue to investigate new ways of ensuring that we stay rooted to the local level, like the system of community oversight boards used by Timap for Justice in Sierra Leone (Maru 2014, 207).

4.2 Local Governance Building

Communities also struggle internally with issues of fairness, accountability, and equity, especially where local elites capture community institutions and use them to disempower, disadvantage, or exclude individuals and sub-groups. Namati has developed three strategies for addressing local governance challenges: 1) Work with entire communities, not just leaders; 2) Ensure processes are fully participatory; and 3) Emphasize governance-building as part of grassroots legal empowerment efforts, especially land rights work.

Grassroots legal empowerment efforts often face resistance from local elites who see them as a threat to their power. Namati always strives to work closely with local leaders, but having them be the sole link to a community means that leaders control our involvement. We have learned to cultivate wider relationships, including with youth and women, so that Namati's support can continue in the event that leaders turn against the process or community members challenge actions of their leaders, as with the case of Masethele in Sierra Leone.

Sometime, local elites capture grassroots processes and abuse them to further their own interests, perpetuating or worsening local injustices. One way that Namati guards against this is to make sure that processes are fully participatory by having staff or paralegal facilitators:

- Ensure that “the community” is defined as including all residents within the area affected, including women, minority groups, and those not born in the community;
- Undertake intensive and continuous community mobilization to ensure that members of all stakeholder groups actively participate in all debates and discussions;
- Convene special meetings for sub-groups, minorities, or vulnerable stakeholders to voice issues that affect their rights, needs, or participation in the process; and
- Plan community meetings at times and locations that maximize accessibility for all.

Namati also ensures that local rules and processes comply with a country’s constitution and laws and do not discriminate. For example, in the Community Land Protection Program, community by-laws are reviewed by external experts or officials who ensure that the rules are constitutional and do not discriminate against women or minorities. The land protection process also includes minimum standards for downward accountability, including establishing a representative, democratically-elected land-use committee subject to term limits (Knight et al. 2012, 185–86).

Third, we have learned to emphasize explicitly that governance-building is a core part of grassroots legal empowerment efforts. This is especially true for the Community Land Protection Program because providing land documents to a poorly governed, disempowered community without addressing local governance issues may, in some instances, make land dealings even more unjust and quicken the pace of land alienation (Knight 2014). Instead, Namati combines mapping and land registration with clear steps for communities to establish internal mechanisms for good governance in the by-laws drafting process. When carefully facilitated, this process gives community members opportunities to reflect publicly on existing community rules, to question the purposes of rules, and to decide whether to keep or alter each rule. Individuals and groups - particularly women, youth and minorities – can voice opinions, argue against rules they feel to be arbitrary and discriminatory, and advocate for the inclusion of rules that protect or promote their interests. We have observed the effectiveness of this process for strengthening local governance, in particular by creating new mechanisms to hold leaders accountable, ensure authentic community approval for all transactions with outside investors, and enhance responsible management of land and natural resources. Namati is applying these experiences of supporting local governance building to our legal empowerment work more broadly.

4.3 Empowering Women

Strengthening women’s rights, their capacity to secure justice, and their participation in governance processes are major areas of work for legal empowerment, but these also present complex challenges. A recent review of legal empowerment by Domingo and O’Neil (2014, 40) revealed that while some efforts have had positive impacts for women, there are still “significant gaps in knowledge about women’s legal empowerment and its outcomes.”

Namati's staff and paralegals use a number of concrete tools and strategies to empower women in the communities we work with. We attempt to recruit female paralegals wherever possible and we require that community meetings, committees, and councils have representation by women. In some contexts, such as rural Sierra Leone, these requirements alone present serious challenges because involving women in discussions about land goes against customary practice. Namati's Sierra Leone staff and paralegals respond to resistance by explaining that women have valuable insights about land and natural resources and that their involvement in land decisions is necessary because land does not belong to leaders and men alone, it belongs to the entire community (Conteh, personal communication).

Similarly, in the Community Land Protection Program, staff and paralegal facilitators take special actions to ensure women's active participation in all community land documentation activities, including:

- Carrying out a gender analysis when starting work in a community and crafting strategies to proactively address gender inequities that may negatively impact community land protection efforts;
- Planning meetings to accommodate women's schedules and needs;
- Convening women-only meetings to identify issues that affect women's rights, needs, concerns, and participation in the process; and
- Encouraging women to support each other and act in solidarity during community meetings (particularly the by-laws drafting process).

The by-laws drafting stage is typically when communities create intra-community protections for the rights of women and vulnerable groups. These meetings open up an authentic space for women and members of other vulnerable groups to question practices that disadvantage them and advocate for rules that strengthen their rights and tenure security. Specifically, Knight et al. (2012) observed that participatory and inclusive by-laws drafting leads to:

- Women's genuine participation in land and natural resources management decisions;
- A shift in perceptions from thinking that land is only 'men's business' to thinking that women have an important role in discussions concerning community land;
- A strengthening of women's existing rights; and
- The rejuvenation of customary norms that had existed in the past to protect women's land claims but had recently eroded or been abused.

Strong intra-community supports and protections are critical for empowering women and improving their land tenure security. As Rashid (2010) and Bicchieri and Knight (2014) argue, people who are marginalized, including women, the poor, and the landless, require more than just legal instruments like titles or records to exercise secure and effective rights to land and resources, they also need community-level recognition of their rights. Evidence from Rashid (2010), Knight et al. (2012) and Namati's programs illustrates how community-led discourse and governance reforms can be effective ways to develop or strengthen such community-level supports and dismantle local asymmetries of power.

5 Conclusions and Recommendations

This paper has illustrated some of the contributions that legal empowerment approaches, and grassroots paralegal programs in particular, can make to environmental governance and justice efforts. We recognize that not all contexts or issues are well suited to legal empowerment approaches, but we hope that other advocates and activists benefit from learning about our approaches and experiences. We conclude with a few final recommendations for policy and practice.

5.1 Recommendations for Policy

Legal empowerment needs greater national and international support to expand its application to environmental issues. Namati and other organizations are advocating that the international community make legal empowerment a priority, and promote it as a tool for achieving environmental and sustainability goals. In particular, we are advocating for the inclusion of justice and community land rights in the post-2015 development goals.^{§§§} Giving communities secure land and resource rights and the power to manage them will reduce poverty and promote sustainable development. Access to justice will mean that individuals and communities can effectively engage with legal and administrative processes that shape their local environments and the resources they depend upon.

Legal empowerment programs, particularly ones that reach beyond conventional legal aid services, face persistent funding gaps. Namati and other legal empowerment organizations are experimenting with models supported by small contributions from those who receive legal services, but these cannot support enough programming to meet demand. National governments and international development agencies and foundations should finance legal empowerment efforts that target land and environmental injustices. Namati and other organizations are advocating for the establishment of a global fund for legal empowerment to create a channel for multilateral cooperation and support (Maru 2014).

5.2 Recommendations for Practice

In addition to the strategies and approaches highlighted in this paper, Namati embraces five core attitudes to strengthen our work:

- **Be proactive**

We strive to address needs and issues proactively where possible, and develop new approaches and programs when we identify opportunities to be proactive. In Liberia, communities are often unprepared for land negotiations and lack the information and skills needed to negotiate fair and beneficial terms. In response, Namati and the Sustainable Development Institute are piloting an ‘Early Warning System’ that communities can access at the first glimmer of interest from a potential investor. When an individual calls the System’s phone line, staff immediately open a case file, provide guidance, and arrange for a staff member to meet with the community to assess the situation and provide tools, training, and expert support as necessary. Being proactive also means being prepared for legal

^{§§§}More on the Justice 2015 campaign is available at <http://www.opensocietyfoundations.org/projects/justice-and-development>

empowerment efforts to extend into other types of work. In our Community Land Protection Program and Myanmar program, we have learned that documenting land rights involves resolving conflicts. We have learned that for any process involving land or natural resources, staff and paralegals should be proactively prepared to lead conflict resolution.

- **Be creative**

Advancing justice often requires creativity. For example, in Liberia and Sierra Leone, the legal frameworks for land rights do not yet officially allow communities to formalize their land rights, but we have found ways to carve out space for communities to exercise their customary land rights. In Myanmar, the new farmland registration certificates do not technically accommodate joint land registration to both a husband and wife because there is only space for one name. Namati is advocating to change this, but in the meantime we are testing to see if officials will accept forms with two names included, despite the form design. Sometimes creativity is necessary to squeeze justice out of systems that are slow to change.

- **Be adaptive**

Our current programs all use community paralegals or grassroots advocates, but we also tailor each program to local needs and goals. We continually seek ways to better adapt our tools and approaches based on what we find to be most effective and feasible in a given context. In particular, we often need to adjust programs based on the capacity of paralegals, and of the staff who monitor and support them. For example, in some regions of Liberia, field staff have struggled to provide enough regular training and support to community-based paralegals due to limited personnel, resources, and transportation. In response, we are testing the effectiveness of regional-based paralegals who support multiple communities, a model that would be more feasible given constraints in this context.

- **Be reflective**

Rigorous testing and evaluation of all programs enables Namati to identify weaknesses, test improvements, and act on opportunities. We strongly recommend that all legal empowerment practitioners collect data on as many aspects of their programs as feasible, with a mindset of continuous and iterative improvement. In Uganda, program data highlighted that whenever communities started the community land protection process by tackling land disputes, the conflicts escalated and severely slowed or even stalled the process. In response, field teams altered the process to start with community visioning exercises to build community unity and momentum before undertaking the more challenging process steps (Makmot et al. 2014). Rigorous testing and evaluation will help legal empowerment as a whole to identify impacts and most effective strategies (Maru 2014; Domingo and O'Neil 2014, 10).

- **Be co-operative**

Namati works with national partner organizations to implement programs and coalitions of civil society organizations in our national and international advocacy efforts. Collaborating with other organizations and agencies extends our capacity and effectiveness. However, legal empowerment organizations and other civil society organizations need more collaboration, both within and across national borders. We have much to learn from one another about strategy and methodology, and co-operation will increase our program effectiveness, our

advocacy impacts, and our ability to tackle challenging, transnational cases. In particular, Namati is working to expand our network beyond legal empowerment experts. As we continue to extend the tools and approaches of legal empowerment to issues of land and environment, we need allies with expertise in natural resource management, conservation, ecosystem regeneration, and sustainable livelihood development. We actively reach out to new and diverse collaborators, and we encourage others to do the same.

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