



GOVERNING KALANTHUBA

A Field Study of Chiefdom Governance in Sierra Leone



Field Study Team:

Ronald Oakerson, Ph.D., Political Science—Team Leader

Jacob Kuhlkin, B.A., International Development

Frances Mullen, B.A., Political Science

Katiana Zubryn, B.A., International Development

2023

[REVISED 2024]

HOUGHTON STUDIES IN INTERNATIONAL DEVELOPMENT

HOUGHTON UNIVERSITY

Copyright © 2024 Ronald J. Oakerson

TABLE OF CONTENTS

ACKNOWLEDGMENTS.....	3
ACRONYMS.....	4
SYNOPSIS OF THE REPORT.....	5
INTRODUCTION.....	7
Basic Description of the Chiefdom.....	7
The Scope of a Governance Study.....	8
Evaluative Criteria.....	10
Study Design and Methodology.....	12
Organization of the Report.....	13
Map of Kalanthuba Chiefdom.....	14
PART I: AGENTS OF AUTHORITY IN KALANTHUBA.....	15
A. Village Leaders.....	15
B. Section Chiefs.....	16
C. Chiefdom Leaders.....	17
PART II: COLLECTIVE DECISION-MAKING AT THE CHIEFDOM LEVEL.....	19
A. Chiefdom Development Committee.....	19
B. Chiefdom Council.....	20
C. Local Court.....	21
PART III. LEADERSHIP SELECTION.....	22
A. Choosing Village Leaders.....	23
B. Election and Removal of the Paramount Chief and Section Chiefs.....	24
C. Selection of Subordinate Chiefdom Officers.....	25
PART IV. PROCESSES OF GOVERNANCE.....	26
A. Collecting the Local Tax and Distributing Its Revenue.....	26
B. Making and Enforcing Bye-Laws.....	28

1. Village Bye-Laws.....	29
2. Chiefdom Bye-Laws.....	30
C. Dispute Settlement and Conflict Resolution.....	31
D. Administrative Oversight of Village Communities.....	34
E. Disseminating Information.....	35
PART V. FUNCTIONAL GOVERNANCE STRUCTURES.....	36
A. Land Tenure and Access.....	36
B. Road Maintenance and Improvement.....	39
C. School Formation and Attendance.....	40
D. Village-based Development.....	42
PART VI. THE PROCESS OF LAND REGISTRATION	43
A. Chiefdom and Village Area Land Committees.....	45
B. Registration Process.....	45
C. Distinguishing Family, Communal, and Individual Lands.....	46
D. Management of Family Lands and Land Transactions.....	48
E. Protection of Natural Resources.....	49
F. Land Investment.....	50
PART VII. CONCLUDING ASSESSMENT.....	51
A. Village Governance.....	51
B. The Chiefdom and Sections.....	54
1. The Chiefdom Hierarchy.....	57
2. Chiefdom Council.....	58
3. Chiefdom Development Committee.....	60
4. The Paramount Chief.....	61
C. Pending Issues, Engaging the Future.....	61

BIBLIOGRAPHY & LAWS CITED.....	64
APPENDIX.....	65
A. Letter from the Chief Administrator, Tonkolili District Council.....	65
B. Consent Statements.....	66
C. Focus Group Questions/Prompts.....	67
D. Village Leader Focus-Group Participation by Village/Section.....	68
E. Synopsis of <i>The National Land Commission Act of 2022</i>	69
1. Local Structure.....	70
2. Process of Registration.....	71
F. Synopsis of <i>The Customary Land Rights Act of 2022</i>	72
1. Family Lands.....	73
2. Community Land and Resources.....	73
3. Ecologically Sensitive Areas and Traditional Use of Natural Resources.....	74
4. Land Investment Rules.....	75

ACKNOWLEDGMENTS

The field study team extends its deepest thanks to the village, section, and chiefdom leaders of Kalanthuba for their gifts of time, hospitality and cooperation in focus groups and interviews. We are also grateful for the endorsement of Bangali Foday Marrah, Chief Administrator of the Local Council for Tonkolili District. Many thanks to Graziano Garboni, manager of the Bumbuna hydroelectric facility, and Hawa Sesay, team leader of the Bumbuna Watershed Management Authority, for their gracious provision of lodging and meeting space; to Daniel Sara Turay, director of the Center for Positive Attitude and Sustainable Development (CePAD), for hosting us and masterfully managing our in-country arrangements; to Berns Lebbie, director of Land for Life in Sierra Leone, for an informative meeting with the team; and to our principal translators, Daniel S. Karoma and James M.S. Kamara, for their excellence and dedication to the project. Houghton alum Honus Wagner participated in a preliminary, fact-finding visit to Kalanthuba in 2022, and alum A.J. Buszka contributed to the analysis of land registration. Houghton’s Lindley Fund provided financial support for students, and the Office of Off-Campus Studies added administrative support. *Thanks be to God!*

ACRONYMS

BCA	Bumbuna Conservation Area
BWMA	Bumbuna Watershed Management Authority
CAC	Chief Administrative Clerk
CDC	Chiefdom Development Committee
CLC	Chiefdom Land Committee
CLRA	Customary Land Rights Act
GSL	Government of Sierra Leone
FSU	Family Support Unit
LAT	Land Adjudicatory Tribunal
LCA	Local Courts Act
MQ	Mämmmy Queen
NLC	National Land Commission
NLCA	National Land Commission Act
PC	Paramount Chief
VALC	Village Area Land Committee
VC	Village Chief
VSLA	Village Savings and Loan Association
WFP	World Food Program
YL	Youth leader

SYNOPSIS OF THE REPORT

This report is based on a field study of chiefdom governance in Kalanthuba Chiefdom conducted in late May and early June, 2023, by a student-faculty team from Houghton University, USA.¹ As a rapid field assessment, its findings should be considered preliminary. Its purpose is to facilitate ongoing conversation among chiefdom leaders regarding the present and future performance of the chiefdom governance structure following on the de-amalgamation of 2017, which restored the historic chiefdom. On the basis of personal interviews and group discussions with leaders at village, section, and chiefdom levels of organization, the study describes and assesses the basic structure and process of governance in Kalanthuba, while anticipating future problems and issues.

The study found that the chiefdom's 40 villages have a well-established, highly consensual governance structure. The villages enjoy considerable autonomy, choosing their own leaders (village chief, chairlady (or Mämmey Queen), and youth leader); making and enforcing their own bye-laws by means of regular and frequent village-wide meetings; and settling disputes for the most part without recourse to outside authorities. Five section chiefs oversee the processes of village governance, formalizing village decisions as needed, settling disputes when called upon, and regularly keeping villages informed of external developments.

Land tenure securing access to farmland is a major element of village governance. Land ownership is vested in extended families and administered by heads of family who apportion land among the family's households and others on a shifting basis (ordinarily a two-year rotation), while retaining the larger portion of remaining land as fallow. Although most villages also are home to non-landowning families, their members regularly gain access to farmland within the village area by approaching a landowning family head and securing an allocation of land to farm. Recently, however, a number of villages—in particular, those that lost land to a hydroelectric project and conservation area—have been forced to seek land outside their village.

Governance at the chiefdom level is understandably somewhat less developed, being newly established as of 2017. A series of three regent chiefs, appointed by the Government of Sierra Leone (GSL), have presided over the chiefdom since de-amalgamation. Continuity has been provided by the chiefdom's second-ranking official, the chiefdom speaker, who was appointed by the first Regent Chief and has since been retained in office. The other chiefdom-wide officers are the chiefdom youth leader and chiefdom chairlady, chairman of the Local Court, and chief administrative clerk (CAC). Collective decisions at the chiefdom level have been made by the Chiefdom Development Committee, which includes the chiefdom-level officers plus the five section chiefs. A Chiefdom Council, which is required by general law, had not been formally organized as of this study, though members of the CDC who would also sit on the

¹ Although the field study was conducted in May/June of 2023, and this report was drafted shortly thereafter, the final revision of the report was completed in October 2024 following an in-country consultation with translators and chiefdom leaders in May 2024.

Council have acted in that capacity on occasion, as in the enactment of chiefdom bye-laws. The three-person Local Court functions on a regular basis to hear small claims, try petty crimes, and enforce chiefdom bye-laws.

In general, leaders at all levels understand their governance roles and the complementary roles of other leaders. For the people of Kalanthuba, chiefdom governance is a widely understood, predictable process. Procedures for selecting leaders, making and enforcing rules, obtaining important information, and resolving conflicts are well-known and reliably followed. The determined efforts of chiefdom leaders to seek out development opportunities have met with some success, though limited. Most of the development progress seen in the restored chiefdom has proceeded from self-help efforts—building roads with hand tools and constructing community school buildings.

Uncertainties regarding future governance and development arise mainly from external sources:

- Uppermost in the minds of chiefdom people is the uncertain timing for the election of a paramount chief from within the ruling house, an election for which the chiefdom is entirely dependent on the GSL.
- Ill feeling remains among villages that lost land to the Bumbuna Dam and Reservoir on the Seli River, which forms the eastern boundary of the chiefdom, as well to the Bumbuna Conservation Area established as an environmental offset to the loss of wildlife habitat.
- The status of a second phase in the development of hydroelectric facilities on the Seli River also remains uncertain, including potentially adverse consequences for affected villages.
- Recent national legislation provides for land registration, displacing the customary land tenure system with a formal-legal system and posing challenges for the chiefdom and its villages in determining how to respond to the changes.

Each of these uncertainties requires the attention of chiefdom governance. The principal challenge is to retain the existing capacity for consensual local governance, which is impressive, while adapting to new requirements and situations. Land registration, in particular, will require considerable *advance preparation* at both chiefdom and village levels. The democratic qualities of village governance are worthy of protecting for future generations, as is the inclusiveness of land use in villages, ensuring that all villagers, whether members of landowning or non-landowning families, have access to farmland. In order to prepare for the leadership of a new paramount chief, it will be important to ensure strong community representation in chiefdom-level decisions through the Chiefdom Council.

INTRODUCTION

The purpose of this study is to facilitate a conversation among chiefdom leaders focused on the structure and process of governance in Kalanthuba Chiefdom. The governance of chiefdoms is important in Sierra Leone, both for local people and for the country. The Government of Sierra Leone (GSL) continues to depend on its 190 chiefdoms as the primary units of local governance. In 2017, the GSL increased the number of chiefdoms from 149 to 190 by reversing colonial-era chiefdom amalgamations. The de-amalgamation process included the restoration of Kalanthuba Chiefdom as an independent unit after 64 years of amalgamation with an adjoining chiefdom. Kalanthuba still awaits the election of a Paramount Chief, an election that must be organized and conducted by GSL. The chiefdom has nonetheless been actively engaged in the process of governance under the authority of a series of three Regent Chiefs and, moreover, in seeking opportunities for development consistent with local conditions and aspirations. By reflecting on the strengths and weakness of its current governance process, Kalanthuba seeks to better position itself for self-improvement as well as for seeking development partners willing to invest in a well-governed chiefdom.

Although long the focus of local governance in Sierra Leone, chiefdoms have not figured prominently in development efforts since independence. Although an internationally-funded decentralization project initiated in 2004 sustained the practice of chiefdom governance, decentralization focused primarily on the creation of representative institutions at the district level. While NGOs often seek to work with local villages, little attention is given to the chiefdom system within which villages must work—with the exception of a report prepared by the Campaign for Global Governance, Methodist Church Sierra Leone, and Network Movement for Justice and Development (2009). Development has often been understood to require the rejection or marginalization of traditional governance structures such as the chiefdoms of Sierra Leone—much to the detriment of development efforts (Ayittey 2005). The leadership of Kalanthuba is determined to break out of that mold.

The ruling house of Kalanthuba—from which a Paramount Chief will be elected—has therefore commissioned this study as an eyes-wide-open look at the structure and process of chiefdom governance. The conduct of the study was approved by the Chief Administrator of the Tonkolili District Local Council (the letter of approval is reprinted Appendix A). The only pre-condition attached to the study by our chiefdom hosts was that good-faith efforts be made to hear from all villages in the chiefdom—a condition made challenging by the difficult accessibility of many villages.

BASIC DESCRIPTION OF THE CHIEFDOM

Kalanthuba has a traditional governance structure that is characteristic of chiefdoms throughout the country. Covering an area just short of 100 square miles and including some 10,000-plus residents, Kalanthuba has five sections, each with a section chief; each section is divided into village areas, also sometimes called townships (see map, p. 14). Villages too have a

standard leadership structure consisting of a headman or chief, a chairlady or women’s leader locally addressed as the “Mämmi Queen,” and a “youth leader,” who is a leader of young adults, both male and female, that generally comprise the able-bodied members of the village fit for physical labor. Village elders, who are highly respected, also have important roles related to village governance. Most villages are small—average village population in 2017 was estimated at 238 inhabitants (Oakerson, et al, 2017: 17). The most urbanized (and most accessible) village, Kamankay, is larger than the others and growing, now with perhaps around 2,000+ residents. The chiefdom population is relatively homogenous, consisting largely of members of the Limba tribe and speaking the tribal language, and mostly Christian; the other major ethnic group present in the chiefdom is the semi-transhumant Fullah tribe, a cattle-herding group (unlike the Limba people); although they pay the Local Tax, the Fullah are not considered members of the chiefdom by chiefdom authorities.

The physical and social facts of life in Kalanthuba (see Oakerson, et al, 2017) provide a challenging context for chiefdom governance:

- The rugged, often rocky, semi-mountainous terrain, heavily forested, with farmland carved out of dense bush often on steep hillsides, poses serious obstacles for agriculture, as well as for road and footpath construction and maintenance.
- Most of the population live in extreme poverty, their livelihoods based almost exclusively on subsistence agriculture conducted with hand tools, lacking clean water and adequate sanitation, many villages without reasonable access to health care, markets, and schools.
- The adult population is mostly unable to read and write—many villages having no literate adult in residence.
- Channels of communication are based predominantly on face-to-face contact.
- Gender relationships are complex: marital practices include polygamy, found throughout the chiefdom, and men and women are initiated into separate gender-based associations often characterized as secret societies.
- A traditional belief system prominent among villagers ascribes causal agency to deceased ancestors and spirits, so that important events, which others (including many professionally educated Sierra Leoneans) would view as the product of natural causes, are often seen locally as the work of supernatural agents, including persons accused of witchcraft.
- Outside the control of the chiefdom, the recent construction of the Bumbuna Dam and Reservoir on the chiefdom’s eastern border, together with the designation of a protected area, the Bumbuna Conservation Area, as an environmental offset for the loss of wildlife habitat to the hydroelectric project, displaced villagers in the affected area and deprived extended families of land long-owned under customary tenure rights.

THE SCOPE OF A GOVERNANCE STUDY

Governance entails the use of rules to maintain social order as well as the terms and conditions for the use of authority to make, apply, and enforce those rules. Those who make,

apply, and enforce rules are the *agents of authority* in the chiefdom. The use of governing authority in a community depends on a shared understanding regarding the terms and conditions of governance: how authority is to be used, what its limits are, and the rules and norms that apply to its use. The shared understanding of those terms and conditions among the various agents of authority in the chiefdom is the focus of this study.

The key questions of the governance study are these:

1. To what extent do village, section, and chiefdom-level leaders share a common understanding of the governance structure and process?
2. Based on that common understanding, how can the governance structure and process be described?
3. To what extent does that governance structure and process lead to outcomes consistent with the common good of the chiefdom as a community?

The source of chiefdom authority is a mix of customary law with the constitution and laws of the Republic of Sierra Leone, making the chiefdom a “hybrid” institution (see Albrecht 2017). In a primary sense, however, the chiefdom is a customary institution, deriving its authority (and the authority of its various officers) from the customs and usage of the Limba people, the tribal group that in the main inhabits Kalanthuba. The *Constitution of Sierra Leone* (1991), in Article 72, titled “Office of Paramount Chief,” recognizes the Chieftaincy as a constitutional office established by customary law that predates the Constitution: “The institution of Chieftaincy as established by customary law and usage and its non-abolition by legislation is hereby guaranteed and preserved” [§72-1]. At the same time, the chiefdom is also subject to the constitution, laws, and regulations of GSL—including acts of parliament, administrative regulations of government ministries and districts, and acts of the elected Local Council of Tonkolili District. Quoting again from Article 72, “Subject to the provisions of this Constitution and in furtherance of the provisions of this section, Parliament shall make laws for the qualifications, election, powers, functions, removal and other matters connected with Chieftaincy” [§72-5]. Any single function of the chiefdom, such as the collection of local tax or the governance of land tenure, may be governed in part by custom, in part by ministerial regulation, and in part by parliamentary legislation.

In addition to these formal sources of authority, community norms are also important, based on social patterns of approval and disapproval among members of the community. Chiefdom officers may have wide authority to act according to some authoritative source, but how they actually use their authority depends as well on what is acceptable or unacceptable to members of the community.

Rule-making is a principal tool of governance, distinguishing actions that are permitted from those that are prohibited. In Kalanthuba, rules known as “bye-laws” are found at both village and chiefdom levels. The effective use of rules depends on a number of distinct processes: (1) a process for making rules, deciding what actions to prohibit and what to permit;

(2) a process for monitoring compliance with the rule and citing non-compliers; (3) a process of determining whether the terms and conditions of the rule actually apply in specific circumstances; and (4) a process of penalizing action that is not permitted. So, it is not enough just to make a rule that prohibits certain behaviors; it must also be possible to monitor the relevant behavior, decide whether the observed behavior actually violates the rule, and ensure that disregarding a rule in most cases results in negative consequences for the violator. All this amounts to a complex process, using rules to govern a community.

EVALUATIVE CRITERIA

In addition to describing the structure and process of governance, the study report seeks to evaluate existing governance practices according to a widely accepted set of criteria. Good governance must follow practices that channel governance toward serving the good of the governed. To evaluate the governance process, the study employs the following criteria as indicators of governance quality: predictability, accessibility, accountability, popular participation, transparency, effectiveness, adaptability, equality and equity, and restraint in the use of coercion (see Joireman 2011).

1. *Predictability.* One of the functions of governance is to make life more predictable for individual members of society. In a society with a highly predictable governance system, informed community members understand the freedoms and limitations prescribed by known rules, as well as how and why rules are made and applied. Community members should be able in most situations to predict the responses of governing authorities in applying and enforcing rules and thus anticipate the consequences of their actions.
2. *Accessibility.* What are the terms and conditions for gaining access to chiefdom officials with authority to govern? These terms and conditions may refer to time, money, distance, or understanding. In a highly accessible governance system, all community members are able to afford the costs associated with utilizing institutions of governance. If institutions are too costly, too far away, too time-consuming, or too complicated for community members to use, the governance system is inaccessible.
3. *Accountability.* Accountability is a measure of assurance that the authority to govern will be used in an honest and justifiable way. In a highly accountable governance system, people with authority to govern must justify their use of authority to those being governed. When there is accountability, community members can trust that those in authority will act in a way that serves the interests of the community. Moreover, community members must be able to bring negative consequences to bear on those who use authority inappropriately. If accountability is low, those who govern are free to act in their own self-interest, and corruption can thrive.

4. *Participation.* Participation refers to community engagement in governance. In a system with high levels of participation, community members regularly contribute to governance processes. In a system with little or no participation, community members do not have a significant voice in making, applying, and enforcing the rules to which they are subject.
5. *Transparency.* The transparency of governance refers to the amount of information about governance problems and issues that is accessible to community members. For a system to be highly transparent, community members must be supplied with any information needed to understand, as fully as possible, the actions of governing bodies that affect them. Transparency includes the rules and expectations set by governing bodies, as well as the decision-making processes used. A non-transparent system is one in which governance information is inaccessible, unclear, or withheld from community members.
6. *Effectiveness.* Effectiveness is a measure of the governance system's overall ability to serve community members and solve problems. Included is the ability of rules to be applied and enforced and to achieve intended outcomes. In order for a rule to be considered effective, most community members must be in compliance with the rule. Compliance requires that community members know and understand the rule, and there must be negative consequences proportionate to the offense for those who do not comply, including those who possess governing authority.
7. *Adaptability.* Governance systems vary in the degree to which the process of governance can be adapted to changing conditions—including new technology, shifting markets, climate change, and political dynamics, to name a few. The more adaptable systems—including system change as well--have greater potential for long-term survival.
8. *Equality and Equity.* Although related, equality and equity are different indicators, both essential to human dignity. Equality measures how the equally justice and opportunity are distributed among persons. In a governance system with perfect equality, all community members would be subject to the same rules and are granted the same rights, regardless of their individual traits or social status. According to the equity principle, unequal treatment of individuals can only be justified on the basis of merit or demerit, either rewarding excellence and good behavior or penalizing poor performance and harmful behavior.
9. *Restraint in the Use of Coercion.* How much coercion is used in the process of governing? Restraint requires that governing authorities *not* resort to the use of force to obtain compliance with rules or settle disputes except when necessary. Excessive use of force is a mark of poor governance. A basic purpose of governance is to keep the peace of the community—thus settling disputes without resort to violence, including the use of unnecessary coercion to enforce rules.

STUDY DESIGN AND METHODOLOGY

The governance study employs three main sources: (1) a field study of governance practices in Kalanthuba based on personal interviews and focus-group discussions with practitioners, supplemented by published research; (2) a review of the constitution and laws of the Republic of Sierra Leone bearing on chiefdom governance; and (3) an analysis of the governance challenges facing the chiefdom at present or in the near future.

The 40 villages of Kalanthuba are territorial subunits of its five sections (i.e., each section is divided into a varying number of village areas), and sections are likewise territorial subunits of the chiefdom. The study examined Kalanthuba chiefdom at all three levels of organization: chiefdom, section, and village.

At the chiefdom level we conducted separate interviews with each of the principal leaders: the Regent Chief, Chiefdom Speaker, Chiefdom Chairlady, Chiefdom Youth Leader, and Chairman of the Local Court. At the section level we conducted a focus group attended by two of the chiefdom's five section chiefs and the representative of a third chief, while also conducting a personal interview with a fourth section chief and visiting briefly with the elderly section chief who had sent a representative; we were unable to speak with one section chief. At the village level we conducted focus groups with leaders from 35 of 40 villages at seven village sites scattered across the three lower sections: three sites in Kasokira Section and two sites each in Kamakathéh and Kamakihila Sections. Two of those sites were intended to reach villages in the two northern sections. The three principal leadership positions in each village are the village chief or headman, village chairlady (or Mämmy Queen), and the village youth leader. At each site we organized separate focus groups for village chiefs, chairladies, and youth leaders. We also conducted a focus group composed of elders from the village settlements located at each of the seven sites (in one case, also including elders from a nearby village).

Substantially the same questions were posed as discussion-prompts for all village focus groups, and similar questions were used in the chiefdom level interviews and section-chief group (see Appendix C). This design enabled us to cross-check responses to questions, noting commonalities and differences among focus groups and chiefdom leaders. By comparing the responses to a standard set of questions, we were able to ascertain the *shared understanding* of the governance process among leaders at all three levels. At the same time, the opportunity to ask probing, follow-up questions widened the scope of the inquiry to maximize the capture of unanticipated information.

Each focus group was conducted by two researchers—one posing the initial questions and the other taking handwritten notes and participating in asking follow-up questions. Most of our personal interviews and all of the focus groups were assisted by translators fluent in both English and Limba, the local language of most Kalanthuba people. Notes were transcribed more fully later the same day when possible. The personal interviews were generally about one hour in length, the focus groups between one and two hours. All interviews and focus groups were conducted over nine working days from 23 May to 8 June 2023.

Although all three leaders of each village were not always available, in total we spoke with 33 village chiefs, 25 chairladies, 29 youth leaders, and 59 elders.² Village participation in four of the five sections was excellent, with all villages in each section represented even if not always by all three leaders. One significant gap remains: due to a miscommunication of the time of meeting, one section—Kakalain in the north—is represented in the study by only two of its eight villages.

The respondents in individual interviews and focus groups signaled their agreement to participate in advance of the session—individual interviewees by signature and focus-group participants by show of hands. Prior to each focus-group session a translator read a statement containing the terms and conditions of participation in the study. Copies of the consent statements in English, as approved by the Institutional Review Board of Houghton University, are located in Appendix B.

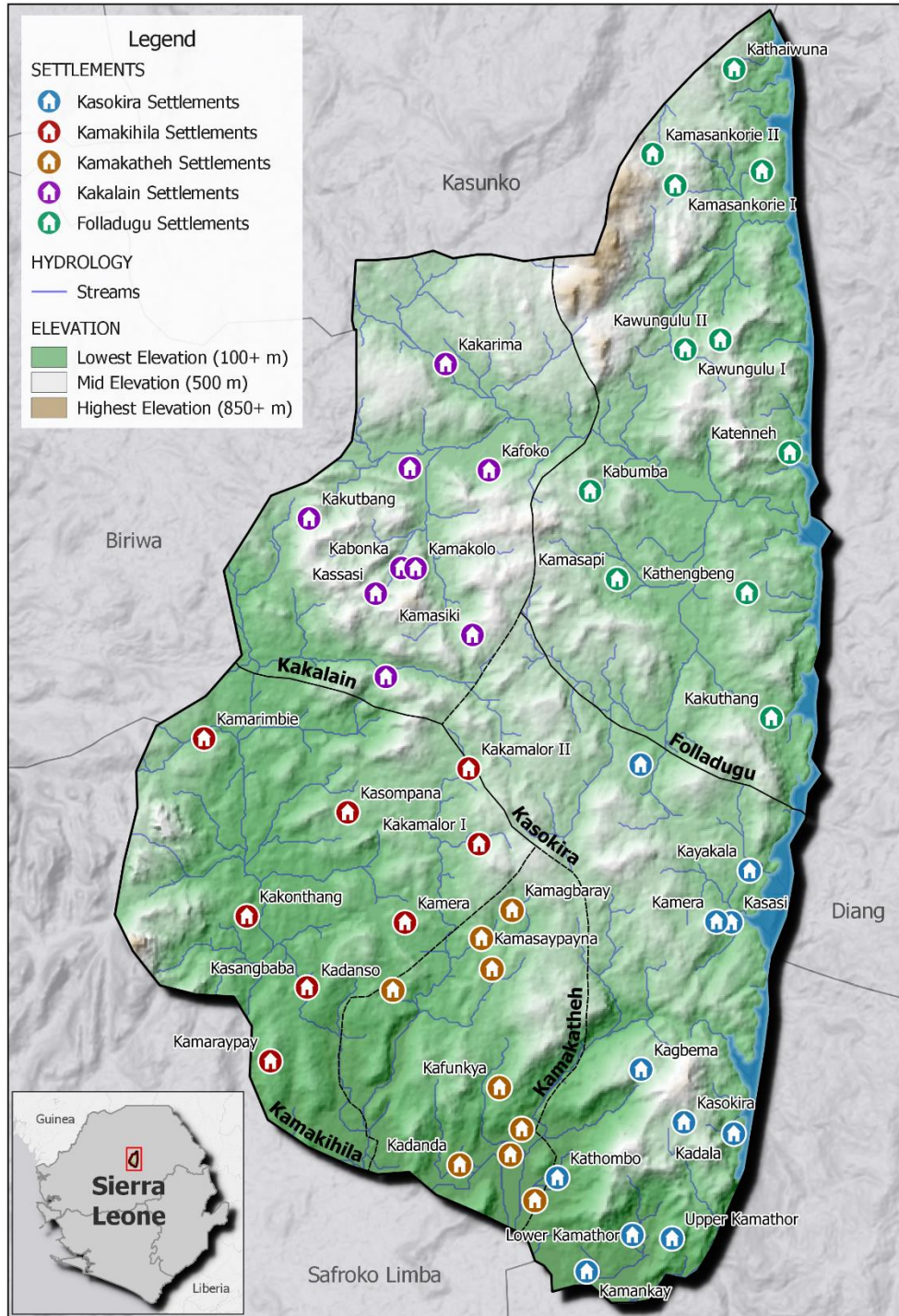
In addition to the fieldwork described above, the study has reviewed relevant provisions of constitutional and statutory law related to chiefdom governance throughout Sierra Leone and compared governance as practiced in Kalanthuba to those legal requirements. The tensions and puzzles that emerge from this part of the study are the subject of analysis.

ORGANIZATION OF THE REPORT

The report begins, in *Part I*, with a discussion of the governance roles of the various agents of authority in chiefdom governance—village, section, and chiefdom leaders—followed in *Part II* by a description of the three major institutions for collective choice: the Chiefdom Development Committee, Chiefdom Council, and Local Court. Then the processes for leadership selection are described in *Part III*. Next, in *Part IV*, is a discussion of the major governance processes: (1) the collection of local tax to raise revenue and, incidentally, determine the distribution of Chiefdom Councillors (those who elect the Paramount chief and serve, by law, as members of the Chiefdom Council) among villages; (2) use of bye-laws to regulate social conduct; (3) the settlement of disputes, (4) administrative oversight of village communities, and (5) the dissemination of information. The specific governance structures used for governing (1) land tenure and land use, (2) road maintenance and improvement, (3) school formation and attendance, and (4) village-based development projects are then reviewed in *Part V*. The report next focuses further attention on land tenure, reviewing recent government legislation and discussing its implications for the chiefdom in *Part VI*. To conclude, in *Part VII*, the report draws on the governance criteria discussed above to assess the performance of governance institutions in Kalanthuba, looking ahead to anticipated problems and opportunities.

² See Appendix D for a breakdown of focus group participants by village.

Kalanthuba Chieftom



PART I.

AGENTS OF AUTHORITY IN KALANTHUBA

Part I of the report describes the roles of the various agents of authority in Kalanthuba at all three levels—village, section, and chiefdom. The roles as described here are based on the descriptions provided by the leaders themselves. The design of the study allowed us to ask the holders of each leadership position, e.g., chief, chairlady, youth leader, about their own roles as well as the roles of the other leadership positions. What is described here is therefore based on the *shared understanding* of the leaders who participated in interviews and focus groups.

A. VILLAGE LEADERS

1. Village (Town) Chief or Headman. The village (or town) chief/headman is understood to be responsible for the peace and security of the village, while tending to its future development. To pursue these ends, the chief represents the village to outsiders, showing generosity to strangers while protecting the village from victimizers. He also attends briefings with chiefdom and section leaders and reports on those meetings to the village. Internally, the chief convenes village meetings and presides over them, manages collection of the local tax, settles disputes and resolves social conflict (in consultation with village elders), oversees the work of the youth leader and chairlady, and disciplines individuals who stray from rules and norms, enforcing village bye-laws. In the process, he monitors community conditions including health, education, and roads.

2. Chairlady (Mämmy Queen). Locally known and respected as the village “Mämmy Queen” (pronounced Mah’mee Queen), the chairlady is responsible for representing the women of the village, while building strong social relationships among them and enhancing their unity. She mobilizes women for cleaning the village settlement, including the village water source, and for participating in development projects, and she encourages women to pay the local tax and to send their children to school. She also settles conflicts among women. Many—perhaps most—chairladies give special attention to health issues, especially for pregnant and lactating women.

3. Youth Leader. The village youth leader is responsible for mobilizing and organizing young adults, both men and women, for service to the community, while encouraging good behavior. Their service includes considerable physical labour on such tasks as road maintenance and agriculture, as well as exhibiting respect for others. The youth leader may also serve as a deputy to the village headmen. The chairlady and youth leader tend to work closely together in mobilizing villagers for labor and dealing with defaulters, those who don’t carry out their social responsibilities.

4. Elders. Village elders, both male and female, understand their role as advisory, counseling youth in particular, but also village and section leaders, on the basis of their long experience. Their word is more often than not taken as authoritative. As collective memory holders, they are called upon to resolve disputes in accordance with customary law and usage (including land tenure disputes) and are responsible for overseeing traditional ceremonies. Many elders are also Heads of Family; if a landowning family, the Head of Family (usually the oldest male relative) is responsible for allocating the family lands for farming use among family members and others, after consultation with family members.

On Village Social Responsibility:

“When one person has a problem, it must be seen as everyone’s problem.”

A Village chief

B. SECTION CHIEFS

Section chiefs understand their role to be one of an intermediary between villages and higher authorities in the chiefdom. Village leaders report much the same; even if qualified by criticism of a section chief’s performance, the role is considered to be essential to chiefdom governance. One section chief described his basic role as that of a “messenger,” attending meetings with chiefdom-level leaders to receive information and calling village headmen to meetings to relay this information after each meeting. More than serving as a messenger, however, is involved in carrying out their responsibilities. In addition to keeping villages informed on chiefdom or government actions and proposals, section chiefs are responsible for monitoring and supervising the villages within their jurisdiction and informing higher authorities of violations of chiefdom bye-laws and other problems. Section chiefs are called upon to settle more serious disputes and impose penalties for violations of village bye-laws when village chiefs are unable to resolve an issue. They may also refer a case for resolution to the Chiefdom Speaker or Regent/Paramount Chief, but no disputant has a right to go to chiefdom-level leaders without first taking the case to the section chief. Though appeals to higher-level authorities are possible, section chiefs are able in most cases to settle the disputes brought to them.

As newly required by *The Chieftaincy Act of 2009*, section chiefs are to be elected by the chiefdom councillors within their section, though one current section chief was reportedly appointed by the Regent Chief, and another of the five positions has been filled on an interim basis. Some section chiefs were no doubt chosen by traditional methods prior to the election

requirement and have simply continued in the position. Two sections report the position of “section chairman,” who serves as deputy to the section chief. The chairman may be the first to hear about poorly maintained roads or other less serious issues and may seek to solve these problems at their own initiative. Although subordinate to the section chief, a chairman may act in that role when the section chief is unavailable. Though section leadership in Kalanthuba does not necessarily include a section-level youth leader or chairlady, the positions are an option; a section chairlady was recently designated in Kakalain Section.

Section chiefs reside in a village in the section, but the location of the section headquarters can vary with the chief’s home village. Depending in part on age and health, a section chief may be less active than others in traveling around the section and interacting with village leaders. The distinguished section chief of Kasokira Section, recently deceased, served well past 100 years of age. The section chief of Kamakatheh Section also is recognized as the chairman of the five section chiefs, a holdover from the time of the amalgamation. The chairman served as an intermediary between the Paramount Chief of the amalgamated chiefdom and the Section Chiefs in Kalanthuba. This role may no longer be required, given that the Paramount Chief of Kalanthuba will likely be expected to supervise the section chiefs personally or through the Chiefdom Speaker.

The performance assessment of section chiefs was mixed: some were criticized by village leaders as both distant and demanding (see part IV.D.), but others received high praise for their support and encouragement. Several village leaders called for more section leadership, bringing village leaders in the section together to consider development options.

C. CHIEFDOM LEADERS

The principal officers of the chiefdom are the Paramount Chief and the second-ranking Chiefdom Speaker, both positions salaried by the government;³ the Chiefdom Chairlady and Youth Leader, reflecting village organization; and the Chief Administrative Clerk, also salaried by the government, who is appointed and supervised by the government’s district office.

1. Paramount Chief/Regent Chief.

Since de-amalgamation in 2017, the position of Paramount Chief has been vacant, awaiting the organization of a chieftaincy election by government. In the interim, the responsibilities of the office have been exercised by a series of three Regent Chiefs, appointed by government for a term of not more than one year [*The Chieftaincy Act* of 2009, §3 (3)]. However, the current Regent Chief had served for over 20 months at the time of the study. Although the Regent Chief is widely understood in the chiefdom to have all the powers of a Paramount Chief, the limited time of appointment does not allow for consistent leadership over time—a consequence often mentioned during the course of the study.

³ The salaries are rarely paid on time and may be inadequate. See Campaign for Good Governance, et al (2009: 40).

Without consistent leadership from a Paramount Chief, leaders at all levels believe that the chiefdom cannot achieve its full potential, especially in terms of development. All of the leaders articulate high expectations of a Paramount Chief. As the principal representative of the chiefdom to the outside world, he is expected to be a strong advocate of its interests to the government and the non-profit sector. The development priorities he is expected to pursue include roads (generally mentioned first), schools, and health care.

Leaders at all levels expect the Paramount Chief to carry out his responsibilities as their principal leader in a manner responsive to the needs of the chiefdom and accountable to its people.⁴ Being the highest-ranking officer in the chiefdom, the Paramount/Regent Chief oversees every aspect of the chiefdom's affairs. Expected to be attentive to the needs of the chiefdom people, he supervises the chiefdom administration and chairs the Chiefdom Development Committee (CDC), which has primarily administrative responsibilities, as well as chairing the Chiefdom Council, which has legislative responsibilities. He is expected to settle disputes that cannot be resolved at village or section levels in a manner that adheres to customary law and practice. In all aspects of his leadership, he is expected to be highly consultative, acting only after seeking the counsel of appropriate leaders and stakeholders of the chiefdom.

Notably, the Paramount Chief in Kalanthuba is not subject to the ceremonial demands and rigors found in many other chiefdoms in Sierra Leone. The position of ceremonial chief, which exists in other chiefdoms, is not part of the traditional structure in Kalanthuba.

2. Chiefdom Speaker.

The Chiefdom Speaker is the second ranking officer of the chiefdom. The Speaker works very closely with the Paramount/Regent Chief and may represent the Chief in his absence. Whereas the focus of the Paramount/Regent Chief is on external affairs, the focus of the Speaker is on internal affairs—in the words of one chiefdom leader, “representing the people to the Paramount Chief.” Anyone in the chiefdom who wishes to consult the Paramount/Regent Chief is advised to gain access through the Speaker. Supervising the performance of traditional rites and ceremonies throughout the chiefdom is among the Speaker's responsibilities. In corporate organization terms, the Speaker functions as the chief operations officer in relation to the Regent/Paramount Chief as chief executive officer.

3. Chiefdom Chairlady.

As the singular voice of women in the chiefdom administration, the Chiefdom Chairlady is expected to represent the interests of all women in the chiefdom. Her work, much like a village Mämmy Queen, is highly relational; she is expected to maintain good working relationships with all women, especially those in leadership roles at the village level and to communicate their needs, struggles, concerns, and desires to chiefdom-level leadership, NGOs,

⁴ The Campaign for Good Governance, et al (2009: 25) noted the same expectation of the chieftaincy, indicating a “moral contract” between the people and their Paramount Chief.

and government agents. As the liaison between chiefdom women and development actors, the chiefdom chairlady engages with development projects that would benefit women, and is expected to speak to concerns of women's rights and wellbeing in Kalanthuba.

4. Chiefdom Youth Leader.

The Chiefdom Youth Leader is charged with coordinating the mobilization of able-bodied young adults, both men and women, for the implementation of chiefdom-initiated projects that require physical labor. Doing so requires that he function as a liaison with village youth leaders. Exercising initiative in the organization of development projects particularly beneficial to young adults is also part of his role. Akin to the Chiefdom Chairlady, the Chiefdom Youth Leader is the singular voice of young adults in the chiefdom administration.

5. Chiefdom Administrative Clerk (formerly Treasury Clerk).

The Chiefdom Administrative Clerk (CAC), still widely known by the former title of Treasury Clerk, acts as the chief financial officer of the chiefdom. Appointed by the District Office of the central government, the CAC manages the chiefdom budget and tracks payroll and expenditures, preparing financial reports and tax revenue statements for chiefdom and district authorities. In this role he serves as an intermediary between the Chiefdom and the Tonkolili District Office, making the Chiefdom fiscally accountable to the district. The CAC is also responsible for conducting the local tax assessment, distributing and collecting the tax books, and paying village headmen and section chiefs for collecting taxes (see part IV A).

PART II.

COLLECTIVE DECISION-MAKING AT THE CHIEFDOM LEVEL

The three collective bodies authorized by general law to make decisions that affect the entire chiefdom consist of the Chiefdom Committee, the Chiefdom Council, and the Local Court, reflecting a division of labor that is basically executive, legislative, and judicial in function. Some confusion exists nationally, as well as in Kalanthuba, between the Chiefdom Committee, considered to be an executive body, and the Chiefdom Council, considered to be legislative. The following discussion assumes a legal requirement of two distinct bodies, an executive Chiefdom Committee and a legislative Chiefdom Council as prescribed by general law, though their membership would overlap. The actual practice can be expected to vary among the 190 chiefdoms in the country.

A. CHIEFDOM DEVELOPMENT COMMITTEE

The Chiefdom Development Committee (CDC) was organized soon after de-amalgamation. The CDC consists of the Regent Chief, Speaker, Youth Leader, and Chairlady, the five section chiefs, and other major stakeholders. The role of the CDC seems to be related

primarily to planning and administration, but with an emphasis on development efforts as indicated by the chosen title. The CDC corresponds closely to the “Chiefdom Committee” referred to in parliamentary legislation, composed of the principal officers of the Chiefdom Administration.

B. CHIEFDOM COUNCIL

Since de-amalgamation, the Chiefdom Council of Kalanthuba has not been formally organized. Parliamentary law designates the Chiefdom Council as the sole legislative and budgetary authority of the chiefdom. Reportedly, the Chiefdom Council has nonetheless met in order to act as needed, its membership overlapping with the membership of the CDC. Because membership in the Council is determined “by title,” when the titled members are present, the Council is understood locally to be able to act.

The composition of the Chiefdom Council—still to be organized at the time of the study—is understood by the chiefdom leadership in Kalanthuba to consist of the following members: The Paramount Chief (or Regent Chief) as chairman; the Chiefdom Speaker; Chiefdom Administrative Clerk; the five section chiefs; two religious leaders, one Christian and one Muslim; chiefdom youth leader; chiefdom women’s leader; the Local Councilor representing Ward 186 in the Tonkolili Local Council; the Member of Parliament for the constituency in which the chiefdom is located; the Chairman of the Local Court; and two or at most three retired professionals. At least nine members of the 17- or 18-member Council also serve on the CDC, which can be construed as an executive committee of the Council.

Historically, by general law dating to the colonial period,⁵ Tribal Authorities (now known as the Chiefdom Councillors) constituted the Tribal Authority as a collective body (now known as the Chiefdom Council). The Chiefdom Council is chaired by the Paramount Chief, with the Speaker as vice-chair. However, Ade Renner-Thomas, former Chief Justice of Sierra Leone, has written, “In practice, chiefdom councils vary in size and composition from chiefdom to chiefdom” (2010: 160). He elaborates as follows:

However, apart from the paramount chief, sub-chiefs, and chiefdom speakers who more or less qualify automatically for membership of the council, the rest of the membership is invariably made up of other title-holders in the chiefdom such as court chairmen and town or village headmen. It is tradition to ensure that the heads of all the principal land-owning families in the chiefdom serve as members of the council (Renner-Thomas 2010: 160).

Parliament nonetheless reaffirmed the role of chiefdom councillors as members of the Chiefdom Council in 2009. *The Chieftaincy Act* of 2009 [§4 (1)] requires, for the purpose of electing a Paramount Chief, that the membership of the Chiefdom Council *include* the following officers: Regent Chief, Chiefdom Speaker, Section Chief, Court Chairman, Ceremonial Chief (only where when customary in the chiefdom), and the Member of Parliament for the constituency in which the chiefdom is located. But these officers do not constitute the entire

⁵ *The Tribal Authority Ordinance* of 1938.

Council. The *Chieftaincy Act* [§4 (2)] also makes clear that the membership of the Chieftom Council continues to include the *chieftom councillors*, consisting of one councillor for every twenty taxpayers.⁶ The implications of this requirement, which greatly enlarge the size of the Chieftom Council as compared to the CDC, are explored below (see Part VII.B.2).

The Local Government Act of 2021 [§27], charges the Chieftom Council with the responsibility to perform the following functions: “(a) preventing the commission of offences in their area; (b) prohibiting or restricting illegal gambling; (c) making and enforcing bye-laws; (d) holding land in trust for the people of the Chieftom; and (e) representing the cultural traditions and identity of the people.” Provision (e) appears to be an addition to the list of functions contained in the previous *Local Government Act of 2004* [§28]. All are traditional chieftom functions. The Local Government Act of 2004 also allows for district Local Councils to delegate certain of its non-core functions to Chieftom Councils [§21 (2)(i)], subject to its oversight [§20 (2)(h)]. The same Act requires that Chieftom Councils “shall cooperate with local councils in the performance of the functions of the local councils” [§27].

C. LOCAL COURT

The Local Court is a non-professional court of original (and informally appellate) jurisdiction in the chieftom that hears cases that arise under customary law, small claims under civil law, minor offenses against general criminal law, and the enforcement of chieftom bye-laws. Its authority is defined by parliament in *The Local Courts Act* (LCA) of 2011, as amended in 2014.

The Court in Kalanhuba consists of three members under the leadership of the Court Chairman. The Clerk of the Court keeps the court’s records and receives fines, which are then conveyed to the Chieftom Administrative Clerk. The Court meets weekly on Monday, Tuesday, and Wednesday to hear two or three cases each week—although not all members are always present. All parties must appear before the court without legal representation—no lawyers are allowed. The meeting place is a traditional, open-space court barray in Kamankay. Cases are decided by consensus among the court members, who retire to a private location to deliberate. The LCA provides for a minimum of three court officers: the Clerk, Finance Clerk, and Bailiff, who is authorized to execute the writs and processes ordered by the Court. As of 2023, only the Clerk of the Court had been appointed in Kalanhuba. The absence of the Finance Clerk has been accommodated by relying on the services of the Chieftom Administrative Clerk. The

⁶ M.N. Conteh, a longstanding member and recent chairman of the National Electoral Commission in Sierra Leone, states that the membership of the Chieftom Council includes the former Tribal Authorities, now known as Chieftom Councillors (Conteh 2019). Conteh lists the current functions of Chieftom Councillors as follows: “They elect the Paramount Chief; They assist the Paramount Chief in the administration of the chieftom and thus, serve as channels of communication (and development) between the Paramount Chief and his/her subjects; As members of the Chieftom Council, Chieftom Councillors perform all the functions of the Council; especially the making and implementation of bye-laws and regulations for the good governance and effective administration of their respective Chieftoms; They perform the functions of chiefs in their absence” (Conteh 2019: 52).

chiefdom's two police officers have served in the absence of a Bailiff, although one of those two positions was vacant at the time of the study. Although the LCA [§14 (1)] provides for central government payment of salaries and allowances for the members and officers of the Court, none of the members and officers of the Court in Kalanthuba reportedly had been paid at the time of the study.

The court's jurisdiction includes both civil and criminal cases to which either or both general law and customary law are applied, as governed by the Local Courts Act of 2011 (LCA). All civil cases governed by customary law lie within its original jurisdiction, including cases between chiefdoms involving a question of title to land [LCA §15 (3) (a)], as well as all customary law offenses [LCA §15 (2)]. The court also hears cases that involve violations of chiefdom bye-laws. When hearing cases that arise under general law, the court's jurisdiction and available remedies include the following limits:

- When governed by general law, the jurisdiction of the Local court is limited to civil cases “where the claim, debt, duty or matter in dispute does not exceed one million leones...” [LCA §15 (3) (b)].
- When applying general criminal law, the Local court is limited to “any criminal offense punishable by a fine not exceeding fifty thousand leones or a term of imprisonment not exceeding six months or by both such fine and imprisonment” [LCA §15 (1) (2)].

The LCA provides that members of the Local Court and its officers are to be appointed by the Chief Justice of Sierra Leone after consultation with the national Judicial and Legal Service Commission. The Commission is advised by a Local Courts Service Committee at the province level. As amended in 2014, the LCA requires that Court Chairman or Vice-Chairman to be “proficient in the dominant ethnic language of the Chiefdom” (in Kalanthuba, the dominant ethnic language is Limba) as well as in English, a continuous resident and taxpayer in the chiefdom for at least five years, “knowledgeable and experienced in the customs and traditions of the Chiefdom,” and never convicted of “an offense involving fraud or dishonesty” [LCA §5]. The officers of the court are also required to be literate in English [LCA §6]. The current Court Chairman applied for the position through the Tonkolili District Office, which reports to provincial authorities.

Although formally a court of original jurisdiction, informally the Local Court serves in an appellate role, hearing appeals from decisions made in the chiefdom hierarchy, particularly, decisions by the Paramount (or Regent) Chief or Chiefdom Council.

PART III.

LEADERSHIP SELECTION

Part III is a description of the processes used to select leaders at village, section, and chiefdom levels. Leadership selection at the chiefdom level closely follows procedures contained in acts

of parliament. Although parliament has also legislated regarding leadership selection at the village and section levels in *The Chieftaincy Act* of 2009, Kalanthuba seems to follow more customary procedures based on consensus.

A. CHOOSING VILLAGE LEADERS

The village leadership selection process occurs predominantly by means of village discussion and consensus, with some variation among individual leadership roles. The consensual process for all village leaders was consistently described in all four focus groups. The selection of a new leader usually follows on a vacancy in the position created by retirement or resignation, disability, illness, or death. There appear to be no limited terms of office.

By law, the village (or town) chief is to be elected by majority vote of the “taxpayers” of the village “in accordance with the customs and traditions of that Town within the chiefdom” [*Chieftaincy Act* §24]. The customs and traditions of villages in Kalanthuba are quite different. Typically, the Section Chief goes to the village (or sends a representative) to deliver this message: “Send me a chief.” The entire village meets to discuss potential candidates until one person is agreed upon and selected by consensus. Once the village has achieved consensus, the candidate is presented to the section chief for his approval and acceptance.⁷

The consensus process was described by 31 of the 33 chiefs interviewed as the means by which they were selected; in only one case did a village election occur in order to choose among more than one candidate, and, in the remaining case, a chief was selected by a delegation sent to the village by the section chief, apparently in the face of an inability on the part of the village to name a candidate. Frequently, the chief chosen by consensus has a family tie to the former chief, as well as leadership skills or familiarity with the chief’s role, all of which are easily observed by villagers.

The selection of the village Mämmi Queen (MQ) follows a similar consensual process. When the position of the MQ becomes vacant, be it due to the former MQ’s sickness, aging, or death, the village chief calls upon the village women of all ages to come together and select their leader; only one village chairlady reported that she was appointed by the village chief without a prior recommendation from the village women. Generally, the consensus candidate is an older woman who has demonstrated hard work, care and support for village women, and may have some familiarity with the position by previously serving as the MQ’s deputy. Once a new MQ has been agreed upon by consensus, she is presented to the current village chief (and possibly the youth leader) who accepts the woman chosen by her peers, often accompanied by traditional ceremonies.

⁷ The law provides that the “newly elected chief” is to be “formally recognized” by the Minister responsible for local government, provided that the Minister is “satisfied with the conduct of the election,” as a condition of publication of the election in the government *Gazette* [*Chieftaincy Act* §24 (3)].

On Choosing a Mämmmy Queen:

“Bring me someone you love.”

Village Chief—to the village women

The selection of a youth leader follows the same consensual model as the other leaders: when the position becomes vacant, the village chief asks the young adults of the village, both men and women, to select a leader. The youth meet to discuss potential candidates, until reaching consensus, often consulting with village elders in the process. Many of the youth leaders who were interviewed cited their hard work, proactiveness, and devotion to village maintenance as qualities that influenced their peers’ decision. A selected candidate for the youth leader position is typically an able-bodied young man, as the physical capacity for road work and other hard labor is an integral part of the role. Once a candidate has been selected, he is presented to village chief (as well as the Mämmmy Queen) for acceptance. One village chief, however, identified literacy as an important qualification in a youth leader given the lack of literacy on both his part and the Mämmmy Queen; this chief implied that he took a stronger role in selecting the youth leader on this account.

The consensual method for selecting village leaders is effective in ensuring informed appointments on the basis of village-wide criteria that are mutually understood. While the criteria for each position are not written down, the participative process of candidate selection allows villagers to craft and maintain a shared understanding of each position and the qualities needed to perform each role well. Focus groups of different village leaders consistently cited criteria such as hard work, dedication to service and helpfulness to others, honesty and integrity, and leadership skill as the qualities villagers look for in their leaders. Combined with the real-time observations of and engagement with former village leaders, the village is able to draw upon a collective, intergenerational memory of its leadership history to inform the selection of candidates.

B. ELECTION AND REMOVAL OF THE PARAMOUNT CHIEF AND SECTION CHIEFS

Both the Paramount Chief and the five section chiefs are chosen by members of an electoral body composed of Chiefdom Councillors (formerly Tribal Authorities). The chiefdom councillors are selected in a process closely tied to the annual collection of the local head tax. In each village, one councillor is selected from every twenty local taxpayers in a process that seems to vary among villages. Because the village chief is charged with the collection of the local tax, he can be expected to number among the councillors from the village, as can the other village leaders, including perhaps the youth leader and Mämmmy Queen. In addition, the

village chief may select other village notables, such as heads of family, to assist with tax collection and thus to serve as councillors. Existing councillors are likely to be reappointed each year. If there is a decline in the population of the village, a councillor may lose his or her position; likewise, if there is an increase, a new councillor must be selected. No formal process for the selection of chiefdom councillors seems to exist, though the process is clearly village-based due to the collection of local tax at the village level. (The collection of local tax is described more fully in Part IV.A.)

The election of the Paramount Chief (PC) is regulated in detail by parliamentary law and administered by central government officials, including certifying the qualification of both electors and candidates. The principal qualification for a PC is membership by blood relation in a recognized ruling house in the chiefdom. Kalanthuba is understood to have one ruling house: The House of Turay (Thikirays). The last Paramount Chief elected from this House was PC Alimamy Thallen Turay I, who governed the amalgamated chiefdom of Kalansogioia from 1972 to 1998. His younger brother, Daniel Sara Turay, who sought the chieftaincy of the amalgamated chiefdom in the election of 2003, is widely recognized as a leading candidate for Paramount Chief in the restored chiefdom of Kalanthuba. Respondents mentioned no other candidates in the course of the study.

Once electors and candidates are certified, the election is straightforward. If more than two candidates contest, 55 percent of the votes cast are needed for election in the first round of voting; if there are only two candidates, a simple majority is sufficient. In the event of more than two candidates, if no candidate receives the required 55 percent, the two candidates with the largest number of votes proceed to a second round, which requires only a simple majority for election. If there is only a single candidate, the election is conducted in order for the chiefdom councillors “to demonstrate their acceptance or otherwise of that candidate” by a simple majority [*Chieftaincy Act* §15]. Once elected, the Paramount Chief serves for life, unless removed for ‘gross misconduct’ by the President of the Republic following an investigation led by members of the judiciary [*Chieftaincy Act* §19].

Section chiefs, who also serve for life, are required by general law to be elected by the chiefdom councillors of the section [*Chieftaincy Act* §23], an election supervised by the Paramount Chief [*Chieftaincy Act* §29 (1) (e)]; section chiefs need not be members of a ruling house, though kinship with a previous section chief is often observed. A section chief may be removed from office for cause by the Chiefdom Committee (presumably the CDC in Kalanthuba) at the initiative of the Paramount Chief, with possible appeal to the Minister responsible for local government who has the final decision [*Chieftaincy Act* §26 (1)].

C. SELECTION OF SUBORDINATE CHIEFDOM OFFICERS

By parliamentary law, the Chiefdom Speaker is appointed by the Paramount Chief (or Regent Chief) subject to the qualification that the Speaker cannot be a member of the ruling house. The Chief Administrative Clerk and Sanitation Inspector, though chiefdom officers, are appointed by the central government’s District Officer for Tonkolili District. The chiefdom

chairlady is, by custom, elected by the village chairladies of the chiefdom. The custom also applies to the chiefdom youth leader, elected by the village youth leaders of the chiefdom, except that the current chiefdom youth leader was appointed by government and accepted by chiefdom authorities at the time of de-amalgamation.

PART IV. PROCESSES OF GOVERNANCE

Part IV describes five essential processes of governance in Kalanthuba, all involving more than a single level of authority:

- Collecting the local tax—involving all three levels.
- Making and enforcing bye-laws—at village and chiefdom levels.
- Settling disputes and resolving conflict—beginning at the village level but potentially involving all levels.
- Exercising administrative oversight of villages—involving interaction among all three levels
- Disseminating Information—mainly from chiefdom leaders to the village through the section chiefs.

A. COLLECTING THE LOCAL TAX AND DISTRIBUTING ITS REVENUE

The process of collecting the Local Tax is integral to the function of the chiefdom: not only the chiefdom’s main source of revenue, it also determines the number of chiefdom councillors, by law the electors of the Paramount Chief and members of the chiefdom’s principal governing body, the Chiefdom Council. Moreover, the nature of the chiefdom as a hybrid institution is clearly on display in this process. The process demonstrates the cooperation and function of the various levels of authority in the chiefdom, as well as the relationship between the chiefdom government and the national government.

Every taxpayer in Tonkolili District pays 5 SLE⁸ in exchange for a tax receipt, which serves as physical proof of payment. Although initially established countrywide by the central government, the tax rate per person in the future will be set by the Local Council of Tonkolili District for all chiefdoms in the district.⁹ Taxpayers include all men and women of at least 18 years of age [*Local Government Act* §65 (3)]. A valid tax receipt is required to travel throughout the country, vote in certain elections, and testify in court. Tax receipts are also required to receive food assistance from the World Food Program (WFP). Because tax payment functions more like a transaction, with the taxpayer receiving both legal rights and a physical receipt, taxpayers often refer to the payment as “buying the tax” and local authorities as “selling the

⁸ Sierra Leone modified its currency in 2023, removing three zeros from its banknotes. A tax of 5 SLE in the modified currency is equal to 5,000 SLL, the old currency.

⁹ *The Local Government Act* (LGA) of 2021 appears to vest the authority to set the rate of Local Tax in the Local Council of a District [LGA §65], to be reviewed every two years.

tax.” The local authority, name of taxpayer, tax collection area, amount paid, date, issuer, and a designation are all recorded on the receipt, which is presented to the taxpayer, and the corresponding stub, which is kept in the receipt book.

Most local people pay the Local Tax as required of them. Paying the Local Tax is considered to be an important social responsibility. One reason is that village representation in chiefdom elections is based on the total number of taxpayers in each village. For every 20 tax receipts sold, a village is allocated one chiefdom councillor who, by law, serves on the Chiefdom Council, which also elects the Paramount Chief. And then there are the individual consequences for not paying the tax. Villagers reportedly can be fined up to three times the normal cost of a tax receipt by the section chief if they are reported by their village chief for non-payment. Also, police may ask to see a traveler’s tax receipt on the road. If one is not presented, the traveler will be fined or forced to pay the tax immediately. Women are especially concerned about being denied access to WFP food assistance. Generally, it is considered much easier, as well as more responsible, to pay one’s tax when the village chief is “selling” receipts.

The first step in the taxation process is the tax assessment, which is overseen by the Chief Administrative Clerk (CAC). The CAC commissions the section chiefs to obtain a total count of eligible taxpayers in each section. To acquire this total, village chiefs go from household to household in their village and record each eligible taxpayer. The tax assessment determines how many tax books will be sent to the village.

Village chiefs use discretion when determining who is required to pay the tax. If a chief finds that a person is unable to pay due to the inability to work, he may not include them in the assessment. Typically, those who are excluded are very elderly or disabled people. One focus group reported a rule stating no person over 60 would be required to pay the head tax, but it was later confirmed that there is no chiefdom bye-law or national legislation excluding any qualified adult from paying the tax.

The second step in the taxation process is the distribution of tax books. Each tax book contains 100 tax receipts with stubs to be sold to any eligible taxpayer. The CAC obtains the tax books from the District Office and delivers them to the Regent/Paramount Chief, who then summons the section chiefs to collect the books. The section chiefs summon village chiefs to obtain their books at the section headquarters. Most villages qualify to receive only one or two books. It was reported that, in Kakalain Section, the heads of Fullah settlements also receive their own book from the section chief.

The third step is the “sale” of taxes. Village chiefs sell receipts to any eligible taxpayer who is willing to pay. A literate person is needed to fill out the tax receipt, and many chiefs therefore must find a literate person to assist in the sale of receipts. Many chiefs reported their frustration with those who do not buy taxes in their resident village but instead return to their home village to pay the tax. This practice is detrimental to their resident village if it is then unable to maintain its current number of chiefdom councillors. Many people owe their primary allegiance to their home chiefdom rather than the chiefdom where they reside. Often, however, people will buy the tax in both villages. Men frequently pay the tax for all of their wives. Some current chiefdom councillors will even pay for the 20 receipts required to maintain their position. These practices help those villagers who cannot afford their taxes, but also may

be used to ensure that a book is completely sold. Village chiefs do not like to return partial books because it limits their village's representation, and the books are expensive to print.

The fourth step in the process is collection of books and the money collected. The District Office announces a collection day when all section chiefs must bring their section's books and tax collection to the CAC, who delivers the tax collection to the government's District Office.

The distribution of revenue from the Local Tax is subject to considerable uncertainty and criticism among chiefdom leaders. By general law, the Tonkolili District Council is entitled to a "precept," currently amounting to 40 percent of the revenue.¹⁰ In practice, as described by chiefdom leaders, the District Office of the central government divides the 40 percent share between the District Office and the District Council. The remaining 60 percent is intended to go to the chiefdom; however, another portion is removed from this remaining amount. The portion removed is used to reimburse the cost of printing the books, which is significant (though an amount unknown to chiefdom leaders). The relatively small amount left over is delivered to the CAC (or deposited in the chiefdom account). Out of this amount, the CAC is obligated to pay village headmen 40 SLE for each full book turned in (although the study received one report of partial payment for a partial book). Section chiefs also are to receive 40 SLE for each full book received from each village in their section. For the tax collection of 2022, all section chiefs reportedly were paid, and 26 out of 33 village chiefs participating in focus groups report being paid. Note that the cost of collection, reflected in the amounts paid to section and village chiefs, is borne entirely by the chiefdom from its share of the revenue.

In 2022, chiefdom leaders report the chiefdom receiving—in round numbers—less than 3,000 SLE out of 22,000 SLE collected—less than 14 % of the total revenue from the Local Tax. A legal requirement of 60% ends up contributing less than a quarter of that amount to the chiefdom treasury. The process of dividing the revenue from the Local Tax among jurisdictions is less than transparent, leaving chiefdom leaders uncertain as to what the chiefdom is actually entitled to receive. Is it appropriate that the cost of printing receipt books be subtracted entirely from the chiefdom's share of the revenue, as chiefdom leaders believe to be the case? Is it appropriate that the District Office be the primary signatory on the chiefdom's account? These questions raise issues of serious concern to chiefdom leaders.

B. MAKING AND ENFORCING BYE-LAWS

Bye-laws are made at both village and chiefdom levels—in villages, generally with village-wide participation. Although the chiefdom has engaged in limited bye-law making since de-amalgamation, the official body authorized by national legislation to make chiefdom bye-laws had not yet been organized at the time of the field study. There is no organized collective body capable of making bye-laws at the section level; however, it may be possible for the

¹⁰ *The Local Government Act* of 2021 vests the authority to determine the amount of the precept in the Local Council of a District [§65 (1) (b)].

chiefdom to enact bye-laws that apply only to selected sections in order to accommodate the diversity among sections.¹¹

1. Village Bye-laws

Numerous examples of village bye-laws were mentioned in focus groups with village leaders and elders, including bye-laws against the following offenses: fighting; wounding even when unintended; setting fires on the road; wife-beating; carrying a mortar on one's head; abusive or obscene language (even if not directed at a particular person); disrespect of elders; carrying two containers of palm wine at once; refusing to go for communal work; offending someone but refusing to go to the village chief; refusing to clean one's area in the village settlement; defying authority. Some bye-laws are of recent origin, but others are carried over from the rules laid down by ancestors.

Village leaders consider bye-laws important to the smooth functioning of the village. In most villages, bye-laws are agreed to in village meetings, chaired by the village chief, though one village made reference to a village committee composed of the three village leaders plus the section chief and two other villagers as making and enforcing byelaws. Village bye-laws appear to be enforceable without difficulty due to the ease of monitoring individual conduct in villages. Typically, any villager can bring a charge against the offender, provided in most cases that there is a witness. Village leaders emphasized that any villager can be charged and fined, including leaders and elders. One village chief reported that he had been summoned before the elders on a charge of wife beating and paid the fine that they imposed; the elders further instructed him to bring any future disputes with a wife to them for resolution.

Offenders are fined, the amount depending on the gravity of the offense. Fines may consist of money, rice, chicken, palm oil, or palm wine. Monetary fines may be retained for a time in case the money is needed for a community project or emergency, then distributed to village leaders for their use in carrying out their responsibilities. Sometimes rice or chicken is consumed publicly by the elders or the entire village as a way of shaming the violator—a traditional penalty in the local culture.

The payment of fines is enforced by the village chief or, in some cases, either the Mämmi Queen or youth leader, or the village elders. In the case of frequent violators, or individuals who resist payment of a fine, the village can withhold the support of village work groups on the offender's farm. One village leader condemned persistent violators as equivalent to people who seek to live in a state of nature rather than in human civilization. A village chief emphasized the critical importance of bye-law enforcement, without which the system would collapse. He noted that willingness to enforce bye-laws is a criterion considered when choosing leaders, in particular the village chief. On rare occasions, offenders may appeal to the section

¹¹ Some studies indicate that men's and women's secret societies are active in making and enforcing bye-laws (see Campaign for Good Governance, et al, 2009: 39); however, respondents in the present field study did not mention the societies as a source of village bye-laws.

chief, or a resistant violator may be summoned by the section chief at the request of village leaders. We heard an account of one individual who appealed to the section chief and then to the Local Court, only to be fined for resisting village and section authority as well as for the original offense. Most cases do not go beyond the village level, where villagers willingly pay their fines.

Possible Consequence of Anti-Social Behaviour:

“If you refuse to obey the rules, no one will come work for you on your land.”

A Village Chief

2. Chieftom Bye-laws

Relatively few bye-laws have been enacted by the chieftom since de-amalgamation. Two were mentioned by both chieftom leaders and section chiefs (who recall meeting for this purpose at the primary school in Kathombo). One concerned covid restrictions: reporting strangers to the village and section chiefs, in case of a death informing police and requesting inspection of the body by a health official. The other concerns timber logging. The chieftom now imposes logging fees and requires loggers to secure permission from the landowner and village chief as well as approval by the section chief as well as the Regent Chief. At the time of the field study, the chieftom was following a policy to permit no logging within the chieftom for sale outside the chieftom. A chieftom bye-law regulating the logging of timber is consistent with recent national legislation making the chieftom responsible for the protection of natural resources (see the discussion of land tenure legislation below).

The chieftom also appears to have a policy, perhaps effectively a bye-law, requiring villages to clear roads of brush in the spring. Chieftom leaders often commented on a lack of brushing on roads as the field study team traveled to villages for focus group sessions, and village leaders often were apologetic for the lack of brushing.

The capability of the chieftom for monitoring and enforcing its bye-laws, however, is less clear than in villages. Whereas villages are able to monitor compliance with bye-laws in the regular course of village life, the chieftom may have greater difficulty with both monitoring and enforcement. Chieftom leaders report that sanitation inspectors are responsible for monitoring and enforcing the brushing of roads. The means of accountability inside a village is unclear. Enforcement depends on identifying and sanctioning violators. Village bye-laws are clearly addressed to individual offenders who can be fined, but a chieftom policy requiring

villages to brush roads seems to lack a clear individual offender. In the case of logging, is the landowning family (or head of family) the responsible party? Does the authority of the chiefdom reach to loggers who come from outside the chiefdom to obtain timber?

C. DISPUTE SETTLEMENT AND CONFLICT RESOLUTION

Across all of the focus groups conducted, we observed a great deal of consistency in the sources of conflict and methods of resolution described to us by village leaders and elders. The most frequently mentioned sources of conflict in villages fall into three broader categories: in addition to conflict over landownership or land-use (see part V.A below), interpersonal or domestic issues conflict, offensive public conduct, and accusations of witchcraft are the principal sources of conflict.

Interpersonal conflict accounts for a significant portion of non-land-based sources of conflict. Such conflict might arise between any two people in a village, but the most common relational dynamics described by respondents were conflict resulting from one's disrespect of an elder, conflict between spouses over jealousy or marital infidelity, and conflict between parents over their children's squabbles. Disrespectful public conduct, including fighting, use of obscene language, or indecent dress, were identified as more broadly-impactful sources of interpersonal conflict. For instance, if villagers were to walk around the village drunk and shouting profanities, they would be personally disrespecting anyone who overheard or saw them, as well as the village leaders and elders.

All of the aforementioned conflicts are resolved principally at the village level. In their responses, village leaders continually emphasized the importance of local conflict resolution wherever possible; to escalate a conflict that could be resolved at the village level would disrespect and undermine the authority of local leaders.¹² Depending on who the conflict involves, conflict subject to local resolution may fall under the jurisdiction of any combination of village leaders (headman, chairlady, youth leader, and/or elders) who would decide either independently (if resolving the conflict alone) or by consensus (if deciding on an outcome as a group). Leaders involved in the resolution may invoke relevant village bylaws; they may also employ traditional *kasi* fines, which involve the collection of food and drink that are publicly prepared by the village chairlady for the enjoyment of all village leaders, with the intent of making an example of the offending villager. If the parties to conflict cannot come to an agreement, the village (or section) leader can initiate a swear—a traditional method of resolution by which both parties swear that their account is truthful, with the expectation that the party who lies will have something bad befall them or their family. Alternatively, the conflict can be escalated to a higher level, which, though discouraged, does occur.

One less frequent but very serious source of conflict is the accusation of witchcraft. Half of the focus groups mentioned witchcraft as a potential conflict source, more than half of

¹² The Campaign for Good Governance, et al (2009: 39) reports similarly that there is strong moral pressure in villages in Sierra Leone not to involve "outsiders" in disputes.

those groups mentioning it first. A Mämy Queen remarked that witchcraft can make a village ungovernable.¹³ Witchcraft allegation can interfere with leadership selection: one village chief reported that persons initially chosen by the village as both youth leader and village chief were subsequently accused of witchcraft and banished before they could be formally appointed. Another village chief pointed with some pride to the absence of witchcraft in his village following the performance of a preventive ritual by a sorcerer some years back.

The resolution of serious witchcraft cases requires the intervention of trained and certified sorcerers, who employ traditional methods to determine the guilt or innocence of the accused.¹⁴ If found guilty, the penalty is banishment from the chiefdom, carried out the Paramount Chief or Regent as the keeper of tribal traditions. A case that arose during the course of the field study involved a woman accused of killing two children in the village; she was found to be guilty in a traditional procedure conducted by a sorcerer and subjected to banishment.

When asked specifically about situations that would tend to escalate beyond the village, village leaders named conflicts involving the Fullah cattle-rearers, as well as those involving the malicious use of witchcraft, both of which would be more likely to proceed through the chiefdom hierarchy to obtain resolution. Cases of domestic violence and rape were also mentioned, but these cases are also subject to referral to the Family Support Unit (FSU) of the Sierra Leone Police.

Although cases pursued beyond the village level were reported to be infrequent, all respondents were familiar with the steps in the process of seeking recourse beyond the village. First, before a conflict even reaches the local authorities, it is expected that the parties in conflict attempt to resolve it among themselves or within their families. If this is not possible, the conflict would be brought to the attention of the relevant village leader—for example, if a conflict involves women, it would be brought to the attention of the village chairlady—who can call upon other leaders or elders as they see fit. The final point of recourse in the village is the village chief. If a resolution cannot be reached, and one or both of the parties would like to seek further recourse, the case would be brought to the section chief. If a resolution still cannot be reached, an appeal can be taken to the Paramount/Regent Chief. In cases that involve that application of customary law or chiefdom bye-laws, the case can be referred to the Local Court.

Alongside the understanding that conflict should be resolved at the village level whenever possible, village leaders agreed that it would be considered inappropriate to skip a step in the process; if someone is dissatisfied with the outcome of their case at the village level, to go directly to the Paramount Chief for a resolution is inappropriate. Not only would failing to follow the hierarchy of leaders be considered disrespectful of the authority of local leaders, but

¹³ To speculate, frequent allegations of witchcraft could seriously erode social trust, on which the functioning of the village may depend.

¹⁴ In one method, called *kubari*, the sorcerer prepares a substance that is placed in the eyes of a chicken and left overnight. In the morning, if the eyes of the chicken open, the accused is innocent; if not, the verdict is guilty.

it would also prove to be unsuccessful. Village leaders, as well as section and chiefdom authorities, maintained that if one were to approach a section chief or the Regent Chief without going through the appropriate channels, they would be turned away, and the authorities who were not consulted would be notified of the offending behaviour.

Process of Dispute Settlement:

“The people understand the path they must follow to resolve their disputes.”

A Village Chief

The emphasis of dispute resolution in the customary process is on reconciliation of differences, not simply deciding who wins and who loses. The authority of village elders, for example, is moral and social in nature, but not highly coercive. Respect for elders serves the purpose of dispute resolution, as does respect for chiefs. A village chief chosen by consensus in the village also has moral as well as political authority.¹⁵

It does not follow, however, that recourse should never be pursued beyond the village level; if individuals seek recourse through the appropriate channels, they have the opportunity to appeal a locally-determined outcome with which they were dissatisfied. It should be noted, however, that pursuing the appropriate channels is costly. Village leaders mentioned significant barriers to the appeal process that might discourage villagers from appealing, even when they have been treated unjustly. As a case ascends to higher levels of authority, the aggrieved party must travel longer distances to meet with authorities and may risk increasing fines as a result. Moreover, a number of village leaders noted that they would feel obliged to bring a token to show respect for higher authorities when making an appeal. Particularly in the many villages with poor road access and subsistence income, these factors can become impermeable barriers to the appeal process. Thus, while there seems to be a widespread understanding of the institutional path for resolving conflict among villagers in Kalanthuba, barriers can preclude following that path beyond the village level.

¹⁵ The Campaign for Good Governance, et al (2009: 38-39) affirms the value of “community-based justice” in the rural areas of Sierra Leone, while emphasizing its dependence on a moral consensus in the local community.

D. ADMINISTRATIVE OVERSIGHT OF VILLAGE COMMUNITIES

The immediate oversight of villages is carried out by section chiefs with a single exception: community health oversight and regulation by the chiefdom sanitation inspector. The sanitation inspector, though unsalaried, is appointed by the government's district office and has authority to cite villagers for violations of sanitary regulations.¹⁶

Administrative oversight is a frequently expressed source of dissatisfaction with chiefdom governance on the part of village leaders. The dissatisfaction focuses on what was described as a continuous stream of "requests for contributions" on the part of some section chiefs. In some sections, the role of the section chief from a village viewpoint is largely associated with the collection of contributions. One section chief is reported to organize the collection of contributions to support the monthly visit of the unsalaried sanitation inspector, assigning an amount to be collected in each village. The sanitation inspector is authorized to cite villagers to Local Court for violations of sanitary regulations, potentially imposing a fine. Chiefdom leaders report, however, that if violations are corrected, no fine is imposed. One village chief reported that the inspector regularly found violations that could be cited, but that the village was able to make (unspecified) alternative arrangements. Another village leader commented that money collected by the village as fines for violations of village by-laws was used to make contributions for the health inspector. But contributions are not always financial—one youth leader mentioned the role of the village chairlady in soliciting contributions for the section chief (and Regent Chief) of chicken and rice. A number of village leaders expressed outrage at what they viewed as repeated *demands* for contributions, saying they were "fed up," or that it had become "too much."¹⁷

Some village leaders suggested that the visits of the sanitation inspector do not actually improve village sanitation. As noted above (Part IV.B.1), villages clearly display the ability to engage effectively in self-regulation that serves the good of the community. Some village by-laws relate to sanitation. Instead of relying on administrative oversight and regulation from outside the village, perhaps it would be possible to sustain good sanitary practices by means of village self-governance. One can imagine the possibility of transforming the external sanitary inspector from the role of regulator to extension agent (similar to an agricultural extension agent), one who delivers knowledge of good sanitation practices and advises village leaders, but relies on the village to self-regulate. Chiefdom leaders could pursue such a path of reform in conversation with district officials and the local Member of Parliament.

¹⁶ The field study team was unable to interview the sanitation inspector, and so the report unfortunately lacks his perspective on the inspection process.

¹⁷ The fact that section chiefs are unsalaried (and receive no compensation except for a rebate on for the collection of the Local Tax) may explain some requests for contributions, prompting the Campaign for Good Governance, et al (2009: 9), to recommend that the position be salaried, along with village chiefs.

Some oversight of villages is necessary and appropriate—in particular, oversight of village functions that affect other villages, such as road clearing and maintenance. Though direct oversight responsibility may lie primarily with section chiefs, it is important that enforcement be rooted in specific village responsibilities made clear in chiefdom bye-laws. Village leaders need to see the collective purpose of oversight, including the consequences of permitting violations, if they are to be supportive of the oversight process.

The steady stream of requests—or demands—for contributions noted by village leaders may be related to the inadequacy of the Local Tax as a source of chiefdom revenue. This problem needs to be addressed by designing an equitable and effective system for raising local revenue to support chiefdom functions. Raising revenue on an ad hoc basis by means of “contributions” lacks transparency and accountability, potentially fostering distrust of chiefdom governance and undermining local cooperation with chiefdom leaders.

E. DISSEMINATING INFORMATION

Efforts at communication and dissemination of information are a major aspect of the system of governance in Kalanthuba. Chiefdom leaders meet regularly with each other as well as with section chiefs and occasionally with village leaders, to discuss issues and spread important information. The Chiefdom Chairlady and Chiefdom Youth Leader are responsible for communication with their village counterparts. Section chiefs act as intermediaries between chiefdom and village leaders. Section meetings involving village leaders occur with some regularity, often monthly, or more often as needed.

Within villages, information is also often communicated through regular meetings. Village leaders bring information back to their villages, holding village meetings to report what they have learned from meeting with higher authorities. Village chiefs in particular act as representatives of the village. Village chairladies and youth leaders are responsible for communicating relevant information to women and youth. Villages may also make use of a town crier to spread information, such as announcing a meeting.

On the whole, communication between the levels of leadership in the chiefdom is regular, organized, and accorded priority. Some factors, however, complicate the spread of information within the chiefdom: poor roads make it difficult for chiefdom and section leaders to visit more remote areas of the chiefdom (and some village leaders expressed a desire to see these leaders visit their villages more often); a lack of network coverage in parts of the chiefdom makes phone communication more challenging; and extremely low literacy rates make written communication difficult or ineffective.

PART V.

FUNCTIONAL GOVERNANCE STRUCTURES

Part V describes the governance structures designed for particular chiefdom functions. Included are land tenure, road maintenance and improvement, school formation and attendance, and village-based development projects. In the case of land tenure, we describe the existing practice but also look ahead to impending changes due to recent parliamentary legislation designed to establish the national registration of title to land.

A. LAND TENURE AND ACCESS

The governance of land is one of the principal responsibilities of the chiefdom. Farmland is owned predominantly by extended families, kin-groups descended from an original settler and headed by a male elder in the family. Some land is community land, owned corporately by the village, though there is little agreement among villages as to what is or is not community land. Many village leaders report no community land in the village area. General agreement exists that schools and churches occupy community land; others add cemeteries and playgrounds to the list. One village chief with a health clinic in the village cited the clinic land as communal. There is little land owned by individuals except in the two urbanizing villages, Kamankay and Kamathor, both located in Kasokira Section near the bridge to Bumbuna Town. There may be exceptions, however, among rural villages: one village chairlady said that she owned land individually as the last surviving member of her family, and another chairlady reported that she owned a parcel of swampland.

One village chief noted that the land on which we sat to conduct the focus group was community land, indicating at a minimum that the common area used by village settlers is community land; but he may have meant to include the entire section of land on which dwellings were located. If the latter, the implication is that housing would not then occupy individual land owned by the owners of the house or by the extended family of which the householders are members. Logically, if a house is abandoned, then the land would revert to the village to do with as it pleases. Whether construed minimally or maximally, if the particular chief's view were to be adopted chiefdom-wide, every village would contain community land. This issue will come to the fore when an impending national process of land registration is carried out in Kalanthuba.

Village areas consist mostly of land owned by extended families, always defined within the boundaries of a village area. Most (but not necessarily all) villages are home to both landowning and non-landowning families or households. Nonetheless, the members of non-landowning families regularly gain access to land in the village. They do so by following a traditional process that is basically the same across all villages: an individual seeking access to land brings a token consisting of kola nut or palm wine—maybe a small amount of cash—to the head of a landowning family. The family head, after consulting other members of the family,

assigns the person requesting land to a particular plot and shows him its boundaries. After the harvest, the non-landowning farmer brings a small portion of the harvest—often a bushel of rice—to the head of family. The purpose of the traditional process is to demonstrate respect for the landowning family and acknowledge their ownership; the token and share of the harvest are viewed, not as rental payment, but as a sign of respect. Some respondents noted that one does not usually bring cash as a token because that could indicate a desire to purchase land. In some villages, family members also seek permission from the Head of Family and may or may not bring a token with the request, but in other villages, any family member is free to farm on family land without bringing a token.

In Kakalain Section and the northern part of Kamakahila Section, cattle grazing by the Fullah people seems to alter the process of allocating land for farming. The village lands where farming can occur depends on where Fullah will be herding cattle. Annually, a Cattle Settlement is negotiated at the chiefdom level to determine where herders are permitted to pasture their cattle; they are considered to be liable for crop damage caused by cattle, but there is frequent dispute over the liability issue. The semi-transhumant Fullah have longstanding customary rights to graze cattle in the chiefdom, as elsewhere in Sierra Leone. The village allocation of land to farmers must adjust to the terms of the Cattle Settlement. In this context, instead of allocating land separately within each landowning family, the whole village meets together to do the allocation, heading in the opposite direction of the cattle. Farmland is then allocated without reference to the boundaries between family lands.

As long as the traditional process is followed, the members of non-landowning families have no difficulty obtaining farmland to feed their wives and children. Across all focus group discussions, there was no reported denial of access to non-landowning families within the village. One village leader suggested inter-marriage between families as a factor contributing to the ease of access to land enjoyed by members of non-landowning families. A village chief noted that husbands easily obtain land from a wife's family because her family will not let their daughter and her children starve. A chairlady suggested that there is no need to deprive someone of access to land because land use is temporary, but "the land itself isn't going anywhere." The result is that family land ownership and the traditional process for gaining access to those lands contribute dependably to food security in the chiefdom. Members of the Fullah people-group appear, however, to be in a separate category. Although there are Fullah settlements, the Fullah people are not regarded as landowners by chiefdom authorities.

A few villages contain little or no farmland. Kadala and Kasokira, located in Kasokira Section, report having no farmland within the village areas, though for different reasons. Kasokira lost land across the Seli River when chiefdom boundaries were drawn in the colonial period and has since had to seek farmland from other villages. Kadala lost land to the Bumbuna Conservation Area (BCA), formed as an environmental offset to the inundation of wildlife habitat by the Bumbuna Reservoir, created by Bumbuna Dam for a hydroelectric plant headquartered in Kalanthuba. In the latter case, landowning families became non-landowning families, newly dependent on obtaining land in nearby villages. Kamankay, the chiefdom's largest and most urban village, has seen considerable land converted from family to individual

land through land purchases—to such an extent that farmers in Kamankay increasingly seek farmland elsewhere, often in villages located in an adjacent chiefdom.

Customary Land Tenure and Food Security:

*“No one is ever denied [land],
because if you deny someone, you will
not be able to feed him.”*

A Village Mämmmy Queen

*“As Long as you are prepared to work,
you can have land.”*

A Village Youth Leader

Some villages contain inadequate quantities of farmland and must also seek access to land outside the village—in most cases due to the loss of land to the BCA. The use of their remaining land is constrained by a reduction in the fallow period; farming immature land—fallow for less than seven years—is problematic due to the growth of grass and weeds, making land more difficult to clear for plowing and increasing labor for weeding, as well as reducing crop yields. Farmers in these villages do appear to be able to access land using the traditional process. Often a head of family approaches a head of family in a neighboring village to obtain land for family members. Again, no case of denial of access was reported to occur as long as the traditional process is followed, though leaders in those villages with inadequate landholdings have expressed concern for their future food security. Their concern reflects the importance that villagers attach to land ownership as a source of security for future generations.

The Paramount Chief is understood, by custom, to be the custodian of lands in the chiefdom. The *Local Government Act* of 2004 [§28] assigns the responsibility for “holding land in trust for the people of the Chiefdom” to the Chiefdom Council, which is chaired by the Paramount Chief. Although often misinterpreted by outsiders as ownership, the role of the custodian is one of a trustee (or protector), holding lands in trust for their owners under customary law. In this sense, the Paramount Chief and Chiefdom Council have a customary duty to support and protect the land rights of landowning families. The Paramount Chief (or Regent) does *not* allocate ownership of land, nor reallocate land held under customary law. Neither does the Paramount Chief determine access to land among farmers; rather, the authority to

allocate land for use is held by its owners—extended families—and ordinarily exercised by the Head of Family in consultation with other family members.¹⁸

Although in some villages land disputes between landowning families are reported to be fairly common, many villages report little or no dispute over land. Most disputes within a village can be settled by recourse to village elders, whose memory of boundaries is considered authoritative, or as needed, by recourse to the village chief or section chief. Efforts are made to settle disputes within the village rather than seek recourse to external authorities, and some villages report no families seeking outside recourse to settle land disputes. Several village leaders noted that taking a case to section chiefs, chiefdom leaders, or the local court is generally accompanied by bringing a token to those higher authorities. A village youth leader explained that taking a case for settlement by higher authorities is both costly to the litigants and strains interpersonal relationships in the village, indicating a lack of faith in the ability of local leaders to produce a just and peaceful outcome. Some village leaders report occasional resort to sorcerers to settle disputes that are especially difficult to reconcile.

Disputes also occur between villages—we heard two reports, one unconfirmed, of longstanding disputes between two villages in Kasokira Section. Disputes that involve landowners from adjacent villages seem to be more difficult to settle than intra-village disputes. A village chairlady described a recent inter-village dispute, wherein all village chiefs in the section were called to resolve the conflict; the land was returned to the party to the dispute deemed to be the rightful owner, but only after harvest, allowing the non-owning user of the land to keep the crops being grown.

At present, lands within the chiefdom are unregistered, and tenure is based entirely on custom as determined by the memory banks of elders, with occasional recourse to section and chiefdom leaders. The customary basis of land tenure is about to change, however, with unknown implications for the traditional process of gaining access to land for farming. See the discussion in Part VI.

B. ROAD MAINTENANCE AND IMPROVEMENT

A functioning road network is a central concern among leaders at all levels of chiefdom governance. Good roads are seen as essential because roads can make all parts of the chiefdom more accessible for multiple purposes—improving access to health care services and education, as well as market for agricultural produce. Roads in Kalanthuba are unpaved and require continuous maintenance, which is especially challenging during and following the rainy season. Seasonally, brushing is needed to prevent roads from being overgrown by bush.

Villages take primary responsibility for the maintenance of the roads, which link them to other villages as well as to wider world. The importance of timely brushing and maintenance following the rainy season is emphasized by section and chiefdom leaders. Village leaders often apologized to the field research team, including translators, for unbrushed roads during our

¹⁸ See the discussion by Renner-Thomas (2010), pp. 168-173.

visit in late May and early June. Although the village chief generally oversees road work, village youth leaders are primarily responsible for ensuring that road maintenance occurs, mobilizing youth to do the labor that is required. Some villages may issue fines to those who fail to report for road work when scheduled, as required by their bye-laws. But there are challenges: seasonal road maintenance also overlaps with the planting season for rice, and villages may not have the types of materials and tools needed for more demanding maintenance issues.

Soon after de-amalgamation, Kalanthuba launched a major self-help program to improve its road network. The chiefdom successfully raised funds to acquire new hand tools to be used in road maintenance and used the funding to stock a tools library. Village work crews sign out tools from section and chiefdom leaders and return them when finished. Although communal labour on roads is nothing new in Kalanthuba, or more widely in Sierra Leone, Kalanthuba's intensive effort has made considerable headway in improving two major north-south trunk roads, linking the two northern sections with the three southern sections on both the west side and the east side of the chiefdom. Some section chiefs, however, have stored tools permanently in villages. In the future, village leaders expect a Paramount Chief to access the financial resources needed to improve the road infrastructure, easing the burden of maintenance with hand tools.

C. SCHOOL FORMATION AND ATTENDANCE

The formation of primary and secondary schools in Kalanthuba is entirely a product of local initiative, relying on communities to provide both land and facilities. Labeled “community schools,” the schools are then locally managed, supported largely by community contributions of time, money, and labour, while local leaders seek to make physical improvements required for government approval so as to qualify for government support. Often community schools operate for a time but close from lack of resources. A total of seven schools—two government-approved primary schools, four community primary schools, and one community junior-secondary school—were operational in May 2024. Even at the government-approved schools, not all teachers are certified; others, including all teachers in community schools, are therefore unsalaried. Teacher retention under these circumstances is an ongoing challenge.¹⁹

The leaders of villages with children who attend community schools, whether in the home village or nearby villages, described various ways in which they support unpaid teachers, including contributions of food, money, free housing, and physical labour on teachers' farms. Such contributions make it financially feasible for community teachers to reside and work in the villages where schools are located. Community support also allows parents to establish direct, personal relationships with the school and the teachers who are investing their time and talents in village children.

¹⁹ Chiefdom leaders reported a total of 40 community teachers working in Kalanthuba's schools in May 2024, including ten who teach in the two government-approved schools.

While access to primary school education has expanded over the course of the past four years, there remain consistent barriers to children’s school attendance. Of the 35 villages whose leaders participated in focus groups, nine reported that no primary school was located within walking distance of the village.²⁰ In addition to physical distance, non-attendance can be attributed to a range of factors, including road quality, flooding, school fees, and the need for farm labour. Adverse conditions often make it impossible for children to obtain year-round education. Many villages report parents sending some of their children to the nearby town of Bumbuna to stay with relatives in order to attend school. Even in villages that are in close physical proximity to a school, attendance varies among households with children, and there were sometimes significant discrepancies between the attendance reports of leaders within the same village. Some respondents noted that children may stop attending school due to pregnancies or because of a family’s need for farm labour. Compared to primary school, junior- and senior-secondary education is even less accessible. With the exception of children who attend the recently formed community junior-secondary school in Kamankay or can walk to school in Bumbuna, children in Kalanthuba who continue beyond primary school must live with relatives in Bumbuna or relocate even further outside the chiefdom.²¹

Village support for community schools can be divided into two categories: fixed investments and ongoing contributions. Fixed investments include the land on which the school is built, the construction of the school building, and the improvement of the roads and paths by which the children walk to school. These large, upfront investments are complemented by ongoing contributions to the upkeep and maintenance of the school, including building repairs, the purchasing of uniforms and books, and regular financial and material compensation given to community teachers. School contributions are mobilized by village leadership, and the call for contributions is often announced at village meetings, or by way of a town crier. Some villages described a process whereby the parents of each student are required to send them to school with money and food for their teacher on a regular basis, while others described mandatory contributions made of all village households regardless of whether they have children in school, made enforceable as bye-laws. Even in the case of households that do not have children in school, many of the investments and contributions made by villagers are beneficial for the entire community—seasonal road repairs, for instance, are of critical importance to schools because of accessibility, but the benefits of increased accessibility—not limited to schools—clearly extend to all areas of village life.

²⁰ The number of villages without access to a primary school is certainly greater than nine, given a lack of complete data from Kakalain Section, where no schools were known to be operational in May 2024. Only two of its eight villages were able to participate in the study’s focus groups in 2023.

²¹ It should be noted that chiefdom leaders assign a high priority to the development of a secondary school in the chiefdom and are convinced that Kamankay, despite its location with walking distance of secondary schools in Bumbuna, is the most feasible site. Educating secondary students within the chiefdom rather than elsewhere is thought to increase their identification with the chiefdom enhancing their sense of local civic responsibility.

Community school formation is a critical component in the development of an accessible and sustainable education system in Kalanhuba Chiefdom. School formation is funded entirely by the collaborative efforts of affected villages; from the physical school building to the ongoing payment of community teachers, villages mobilize their resources to ensure the continued education of their primary-school-aged children, who are an investment in their future. As Kalanhuba continues to expand access to, and the attendance rate of, its primary and secondary schools, the responsibility for development of the education sector remains a central local concern in the chiefdom. The need for local initiative in school formation is readily apparent, but chiefdom leaders view local initiative as a prelude to central government support, available only once a community school is established and improved to the point it can merit government approval. Many village leaders, when asked about their expectations of section- and chiefdom-level leadership, cited advocacy for assistance to schools as an important responsibility of chiefdom-level authorities.

D. VILLAGE-BASED DEVELOPMENT

Although the governance study did not systematically investigate the management of village development, mention was sometimes made of development projects in the course of focus-group discussions. Below are three types of projects cited by village leaders.

1. Village Savings and Loan Associations (VSLAs)

VSLAs are self-managed, self-funded groups designed to increase community access to savings. This program, typically initiated by an NGO, functions by allowing users to store savings in a community box for community access. The amount stored is recorded. Eight villages reported participating in VSLA programs, but only three of them had functioning boxes. One village reported using the savings to pay school fees. The program requires a literate person to keep the required records—a social asset either lacking in many villages or difficult to come by.

2. Community Agriculture

Group farming is one means of development intended to raise crops for market. One village mentioned a recent group project, now completed, and another village mentioned a chiefdom project led by the chiefdom youth leader (with a note of criticism alleging a lack of transparency in the distribution of income).

3. Pooling a Portion of the Rice Harvest

One village reported an annual project in which villagers jointly contribute rice that is gifted to three individuals (or households) to be used as each one sees fit. Each of the village's 30 households contributes two bushels of rice out of an average annual harvest of 15-20 bushels. Over a period of several years, the project has been used to finance new housing of mud bricks and zinc roofs as well as schooling.

PART VI.

THE PROCESS OF LAND REGISTRATION

Nothing in Part VI or any other part of this report should be construed as constituting legal advice or counsel. Chiefdom leaders and others are urged to consult relevant parts of the two laws and/or obtain legal counsel before acting on any of the relevant issues.

New laws related to land tenure passed by parliament in 2022 represent both a challenge and an opportunity for the chiefdom. The basic challenge is to navigate the transition from an oral system for managing customary land rights to a digital system based on the registration of lands held under customary law—without losing the many real, often subtle, advantages of the customary system. The opportunities are many: to obtain more secure title to customary land and protect customary land rights from exploitation; to provide for a more orderly process of urbanization in a village like Kamankay; and to provide stronger protection for natural resources and their traditional use.

The National Land Commission Act (NLCA) establishes a structure and process for land registration. The National Land Commission (NLC), an inter-ministerial agency, is created and charged with registering title to land throughout Sierra Leone and maintaining a national Land Registry. The Commission will establish branch officers in each district to be known as District Land Commissions, contingent on the availability of financing. District land officers will accept application for land registration, maintain a district land registry, and provide technical support on land registration to chiefdoms. The NLCA also provides for Chiefdom Land Committees (CLCs) to oversee land registration in each chiefdom and for Village Area Land Committees (VALCs) to implement land registration at the town or village level. Finally, the NLCA establishes a process for land registration of customary land to occur at the request of landowners, whether families, villages, or the chiefdom.

The Customary Land Rights Act (CLRA) addresses the rights of individuals within families and communities as landholding units. Discrimination in land tenure on the basis of gender, age, or tribal affiliation is prohibited: any citizen may acquire and own land anywhere in the country. The CLRA establishes rules governing the transfer of land use rights for family and community lands, intended to protect the holders of customary land rights against denial of their rights in the course of land-based transactions, especially by external investors who seek land for large-scale projects. Included is protection for access to common lands [see CLRA §2 (e)].

Land registration has a number of benefits, but chief among them is greater security for customary land tenure in the face of growing demands for external land investment. In an urbanizing community, such as Kamankay, registration may also make for a more orderly and secure process of the land transfer associated with residential and business development. The primary cost of registration is up-front, consisting largely of the time and effort to be devoted to the complex process of decision-making that registration requires. Land registration is a

major transition, away from an informal and oral customary system (described earlier in this report) to a system based on formal, written records accessed by computer. How this transition will affect customary decision-making concerning land rights and obligations remains to be seen. The customary system also has numerous benefits, especially its social inclusiveness, traditionally making land available to non-landowning families in a village, but also its ability often to resolve most disputes amicably, on the basis of consensus among village elders.

Registration is expected to be primarily a local-level activity carried out by chiefdoms and villages. The local structure is to consist of a Chiefdom Land Committee (CLC) and Village Area Land Committees (VALCs). It is imperative that the chiefdom and villages be well prepared to carry out their roles in the process. While national legislation has set up a structure and process for registration and is supportive of customary rights, including both family-based and community-based land tenure, localities have important choices to make concerning how lands are registered and how collective decisions concerning land will be managed. Retaining the benefits of the customary system while also benefitting from the additional security provided by registration depends on how the chiefdom and its people come to terms with the challenges and opportunities that registration presents.

What follows in this section is a discussion of the issues raised by these laws for the chiefdom, highlighting both challenges and opportunities—both the requirements of the law and the significant choices left to chiefdom and village authorities. See also *Appendix D and F*, which contain a selective summary of the two land-tenure laws—selected to address issues most relevant for Kalanthuba.

A. CHIEFDOM AND VILLAGE AREA LAND COMMITTEES²²

According to the NCLA, a Chiefdom Land Committee (CLC) is chaired by the Paramount (or Regent) Chief (or his representative) and has two representatives from each section: one a member of a landowning family and one a member of a non-landowning family. Members are to be “nominated” by Village Area Land Committees (VALCs), which implies prior formation of VALCs. But the legislation also provides for CLCs to function in villages that lack a VALC. The law also does not specify how those members are to be chosen from among those nominated. The only other legal requirement is that 30% of members must be women. Either parliament or the National Land Commission will need to supply the missing pieces of the process. Perhaps the chiefdom could set up a provisional land committee based on action by the Chiefdom Committee, then formalize the arrangement once national guidelines are available, though a provisional committee could not make any formal, binding decisions. It may nonetheless be important that the Chiefdom Administration proceed with discussions and preparations for registration without waiting for clarification on how to establish a formal CLC.

Constituting a Village Area Land Committee has more precise instructions in the NCLA. Chaired by the village chief (or his representative), a VALC is composed of four resident

²² See *The National Land Commission Act* [NLCA, Part VI and Part VII (§42 to §56)].

members of landowning families and two resident members of non-landowning families, plus the section chief—with the added proviso that 30% of members must be women. The law uses the language of “election” to describe a process by which a majority of at least two-thirds of village resident age 18 and above are to choose the VALC members. The law is sufficiently detailed to allow this process to move forward, perhaps with the leadership of the section chief or his representative. The normal village process for selecting leaders is to do so by discussion and consensus rather than a formal election, which entails choosing among candidates by balloting.

In order to select members of the VALC, villagers need to understand its functions. The land committee will be formally responsible for resolving land tenure disputes, including disputes that occur in the process of registration. This sort of work is normally carried out with the advice of villager elders, who are the prime source of customary land tenure information based on historical experience. It seems abundantly clear that elders will need to be involved in this process—perhaps some as committee members, among others. What matters most is the perceived legitimacy of the registration process, which depends on local acceptance of land boundaries and owners, village by village.

VALCs are also charged under the law with managing village communal lands—lands presumed to be owned and managed by the village. At the point of registration, the main issue is how to distinguish communal lands from family lands. Some consistency among villages in the chiefdom is most likely desirable, but there may also be variations in what is considered communal from village to village. In some cases, whether a specific land area is family or communal land may not be immediately obvious (see the discussion in section V.A).

Finally, VALCs are directed to adopt and enforce rules for sustainable use of land and natural resources. Managing the sustainability of farmland has likely been a family-level responsibility—done primarily by managing the fallow period. Other natural resources include forests and forest products, water sources, and wildlife. Typically, a village might address such issues by means of bye-laws, adopted in a community meeting. Village tradition might prefer that the VALC simply propose bye-laws for community discussion and possible adoption; or the VALC could make proposals and refer them to the community for open discussion, after which the VALC could adopt rules based on community consensus, thus satisfying both the law and cultural tradition. How the law gets applied in each village will depend on a shared understanding within the community of what sort of process is most appropriate.

B. REGISTRATION PROCESS²³

The two basic legal requirements to register land are evidence of ownership and the determination of boundaries. Customary land will generally lack documentary evidence of ownership; so “oral or landscape based evidence” must serve as a substitute, as allowable by law [NCLA §67 (2)], though the National Land Commission may issue regulations concerning the

²³ See *The National Land Commission Act* [NLCA, Part IX (§65 to §71)].

sorts of non-documentary evidence that are acceptable. The testimony of village elders will be crucial to this process. Boundary determination requires a “signed boundary harmonisation agreement” with neighbouring landowners [NLCA §65 (a)]. Such an agreement must be mutual: both neighbours must agree to the boundary between them. If one of two neighbors disputes a boundary claimed by the other, the boundary is in dispute. Only when the boundary is harmonized are both neighbors able to register their land. Because land registration always involves reaching an agreement with neighbours, the process can quickly become community-wide. Perhaps the Chiefdom Council or Chiefdom Land Committee could simply stipulate that land registration is a village-wide process. When land is located at village boundaries, neighbouring lands will require harmonization agreements between villages. In case of dispute, at least two VLACs are involved, becoming the parties to an intervillage discussion or negotiation.

Once the CLC is fully established, it is directed by law to create a Land Adjudication Tribunal (LAT) for the purpose of resolving disputes that cannot be settled within a village or in discussions between villages. The LAT is established only for the purpose of resolving disputes prior to registration. The Tribunal has three members: a chair who is also a member of the CLC and two others appointed by the CLC. One member must be literate (for the sake of keeping a written record), and one must be a woman.

Once harmonisation agreements are in place, the village lands need to be mapped, showing the agreed-upon boundaries. If a District Land Commission has been formed for Tonkolili District, trained paralegals and para-surveyors may be available to assist with mapping and preparation of the application. Boundary descriptions can rely on natural markers—if needed, planting trees to create such markers. Applications for registration are submitted to the District Land Commission (or in its absence, the National Land Commission) through the Chiefdom Land Committee.

The chiefdom leadership can recruit potential paralegals and para-surveyors from Kalanhuba for training and certification by the District Land Commission. Having trained local people to assist with registration could greatly facilitate the process.

C. DISTINGUISHING FAMILY, COMMUNAL, AND INDIVIDUAL LANDS²⁴

Each parcel of land must be classified as family, communal, or individual land. In the process of boundary harmonisation, it is important not to neglect any portion of a boundary, which requires knowing who owns every square inch of space surrounding a parcel for it to be registered. Knowing the owner of course includes knowing whether the space is owned by a family, the community, or an individual. This requires assigning parcels to one of the three categories—family, community, or individual land; in some cases, the designation will be controversial.

²⁴ See the definitions of communal and family lands in *The National Land Commission Act* (NCLA, Part I).

Identifying communal lands for registration requires distinguishing between communal and family land, which may be subject to dispute. By definition, communal lands are lands owned and managed by a community (either a village or the chiefdom). The NCLA offers examples: wetlands, forests, grazing lands, market areas, sacred sites, and graveyards. The question facing communities at the point of land registration seems straightforward: which lands are owned and managed by the community? But if management is minimal (or nonexistent), ownership may be ambiguous. The list of examples in the law is obviously illustrative, not definitive or exhaustive: not definitive, for numerous natural resources are owned by families, not a village; not exhaustive, for other examples come easily to mind.

The common area of a village settlement, as pointed out in the field study by one village chief, seems obviously to be communal land. But its exact boundaries may be ambiguous—how to define where the communal land ends and the family compound begins. Perhaps the common area is that area cleaned by village women in common, while the family compound is cleaned by women of the particular family. Land registration requires a village to draw that line—on a map if not on the ground. What about the area of settlement occupied by housing? It's possible for land to be owned in common while structures built on that land are owned individually—by household or by families. To what extent would answers to these questions vary among villages, or should be allowed to vary?

During the field study, villagers were asked what land might be considered communal? The answers varied—from none to particular examples, such as a church or a school. But land for a church or school may frequently be gifted for the purpose, contingent on its reverting to the owner is no longer used for that purpose. Likewise, land for communal farming in the interest of development. Sacred bush, present in each village, seems unambiguously to qualify as a “sacred site” under the law and thus may be communal, though not open to all villagers.

At the chiefdom level, footpaths and roads come to mind as communal land, at least in the form of a right-of-way, to be noted as an encumbrance on the registration of family land. What about streams—family, village, or chiefdom land? Or, back to roads, especially those that border chiefdoms: are such roads considered state land? Some natural resources may be of such a large scale, transcending village boundaries, that chiefdom tenure would seem to be appropriate, but a chiefdom claim might be contested by families claiming portions of the forest as family land. The right of the chiefdom to enact bye-laws to protect the sustainability of natural resources, whether family owned or privately owned, is nonetheless clear.

Finally, what about private, individual land? Urbanizing villages, such as Kamankay, can be expected to have individual land, which should be registered as such—provided that a proper transfer from family or community to an individual has taken place under customary law and the claim to individual title can be supported by evidence. No villagers mentioned individually-owned trees in our focus groups, but tree tenure is common in Africa; if present, it would need to be noted as an encumbrance on the Land Registry.

D. MANAGEMENT OF FAMILY LANDS AND LAND TRANSACTIONS²⁵

The position of Head of Family is recognized in the CLRA, but it is also circumscribed. Title is vested, not in the Head of Family, but in the family as a unit, within which male and female members are to have the same rights and privileges. Land transactions require the Head of Family to obtain the “written informed consent” of 60% of the adult male and female members of the family prior to agreement [CLRA §11]. The family may continue to grant “tenancies” to non-family members of various duration [CLRA §15], as recognized by customary law. The customary grant of temporary farming rights to villagers who are not members of landowning families or to members of other villagers with insufficient land may qualify as such a tenancy. If so, a question is whether these tenancies will require the consent of 60% of the adult family members in writing. If the tenant wants the tenancy recorded with the Land Registry, such written consent may be a necessary part of the documentation to be submitted. Perhaps, however, villagers could continue to obtain temporary use of land on an informal basis—without written documentation. However, it is accomplished, continuing the customary practice of granting land access to members of non-landowning families is extremely important in order to sustain village food security throughout the chiefdom.

The 60 % rule for family approval of long-term land transactions, such as leases for investment purposes, is both *unavoidable* and *important* for the protection of customary land rights: *unavoidable* because investment transactions require that land be registered and that the lease be submitted with appropriate documentation for recording in the Land Registry, and *important* in order to protect the interests of family members, are entitled to establish a negotiating committee composed of a “fair representation” of both male and female family members and chaired by the Head of Family [CLRA §11].

Both villages and the chiefdom may own and manage communal lands that need to be registered. According to the CLRA, Village Area Land Committees make rules for the use of village communal lands, and Chiefdom Land Committees do the same for chiefdom communal lands. The ability of these specialized committees to make rules is a departure from the customary procedure in the chiefdom, where the Chiefdom Council is responsible for making bye-laws and village bye-laws are normally adopted by consensus at village meetings. As discussed above, villages may be free to continue operating in the traditional manner, by consensus. Perhaps the Chiefdom Land Committee can refer bye-laws to the Chiefdom Council for ratification. However made, bye-laws governing communal lands must allow for access by all members of the relevant community (village or chiefdom) subject to the bye-laws, unless the community has agreed to a tenancy. Tenancies of communal land, which would limit access for a designated period of time, are also possible, including long-term investment leases. At the village level, investment leases must be agreed to by “a fair representation of the male and female adult members of the community at a community meeting” [CLRA §21]. The intent of the law seems to be that village members must give their consent in order to limit their access to village communal lands. The language of “fair representation” is ambiguous, but villages can

²⁵ See *The Customary Land Rights Act* (CLRA, §5-6, §10-11, §13, §15, §21, §36).

perhaps satisfy the requirement by holding an open meeting that is well attended and relying on consensus to reach a decision. The decision-making process for non-investment tenancies is not legally specified, but the customary village process—meeting for discussion in order to decide by consensus—may also apply in these instances. Investment decisions regarding chiefdom communal land are not addressed by the CLRA, but if parallel to the village process, the approval of an investment lease may require approval by the Chiefdom Council.

E. PROTECTION OF NATURAL RESOURCES²⁶

The sustainability of natural resources is a theme running throughout the CLRA. Family and communal lands are to be managed sustainably. Both Village Area Land Committees and Chiefdom Land Committees are charged with adopting and enforcing rules ensuring sustainable use. Protection is also afforded to the customary use of natural resources, allowing for restriction of such use only if a natural resource is in “danger of depletion” [CLRA §23]. The extraction of natural resources for “use outside the community,” such as for commercial use, can be forbidden by either VALCs or CLCs [CLRA §2]. At the time of this study, the Kalanthuba Chiefdom Committee had imposed such a restriction on the cutting of timber.

The protection of customary access to natural resources, as well as the sustainability of those resources, are issues of great importance for Kalanthuba. It is important that these issues be taken into account in the process of land registration—especially in case of investment. At any given time, most agricultural land in a village land area is fallow, growing bush rather than crops. While crops are clearly private property, belonging to the grower, the land being used belongs in common to a family. Trees planted to grow tree crops, such as mangoes, palm oil, or kola nut, may be owned by an individual, perhaps a member of the landowning family, perhaps not. If land is leased for investment, compensation for the future use of land belongs to the family as a unit, while compensation for lost crops or sometimes lost trees belongs to the grower, whether or not he or she is a member of the landowning family.

Fallow bush also has active use—for hunting and gathering, including food and fuelwood. Is the bush open to the entire village or only to members of a landowning family? If open by custom to the entire village, then the entire village has an interest in the bush. If so, in the event of the negotiation of an investment lease, those communal interests in the bush are protected by the CLRA, and an investor is obliged to provide an “alternative source” of that common resource, one “equivalent or better” to that being lost [CLRA §36]. In order to claim protection, the interest of the village in a common resource such as the bush should be noted in the registration of the land. As discussed above, the Land Registry must contain a record of all relevant land rights under customary law, including use rights. Determining who has use rights to family land from outside the landowning family should be part of the land registration process in every village. Some such rights may be viewed as “encumbrances,” especially if there are no available alternatives, and noted as such in the Land Registry. An investment lease would then need to be written so as to continue the encumbering use or provide a replacement.

²⁶ See *The Customary Land Rights Act* (CLRA, Part VI).

Presumably, a community could transfer away its use rights to an investor, but doing so might require the same written informed consent of the male and female adult members of the community as would the lease of communal land for investment. Compensation would not then be limited to the compensation of land owners but also include the compensation of customary land users. Reaching this result, however, requires careful planning and preparation at the stage of land registration.

F. LAND INVESTMENT²⁷

The CLRA considerably strengthens the bargaining position of affected communities in land investment negotiations. The requirement of informed consent from 60% of affected landowning families and a “fair representation” of affected village communities [CLRA §11, 21] increases the burden of persuasion borne by an investor. Even so, chiefdom officials should be prepared to monitor a negotiation process closely in order to assure that affected families and communities are fully informed in all relevant respects. The Chiefdom Committee, led by the Paramount Chief, is required to certify a lease agreement signed by the requisite number of family members for submission to the District Land Registry [CLRA §12]. Certification attests to the honesty and legitimacy of the process followed to secure the lease. Moreover, a certified lease agreement must include all conditions of use agreed to by relevant parties, including neighbouring villagers. All this amounts to a heavy responsibility borne by the chiefdom leadership.

Investment restrictions become much more stringent when displacement and resettlement are involved. Kalanhuba is well aware of the lingering difficulties associated with displacement and resettlement due to the construction of the Bumbuna Dam and designation of the Bumbuna Conservation Area. Under the terms of the CLRA, private investors are allowed to displace and resettle community members only if “unavoidable” and only with the “free, prior and informed consent of the adult male and female members of the affected community” [CLRA §43]. Note that consent is required not simply of a “fair representation” of the community (or 60% of family members), as for investment without displacement; rather, the implication is that every member of a community must agree before being displaced and resettled. Though problematic, displacement of a part of a village is allowable, but those being displaced may, on that account, withhold their consent. If displacement is agreed to, there are also requirements of participation by the community in the process of resettlement. As in the case of any investment activity, chiefdom officials should be prepared to monitor closely the process of negotiation leading up to and following on a decision to accept displacement and resettlement in order to preserve and, as needed, assert the rights of the communities involved. Unfortunately, the CLRA seems to apply only to private investment, excluding government investment from its provisions—although political pressure might be brought to bear on government ministries to follow the same procedures as closely as possible, honoring the intended purpose of the law, if not the letter of the law.

²⁷ See *The Customary Land Rights Act* (CLRA, Parts VII and VIII).

PART VII.

CONCLUDING ASSESSMENT

To outside observers, the governance system of the chiefdom looks like a simple hierarchy. The Paramount Chief is elected for life from a ruling house, and section chiefs are accountable to the Paramount Chief, just as village or town chiefs are accountable to (and, in customary practice, formally appointed by) section chiefs. The authority to govern the chiefdom from the top-down is clearly present and sometimes used; but it doesn't ordinarily work that way. Rather, in practice, the chiefdom is governed largely by consensus, especially at the village level, not by command-and-control from the top. Its consensual—even democratic—character becomes apparent when we look at the operation of the system from the inside-out, beginning not at the top but at its base—the village.

A. VILLAGE GOVERNANCE

The chiefdom's 40 operational villages are the foundational structure of the chiefdom—the primary units of governance. Villages exhibit numerous qualities that can be considered democratic in character:

- Villages meet frequently, in most cases at least monthly and often weekly or even twice weekly, meetings that are ordinarily well attended.
- Village meetings are used to adopt bye-laws to govern social behavior, carried out in an open discussion process that is largely consensual.
- Frequent meetings and consensus-based bye-laws create a shared understanding of the terms and conditions for living and working together as a community.
- Bye-laws can be invoked by any villager against any other villager, including the village chief, with appeals, if the case is disputed, taken to the village chairlady or youth leader as well to elders and the village chief. Appeals can also be made to the section chief and ultimately to the Paramount/Regent Chief, but appeals outside the village occur infrequently.
- Village leaders are chosen by consensus either by the entire village or within constituency groups—women or youth—and then presented to the appointing authority, either a section chief or the village chief.
- Leaders have distinct but interlocking roles that are well understood by one another as well as by elders.

Peace and Its Fruits:

*‘Good governance seeks peace, and
peace brings development.’*

Many Chiefdom Leaders and Elders

The consensual quality of village governance is apparent in three ways: (1) the selection of leaders; (2) the making of bye-laws; and (3) the resolution of conflict through reconciliation. The maintenance of social peace is a governing principle that requires working through differences until a settlement is reached—whether selecting leaders, debating potential rules in the making of bye-laws, or resolving a conflict between two parties—individuals or families. Every effort is made to resolve differences within the village rather than escalate a conflict to a higher level. One village chief noted that escalating the conflict can lead the losing individuals to hold a grudge—producing an ongoing disruption in the peace of the community. Consensual governance seeks to avoid making winners and losers, when possible, while relying on the hierarchy of authority only as needed.

Applying the governance criteria presented in the Introduction to this report, village governance in Kalanthuba gets high marks:

- Village governance is highly *predictable*—villagers know and understand one another’s roles and believe that villagers know and understand as well. *Who* decides *what* in relation to *whom* is a matter of common knowledge in villages. All know the distinct but somewhat overlapping roles of the village chief, Mämy Queen, and youth leader. Villagers know to whom to go for various purposes.
- Village governance is highly *participatory*—consensual decision-making means that most if not all villagers are involved in selecting leaders as well as making and invoking bye-laws.²⁸
- Village governance is socially *accountable*—the regularity of village-wide meetings in a face-to-face community makes village leaders socially accountable to villagers. Such accountability is informal rather than formal, based on social interaction rather than formal procedures, but no less real and effective. For holding village leaders

²⁸ The study cannot assess the *deliberative* quality of consensus decision-making in the villages of chiefdom without having observed village meetings. Meeting descriptions in the study are based on the strong similarity among those offered by leaders and elders interviewed in separate groups, which portray village meetings as highly participatory. Only a single village leader—a chairlady—characterized the village meeting as less than socially beneficial. All others represented the village meeting as the essential core of village governance—an open process of deliberation leading to consensus.

accountable, elders serve in a critical role, exercising their moral authority to interpret bye-laws as well as settle disputes.

- Village governance is open and *transparent*—decision-making in open, public meetings is as transparent as one can get. Moreover, the practice of village reporting on the meetings of village leaders with higher authorities extends transparency to include issues that occur on a wider scale in the chiefdom.
- Village governance is *effective*—leaders chosen by villagers are formally appointed, village bye-laws are regularly applied and enforced, and most disputes are settled within the village without escalating conflict to higher levels.
- Village governance has many marks of social *equity*: consensual decision-making takes individual differences into account; landowning families typically make farmland available to members of non-landowning families; financially stressed villagers—the aged and disabled—generally are not required to pay the Local Tax; women and youth generally choose their own leader and settle their own disputes; bye-laws are applied and enforced against leaders as well as non-leaders in the village; the role of elders, including both men and women, is based on respect for the wisdom of experience, an informal source of authority. *Equality* is more restricted: most leadership roles are reserved for men—village chief, youth leader, most heads of family—and many work roles are defined by gender and based on complementarity.
- Village governance may be *adaptable* but the extent of its adaptability is uncertain: some villages have incurred extreme events, including the loss of farmland, but have been able to adapt by obtaining access to land outside the village, and other villages have adapted their traditional process of allocating farmland to accommodate the presence of Fullah visitors who graze cattle on village lands; yet, one village has emptied out as villagers abandoned it, reportedly due to a combination of witchcraft and the death of elders, leaving young people on their own. Without doubt, the low rate of literacy and high rate of dependence on subsistence farming in most villages inhibits adaptability to some external events, including both challenges and opportunities—but these constraints do not necessarily indicate that the *system* of governance lacks adaptive capabilities, given the required resources. A customary system of governance is not incapable of adaptation; rather, a system that is predictable, participatory, accountable, effective, transparent, and equitable is likely to be at least somewhat adaptable as well.²⁹
- Village governance practices indicate considerable *restraint* in the use of power and authority—the time and effort devoted to arriving at consensus indicating a system of

²⁹ Kamankay may soon test the adaptability of village governance. A special case owing to its larger population (estimated at 1,900 in 2017) and recent rapid growth as an urban center, village leaders report difficulties in keeping abreast of new residents. To cope with newcomers, the village has acted to divide the village area into three sub-areas for some participatory purposes. Family lands are being subdivided into private parcels for residences, and farmland has become scarce, leading subsistence farmers in the village to seek access to lands in an adjoining chiefdom. The newly created process of land registration can perhaps in the future provide a way for Kamankay to maintain an orderly process of land transfers and keep a record of village households.

governance that is minimally coercive. The coercion that exists is mainly a product of social pressure rather than punishment meted out by higher authorities—the single exception being accusations of witchcraft, which tend to be handled with considerably less restraint.

The characteristics of village governance are more like those of a town-meeting democracy than might be expected at the base of a traditional hierarchy. The system of governance practiced in the villages of Kalanthuba is one in which the people being governed participate directly in the governing process. Despite being embedded in a hierarchy of authority reaching from a Paramount Chief, to section chiefs, to village chiefs, the overall system does not operate in an authoritarian manner, one that would govern villages without their participation or over their opposition. Villages in Kalanthuba are largely self-governing, with minimal supervision from higher level authorities.

Arguably, the villages of Kalanthuba are more democratic than many local governments found in more developed countries. The use of consensus rather than competitive elections to choose leaders and make bye-laws should not be construed as less than democratic. The qualities regularly reported as important in the selection of leaders include honesty, hard work, fairness, empathy, and generosity—a willingness and ability to serve others. These qualities are uniformly cited, not only by the chosen leaders, but also by the village elders, who are active participants in the leader selection process. Consensus does not imply quiescence, a reluctance to express disagreement. Disputation among villagers seems to be as common as decision-making based on consensus. The ability to resolve those tensions and get on with village life, without often creating winners and losers or resorting to brute force in the process, is a major asset of village governance in the chiefdom. The reliance on elders as authoritative interpreters of customary law places an emphasis on continuity with tradition, promoting stability, while the openness and participatory quality of village deliberations are a source of adaptability and innovation. Such a system is one to be sustained and protected as it is improved upon, not abandoned in favor of a less democratic, or more technocratic, alternative.

B. THE CHIEFDOM AND SECTIONS

Although the chiefdom and its five sections operate at two different levels, they are more tightly connected in the system of governance than the section and its villages. No collective body exists at the section level; rather, the section chiefs are considered members of the chiefdom administration and serve on the Chiefdom Development Committee. Together with the rest of the chiefdom leadership, they comprise the higher authorities to whom village leaders look for direction and support.

As provided by general law,³⁰ leadership at the section and chiefdom levels has some democratic qualities, though unlike village leaders, higher-level leaders are indirectly connected with the people of the chiefdom, through intermediaries. Future section chiefs are to be

³⁰ See *The Chieftaincy Act of 2009* (www.kalanthuba.com).

chosen, not by the Paramount Chief to whom they are subordinate in the chiefdom hierarchy, but by the chiefdom councillors of the section—thus providing an indirect form of village participation in the choice of the section chief. At the chiefdom level, two members of the leadership group are customarily elected by village representatives— the Chiefdom Chairlady by village chairladies and the Chiefdom Youth Leader by village youth leaders. Though the Chiefdom Speaker is appointed by the Paramount Chief, the Speaker cannot be a member of the ruling house (as stipulated by general law).

Although the chieftaincy is a hereditary office reserved to members of the ruling house in the chiefdom, the Paramount Chief is nonetheless chosen in an election that can include multiple candidates. The electors are some 250 or so chiefdom councillors, chosen by leaders at the village level and thus to some extent representative of village interests. The process of selecting chiefdom councillors, however, is entangled with the collection of the Local Tax. Conteh (2019: 51) notes the tendency of the system country-wide to result either in the appointment of councillors by village leaders (with neither an election nor a consensus process of selection) or the automatic selection of individuals who can afford to pay the taxes of less privileged family members. These practices potentially distort the process of village representation, affecting both the selection of the Paramount Chief and the legislative work of the Chiefdom Council.

While general law requires that that the number of representatives allocated to a village must be proportional to the number of village taxpayers in a 1 to 20 ratio,³¹ conceivably the chiefdom might be able to separate the selection of councillors from the process of tax collection. A chiefdom bye-law could perhaps require that chiefdom councillors be selected in a village-wide meeting, perhaps chaired or monitored by a representative of the Chiefdom Development Committee or other neutral party. Such a requirement would not preclude the village from deciding to choose councillors based on consensus or using an election process.

Having been recently de-amalgamated, Kalanthuba is still in the process of establishing itself as a fully functional chiefdom. Lacking a duly elected Paramount Chief, the Regent Chief is appointed by government for a term of one year—though the chiefdom now has only its third Regent since de-amalgamation in 2017. The Chiefdom Speaker, appointed by the first Regent, continues to serve. The Chiefdom Chairlady was elected, but the Chiefdom Youth Leader was appointed from outside the chiefdom by government. The Local Court has been duly appointed and is functional, meeting regularly, but its chairman and members have not been paid as provided by general law. The chiefdom is organized for the purpose of administration as the

³¹ The apparent requirement that a village must sell a full book of 100 tax receipts to be allocated a councillor can unfairly deprive small villages—those without at least 100 taxpayers—of any representation. Unless this practice is required by law, which seems uncertain, the chiefdom may perhaps be free to recognize each group of 20 taxpayers in a village regardless of the total number of receipts. The chiefdom could also prohibit practices that increase the number of councillors by combining excess taxpayers beyond a number divisible by 20 with a similar group of taxpayers from another chiefdom—a practice described by the Campaign for Good Governance, et al (2009: 31).

Chiefdom Development Committee, but no Chiefdom Council—the legislative body of the chiefdom required by general law—had been formally established as of May 2024.

Nonetheless, the chiefdom has been functioning in many ways, acting through the Chiefdom Development Committee and its members. Its major project is a self-help road improvement effort, supported by a tools-library administered by section chiefs. The Chiefdom Development Plan, prepared in 2019, highlighted *accessibility* as the chiefdom’s development priority, followed closely by education and health care. Since then, villagers using hand tools have expanded road access to its more northern villages, allowing access by motor bikes to the northern reaches of the chiefdom. The chiefdom has also supported the construction of a permanent school building in Kamasaypayna (Kamakatheh Section) and the launch of a secondary school in Kamankay using a donated facility. Seeking development partners, the leadership has hosted visits from two funding organizations related to health care and road construction, with whom conversations are ongoing. In collaboration with Houghton University in the USA, the chiefdom participated in a baseline development study in 2017, prepared a development plan in 2019, and established a website in 2022, connecting the chiefdom to the outside world [www.kalanthuba.com]. This governance study continues that relationship.

Applying the governance criteria from the Introduction to the report, the results for the chiefdom and section levels reflect the work of a governance process still in progress:

- The chiefdom provides basic *predictability* of who decides what in relation to whom—the agents of authority and their governance roles at the section and chiefdom levels are well-known, as evidenced by a general level of awareness of the institutional path for settling disputes. The Chiefdom Development Committee is functioning and a succession of Regent Chiefs have provided interim leadership as the Chiefdom awaits the election of a Paramount Chief, as well as the formation of a Chiefdom Council. Both Paramount Chief and Chiefdom Council—the two principal agents of authority in the chiefdom—are required for the chiefdom to be fully functional.
- Unlike the village level, governance processes at the section and chiefdom levels are *not highly participatory*. Rather, decisions are made by a few, well-placed individuals, mainly those who compose the Chiefdom Development Committee. Villages are represented mainly through the five section chiefs. No village leaders participate directly in chiefdom-level leadership. The lack of a direct connection to the village foundation of chiefdom governance can hinder the ability of chiefdom authorities to engage in effective leadership—leadership that must reach villagers.
- *Accountability* occurs largely in the operation of the chiefdom hierarchy, reflected mainly in the accountability of section chiefs and other members of the chiefdom administration to the Regent Chief. No formal means of popular accountability to the people of the chiefdom exists. The absence of a functioning, representative Chiefdom Council is the principal obstacle to democratic accountability on the part of chiefdom authorities.
- Chiefdom governance achieves a reasonable degree of *transparency* through a laudable and sustained effort to keep villagers informed of governance issues. Information is

disseminated by means of reports at village meetings of higher-level meetings at the chiefdom and section levels. Reporting of this sort appears to be a social norm that is regularly followed. Such reporting can also be viewed as an instrument of accountability.

- The *effectiveness* of chiefdom governance can be summed up as ‘so far, so good.’ The key process of dispute settlement appears to be working, and the chiefdom administration has acted to address the covid pandemic and restrain the commercial logging of its forests. A self-help development project to upgrade road accessibility has met with considerable success, effectively mobilizing village labor to undertake an intensive program of road improvement and maintenance. Much of the governance process, however, remains untested at the chiefdom level. The long-term ability of the chiefdom to enforce its bye-laws is unknown at this point.
- The adherence of the chiefdom to national and international standards of *equality and equity* also lacks a sufficient track record for making an assessment. It should be noted, however, that the sanction of banishment from the chiefdom for persons found guilty of witchcraft, a penalty enforced at present by the Regent Chief under the terms of customary law, lacks the safeguards of appeal normally associated with the rule of law consistent with international standards.

The continued development of chiefdom governance requires concerted attention to (1) the strengthening of relationships between chiefdom and sections in the *chiefdom hierarchy*, (2) the establishment of the *Chiefdom Council* in accordance with general law, and (3) increasing the activity of chiefdom leaders—members of the *Chiefdom Development Committee*—in carrying the message of development throughout the chiefdom. Each of these points of attention is discussed below.

1. The Chiefdom Hierarchy

The chiefdom hierarchy, which connects the Regent/Paramount Chief to village leaders through each of the five section chiefs, has functioned to collect the Local Tax, settle disputes that villages cannot resolve, disseminate information, and conduct a modicum of administrative oversight (see Part IV). The section chiefs occupy the key intermediary position in this process. Unlike the relationship among village leaders, whose role is almost universally well understood in the chiefdom, village leaders in some sections exhibit less understanding of, and appreciation for, the role of section chiefs. In part, the lack of appreciation is tied to a perception of section chiefs as agents of informal revenue generation in the form of perceived demands for “contributions” (see IV. C above). Less widely shared is an understanding of the positive role that section chiefs can and often do contribute to the life of the villages in their jurisdiction.

The role of section chiefs thus needs to be publicly clarified, so that it can be clearly understood both by section chiefs themselves and by village leaders. Much of the role is fulfilled simply by exercising watchful restraint—acceding to the choice of village leaders by villagers, when based on consensus, and supporting the legitimate and fair enforcement of village bye-laws. The more proactive role of the section chief involves monitoring village

compliance with chiefdom bye-laws and policies and enforcing village obligations. Those obligations concern inter-village problems and issues—matters that villages acting separately cannot adequately address, depending on one another for success. A prime example is the maintenance of roads and footpaths that link villages together in a transportation network. Clearing roads of brush and making minor road repairs are village obligations owed to other villages. Similar issues may affect water supply, school attendance, and provision of health care. Resolving inter-village conflict, such as land disputes between adjacent villages, are also part of a section chief's responsibility. To understand section chiefs, not only as agents of central authority, but also as agents of inter-village accountability, is one way to build village appreciation of their important role in the governance process.

The effectiveness of village authority, especially in the making of bye-laws, depends on institutional support supplied by section chiefs and chiefdom leaders. Section and chiefdom leaders could undermine village democracy by failing to support the village when cases that arise under village bye-laws are appealed to section chiefs or chiefdom leaders or, in the case of section chiefs, by declining to honor the choices made by villages in selecting their village leaders. The contrary in fact tends to happen: ordinarily, section and chiefdom leaders faithfully apply village bye-laws when hearing appeals and regularly defer to the choices made by villages in choosing village leaders.

The chiefdom has the responsibility to determine the obligations that villages owe to one another, best addressed through bye-laws enacted by the Chiefdom Council. The difficulty faced by the chiefdom lies with enforcement—the cost of monitoring villages for conformity with its bye-laws, largely relying on section chiefs to do the monitoring, and the difficulty of sanctioning villages as collectivities. The latter requires that chiefdom bye-laws concerning village obligations identify a relevant village leader as the responsible person representing the village and thus liable to sanction if a village responsibility goes unmet.

2. The Chiefdom Council

The principal democratic institution at the chiefdom level is the Chiefdom Council, as prescribed by general law. Just as village governance is organized to be responsive to the interests and concerns of villagers, the Chiefdom Council is the major institution providing for the representation of those same interests and concerns at the chiefdom level. This sense of purpose seems to be reflected in the general law that requires chiefdom councillors—who comprise the bulk of the membership of the Chiefdom Council—to represent every 20 taxpayers. A major difficulty with this requirement is the resulting size of the Chiefdom Council.³² The Local Tax assessment role from 2018 records just over 5000 taxpayers, producing

³² The size problem was also noted by the Campaign for Good Governance, et al (2009: 5), prompted by the addition of women to the local tax role following the decentralization of 2004.

an estimated 250 chiefdom councillors. The issue confronting the chiefdom is how to incorporate this number of councillors effectively into the process of governance at the chiefdom level, specifically, in the making of chiefdom bye-laws and approval of the annual budget.

Some means of representing the people of Kalanthuba in chiefdom governance is important for effective chiefdom leadership, for leadership (as opposed to simple authoritarian rule) is a two-way process of communication. A leader cannot lead without the ability both to speak to and listen to those being led. The leadership group in the chiefdom consists mainly of four leaders: the Paramount Chief, Speaker, Chiefdom Chairlady, and Chiefdom Youth leader, all needing to communicate effectively with those whom they lead, both speaking and listening. Bringing 250 councillors together for a meeting, however, would be a daunting task and one not well-suited to the two-way communication that is needed.

One way in which chiefdom councillors might function is to act as a ratifying group for proposed bye-laws. Ratification would not require the councillors to meet in one place, but could be conducted village-by-village, or perhaps, section-by-section. Bye-laws could be formally proposed by the Chiefdom Development Committee (CDC) as an executive committee of the Chiefdom Council, but not considered to be finally enacted until approved by a majority of the Chiefdom Council, composed of the chiefdom councillors plus other chiefdom officers and stakeholders. Ratification alone, however, does not provide for effective two-way communication concerning the content of a proposed bye-law—though a negative result would effectively communicate dissatisfaction. Ratification could be preceded by a consultative process, circulating a draft for comment by the chiefdom councillors made orally to a CDC representative and reported to the CDC. A two-stage ratification procedure such as this would also serve the important role of communicating the content of a bye-law, building support for the bye-law, and informing villagers of its requirements. Emergency bye-laws could perhaps take effect on an interim basis, pending ratification within a designated time frame. Provision could also be made for chiefdom councillors to propose new bye-laws by means of a petition, agreed to by some percentage of their total number.

No formal procedures for selecting chiefdom councillors presently exist beyond the requirement by law of one councillor per twenty taxpayers. Chiefdom bye-laws could perhaps require that the councillors chosen in each village include some percentage of persons in various categories, for example: women, youth, heads (or members) of landowning families, and heads (or members) of non-landowning families. Such requirements would increase the representativeness of the Chiefdom Council and increase the voice of women and youth, who may have been marginalized historically.

The potential for legislating on an issue such as the composition of the Chiefdom Council depends on whether the chiefdom can fill in the blanks left by parliamentary legislation. For example, the law provides no rules for the counting of votes in Chiefdom Council. Does the majority rule? The majority of a quorum? If so, what is the quorum rule? Silence in general law can be viewed as an invitation to the chiefdom to determine its own rules by means of a Basic

Law or Chieftom Constitution. Such a Basic Law could also specify the composition of the Chieftom Development Committee and its rules of procedure. Changes in the Basic Law could require a higher level of agreement than other bye-laws, perhaps concurrent majorities in each of the sections.³³

3. The Chieftom Development Committee (CDC)

The success of the chieftom hinges on its ability to sustain an ongoing process of discussion and collaboration—exchanging information and ideas—while embracing all sections and villages of the Kalanthuba. The leadership of this effort can only come from the CDC, headed by the Paramount Chief, but engaging the energy and enthusiasm of each and every member of the leadership group. As its name suggests, the focus of chieftom leadership is development—not just any development, but development that clearly serves the interests of the people of Kalanthuba—community-based development that builds a better future by building on the past and present accomplishment, not by diminishing it.

Community-based development proceeds from *shared investment* at multiple levels of community, which depends on *shared understanding* of what is being accomplished and how. Only by means of shared investment, pooling the efforts and resources of multiple families, villages, and sections of the chieftom, can community-based development occur. Only by means of a shared understanding of the ends and means of development can the collaboration needed for shared investment occur. Shared investment is needed at every level of the chieftom, pooling and combining the contribution of individuals and families. Examples of shared investment already exist: the self-help road improvement project, combining the labor resource of multiple villages and sharing tools at the section level; in one village, pooling a portion of rice from the harvest to support individual and household investment; and in several villages the use of savings to pay school fees. Investment includes investing not only in tangibles—roofs and road culverts, school buildings and clinics—but also in intangibles—pro-social attitudes and behaviours that support education, mutual aid, and civil peace. Shared

³³ The study of chieftom governance conducted by the Campaign for Good Governance, et al (2009: 8) recommended abolition of the Chieftom Council and the transfer of its functions to the Chieftom Committee. The same study also recommended direct election of the Paramount Chief (from within the ruling house) by means of universal adult suffrage in the chieftom. Chieftom councillors would thus cease to exist. As constituted, however, the Chieftom Committee, which is intended to function as an administrative body, may not provide for adequate popular representation to function as a legislative body. If the Paramount Chief is elected by means of universal suffrage, arguably the same should apply to a Chieftom Council. But there are alternatives to the use of formal elections, alternatives with considerable cultural purchase in Kalanthuba. Arguably the selection of chieftom councillors should be disconnected from the payment of the Local Tax, which may distort the process of choosing representatives. By cutting the tie to the Local Tax, villages would be free to select councillors the same way they select their other leaders—by means of deliberation and consensus. This sort of change may require parliamentary action. The larger point is that the culturally accepted, workable method of leadership selection in the villages of Kalanthuba is not to use a formal election but rather to build consensus around the choice of leaders. Such a method could well be applied to the selection of chieftom councillors.

understanding supportive of shared investment is derived from ongoing discussion and leadership at all levels. CDC members need to be seen and heard, speaking and listening, in sections and villages throughout the chiefdom, leading discussions and conducting workshops.

4. The Paramount Chief

Much, if not all, of the foregoing depends on the office of Paramount Chief (PC) and how it is conducted. The PC chairs the CDC as well as the Chiefdom Council, and in the future will chair the important Chiefdom Land Committee. In all these roles, the field study confirms that village and section leaders have high expectations of their future PC, not only as an advocate for his people to external agencies but also as an honest, fair, and impartial leader of his people, devoted to community service. *The Chieftaincy Act* of 2009 explicitly added to the customary list of responsibilities of the PC a new role as an agent of development, indicating higher expectations of the chieftaincy by parliament and government authorities as well.

The PC will, by his example, determine the spirit and tone of governance throughout the chiefdom. The Campaign for Good Governance (2009: 23-25) contrasted an authoritarian model of the chieftaincy, one encouraged by colonizers and continued by central government authorities after independence, with the strongly consensual base of chiefdom communities, dependent on social trust and cooperation alongside a spirit of reconciliation in the face of conflict. The same study (2009: 13) also stressed the importance of a chieftaincy free of partisan politics, which is understood to be potentially divisive of chiefdom communities. The leadership style adopted by the PC will determine whether the chiefdom can effectively draw upon the goodwill of its people to build a positive future together—an approach that emphasizes leadership by example and persuasion than command and obedience. A PC who listens before speaking and inquires before acting is one who can provide the leadership the chiefdom needs to fulfill its potential.

D. PENDING ISSUES, ENGAGING THE FUTURE

In addition to land tenure, discussed above, there are a number of other pending issues that will be on the chiefdom governance agenda for future attention. Moreover, the chiefdom is well positioned to address these issues and others that arise, effectively engaging the future.

1. Future of the Local Tax and Other Revenue Sources

The Local Tax appears to be a declining source of revenue for the chiefdom due to the cost of printing receipt books amid rampant inflation. Apparently, printing cost, as well as the cost of collection, is taken entirely out of the chiefdom's share of the revenue, which is actually much less than the intended 60 percent. The chiefdom also has no direct control over the tax rate, which is set by the Tonkolili District Council. Inflation has severely eroded its value, now 5 SLE per taxpayer.

An additional revenue source is available to the chiefdom under current law: market dues or fees. The difficulty is that the chiefdom has no formal market within its territorial

jurisdiction. Chiefdoms can receive 80 percent of market dues collected in the chiefdom, suggesting that the establishment of a market in Kalanthuba might appropriately be a high priority item on the development agenda. An aggressive fund-raising effort to construct a market facility can likely pay off, not only in improved local commerce, but also in a healthier chiefdom treasury.

2. Management of the Bumbuna Conservation Area and Watershed Authority

The Bumbuna Watershed Management Authority (BWMA) is perhaps the national government agency of greatest potential value to the chiefdom. Yet, it is an agency without adequate budgetary support, even though it is essential to the sustainability of the hydroelectric project. Management of the Conservation Area also suffers from lack of sufficient BWMA staff support. The latest land tenure legislation, however, raises the possibility of the co-management of protected areas between the responsible government agency and the chiefdom [see CLRA §22(3)]. Long-term sustainability of the conservation area likely depends on a collaborative relationship among chiefdom leaders, local villages located near the conservation area, and BWMA staff members. International funding for a co-management arrangement may be a possibility worth exploring, integrating sustainable use of natural resources by local villages with conservation and eco-tourism, as well as providing additional support for villages that lost land to the hydro-electric project.

3. Sharing in Hydro-electric Project Revenues by Affected Communities

Anticipated sharing in hydro-electric revenues for affected communities from Bumbuna Dam, Phase One, did not come to pass, despite initial government support for the idea. The most recent legislation establishes 10 percent as an expectation for the local share of *private* land-based investment projects [CLRA §26]. A compelling argument can be made that the same share should apply to *public* investment projects, including the Bumbuna Dam, especially for villagers who have been displaced or have lost land. Moreover, the exacting legal standards parliament has applied to displacement and resettlement of villages for private investment projects arguably also establishes a social or moral standard for public projects as well.

4. Conclusion

The process of chiefdom governance is highly consensual, especially at its foundation—the village level. Village officials share an understanding of their respective roles in that process, which is effective and predictable. Villagers participate directly in the selection of their leaders and the making and enforcement of village bye-laws, lending a strong democratic quality to village governance. Chiefdom governance is also remarkably well informed at all levels, given strong expectations of meeting attendance and the obligation to report on those meetings to local constituencies. While there are questions that remain regarding the composition of the Chiefdom Council, these questions can be resolved in ways that afford strong representation to villagers at the chiefdom level. Strong local representation and effective chiefdom leadership are complementary, not contradictory, qualities.

One of the issues of immediate concern is posed by new land-tenure legislation (see Part VI). The report sets out this set of issues in considerable depth so as to provide as much guidance as possible to chiefdom leaders as they navigate the complex—and potentially controversial—transition between a customary system based on oral tradition to a digital system based on registration. The sooner the chiefdom begins to prepare for this transition, the more likely it can be managed in a beneficial way. Advance preparation is key.

The demonstration of good governance practices in the chiefdom is an asset that the chiefdom can use in seeking development partners—whether private, non-profit, or public—on terms that the chiefdom community considers to be advantageous for its people. Investors who respect chiefdom governance are more likely to prioritize development practices that serve the best interests of local people. But well-intentioned development can also threaten the sustainability of natural resources needed for future use and enjoyment. Effective chiefdom bye-laws will be needed to afford adequate protection for natural resources as development occurs. When enacting bye-laws, the chiefdom must be sure to include negative sanctions for violators that can be applied and enforced in the Local Court.

Good governance is in many ways its own reward. As chiefdom leaders at all levels in Kalanhuba have emphasized, good governance seeks peace, and peace brings development. This conception of peace is not simply negative—the absence of violence and strife—but also positive: a process of reconciling the inevitable disputes that arise among people so that they can enjoy a life of mutual support in highly interdependent communities. Kalanhuba is well endowed to seize the historic opportunity created by de-amalgamation, both to harvest the good fruits of self-governance and to engage the future with hope and confidence.

BIBLIOGRAPHY

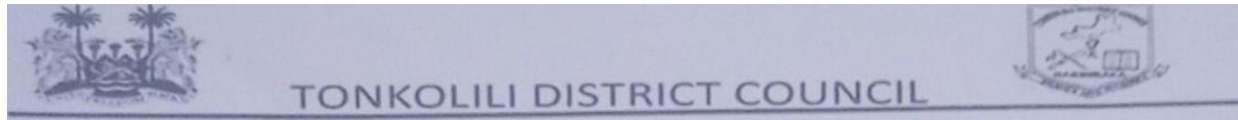
- Albrecht, Peter (2017). "The Hybrid Authority of Sierra Leone's Chiefs." In *African Studies Review* 60, no. 3 (December): 159-180.
- Ayittey, George B. N. (2005). *Africa Unchained: The Blueprint for Africa's Future*. New York: Palgrave Macmillan.
- Campaign for Good Governance, Methodist Church Sierra Leone, Network Movement for Justice and Development (2009). *Reform Is Not Against Tradition: Making Chieftaincy Relevant in 21st Century Sierra Leone*. Freetown: Partners in Conflict Transformation.
- Commonwealth Local Government Forum (2017). *The Local Government System in Sierra Leone*. www.commonwealthgovernance.org/countries/africa/sierra_leone/local-government/
- Conteh, Mohamed N'fah-Alie (2019). *Local Government and Paramount Chieftaincy in Sierra Leone: A Concise Introduction*. Published by author.
- Joireman, Sandra F. (2011). *Where There Is No Government: Enforcing Property Rights in Common Law Africa*. Oxford: Oxford University Press.
- Oakerson, Ronald J., Andrew Bonanno, and Anya Bonanno (2018). *Kalanthuba Chiefdom: A Baseline Development Study in Sierra Leone*. Houghton, NY: Houghton University. www.kalanthuba.com.
- Renner-Thomas, Ade (2010). *Land Tenure in Sierra Leone; The Law, Dualism and the Making of a Land Policy*. Central Milton Keynes, UK: Authorhouse.

LAWS CITED * AVAILABLE ON THE CHIEFDOM WEBSITE: KALANTHUBA.COM

- The Tribal Authority Ordinance* (1938) as restated in *The Chiefdom Councils Act* (1960).
- The Constitution of Sierra Leone* (1991).
- The Chieftaincy Act* (2009).*
- The Local Courts Act* (2011, amended 2014).*
- The Local Government Act* (2021).
- The Customary Land Rights Act* (2022).*
- The National Land Commission Act* (2022).*

APPENDIX

A. LETTER FROM CHIEF ADMINISTRATOR, TONKOLILI DISTRICT COUNCIL



DISTRICT COUNCIL

MAGBURAKA (North East Province)- Sierra Leone -West Africa

28 February 2023

Ronald J. Oakerson

Professor Emeritus of Political Science

Houghton University

Houghton, New York 14744

USA

Dear Professor Oakerson,

Thank you for the collaborative work you and your students have carried out with leaders of Kalanthuba

Chieftom in Tonkolili District. I am pleased that you can continue the collaboration this May and early June, 2023, with a focus on chieftom governance. The focus is timely, given the pending election of a paramount chief for the recently de-amalgamated chieftom.

Permission is granted to Professor Emeritus Ronald Oakerson from Houghton University in the USA to lead a small team of up to ten undergraduate students and alumni of the university to carry out a field study in Kalanthuba Chieftom collaboratively with chieftom leaders over a period of 18-20 days from approximately 19 May to 6 June 2023; Team access to the chieftom for this period of time is approved. Daniel Sara Turay of Kalanthuba will be responsible for local arrangements.

The purpose of the study is to facilitate a conversation on chiefdom governance among chiefdom leaders at all levels—chiefdom, section, and village. The study will focus on the structure and process of chiefdom governance including the responsibilities of chiefdom, section, and village leaders as well as processes related to dispute resolution and land tenure. The study will include conversations with the leadership of the chiefdom and its five sections, as well as conversations with village leaders in selected villages. The field study will provide opportunities for chiefdom leaders at all levels to reflect on their responsibilities and consider the processes best suited to govern Kalanthuba in ways that foster sustainable development. A written report of the study will be delivered to chiefdom and section leaders and posted online at www.kalanthuba.com, the chiefdom's website.

Please let us know if there are further ways in which District staff and I can be of assistance as you carry out your work.

Sincerely,

Bangali Foday Marrah

Chief Administrator

ir work.
ply
li Foday Marrah
Administrator

The image shows a handwritten signature in blue ink over a circular official stamp. The stamp contains the text 'CHIEF ADMINISTRATOR' at the top and 'TINKOLILI DISTRICT COUNCIL' at the bottom. The center of the stamp features a shield with a map of the district, a scale of justice, and other symbols. The signature is written over the stamp and extends to the left.

Marrahbf64@gmail.com

B. CONSENT STATEMENTS

Focus Groups

READ IN TRANSLATION AT THE BEGINNING OF GROUP DISCUSSION:

At the invitation of chiefdom leaders, Houghton University is conducting a field study of patterns and problems of leadership and governance in Kalanthuba Chiefdom. The university team is holding discussions with chiefdom, section, and village leaders throughout the chiefdom. The discussions are intended to provide a description of patterns of governance and its challenges from the perspective of participants at all levels. The Houghton team will ask you a series of questions and make a written summary of your responses. The discussion will take about one hour. A summary report will be provided to the regent chief and chiefdom speaker. Your responses are confidential. The report will not identify particular responses to questions with any individual participant. Your participation is entirely

voluntary, and you may leave the group discussion at any time. Please indicate your consent to participate in this study by raising your hand. Thank you in advance for your participation in this study.

Chiefdom Leaders

At the invitation of chiefdom leaders, Houghton University is conducting a field study of patterns and problems of leadership and governance in Kalanthuba Chiefdom. The university team is holding discussions with chiefdom, section, and village leaders throughout the chiefdom. The discussions are intended to provide a description of patterns of governance and its challenges from the perspective of participants at all levels. The Houghton team will ask you a series of questions and make a written summary of your responses. The discussion will take about one hour. A summary report will be provided to the regent chief and chiefdom speaker. Your responses are confidential. The report will not identify particular responses to questions with any individual participant. Your participation is entirely voluntary, and you may terminate the interview at any time. Please indicate your consent to participate in this study by signing the statement below. Thank you in advance for your participation in this study.

Signature

_____ Date _____

Both consent statements were approved by the Institutional Review Board, Houghton University, for use in this field study.

C. FOCUS GROUP QUESTIONS FOR VILLAGE LEADERS

How would you describe the role of the headman (chief) in your village? How is the headman chosen?

How would you describe the role of the chairlady (mommy queen) in your village? How is the chairlady chosen?

How would you describe the role of the youth leader in your village? How is the youth leader chosen?

What is the nature of your relationship to the other village leaders?

How often does the entire village gather for a meeting? What sorts of decisions are made at such meetings? Are decisions made by vote or by consensus?

What village lands are owned by (extended) families? By individuals? By the village?

Who are the landowning families in the village? Non-landowning families?

How do farmers gain access to land in the village? Within landowning families? From outside landowning families? What about access by women? Youth?

When land disputes arise, how are those disputes resolved?

What jobs or tasks in the community is the village responsible for? Maintenance of footpaths, bridges, roads? Water supply? Sanitation? Other? What groups are assigned to carry out these tasks?

Other than land disputes, what are some other sources of conflict in the village? How are these conflicts resolved?

Do villagers appeal to section or chiefdom level leaders to resolve disputes? Under what circumstances?

Do villagers take cases to the local court in the chiefdom?

Do village leaders participate in collecting the head tax for the chiefdom?

What school do children in the village attend? In what ways does the village support the school?

How would you describe the function of section leaders in your section? What is your relationship to section leaders?

How would you describe the function of chiefdom leaders in Kalanhuba? What is your relationship to chiefdom leaders?

What do you believe are the responsibilities of a Paramount Chief in Kalanhuba Chiefdom? What are your expectations of a Paramount Chief once elected?

How many adults in your village can read and write?

D. VILLAGE LEADER FOCUS-GROUP PARTICIPATION, BY SECTION AND VILLAGE

Site	Village	Section	VC	MQ	YL
Kasokira	Kasokira	Kasokira	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Kasokira	Kadala	Kasokira	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Kasokira	Kegbema	Kasokira	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Kathombo	Kathombo	Kasokira	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Kathombo	Kamasapie	Kasokira	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Kathombo	Kamankay	Kasokira	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Kathombo	Kawonor	Kasokira	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Kathombo	Kamathor	Kasokira	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Kasasie	Kasasie	Kasokira	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Kasasie	Kayakala	Kasokira	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kasasie	Kamera	Kasokira	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Kasasie	Kawungulu	Folladugu	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Kasasie	Kamasaypayna?	Folladugu	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kasasie	Kathenbeng	Folladugu	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kasasie	Kakuthang	Folladugu	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kasasie	Kathiawna	Folladugu	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Kasasie	Kakumba	Folladugu	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kasasie	Kamasapie 2	Folladugu	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kasasie	Kasankori	Folladugu	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kasasie	Kateneh	Folladugu	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Kadandan	Kadandan	Kamakatheh	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Kamasaypayna	Kamasaypayna	Kamakatheh	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Kamasaypayna	Kafunkia	Kamakatheh	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Kamasaypayna	Kamagbaray	Kamakatheh	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Kamasaypayna	Kadanso	Kamakatheh	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Kamasaypayna	Kawonor II	Kamakatheh	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Kamera	Kasangbaba	Kamakahila	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Kamera	Kamera	Kamakahila	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Kamera	Kamaraypay	Kamakahila	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Kamera	Kamarimbie	Kamakahila	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Kamera	Kasonpona	Kamakahila	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kamera	Kakonthan	Kamakahila	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Kakamalor	Kakamalor	Kamakahila	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Kakamalor	Kamasiki	Kakalain	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Kakamalor	Kakarima	Kakalain	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

E. SYNOPSIS OF THE NATIONAL LAND COMMISSION ACT (NLCA) OF 2022

This synopsis should not be construed as constituting legal advice or counsel. Chiefdom leaders and others are urged to consult relevant parts of the law and/or obtain legal counsel before acting on any of the relevant issues.

The NLCA establishes a structure and process for land registration. The National Land Commission (NLC), an inter-ministerial agency, is created and charged with registering title to land throughout Sierra Leone and maintaining a national Land Registry. The Commission will establish branch officers in each district to be known as District Land Commissions, contingent on the availability of financing. District land officers will accept application for land registration, maintain a district land registry, and provide technical support on land registration to

chiefdoms. The NLCA also provides for Chiefdom Land Committees (CLCs) to oversee land registration in each chiefdom and for Village Area Land Committees (VALCs) to implement land registration at the town or village level. Finally, the NLCA establishes a process for land registration of customary land to occur at the request of landowners, whether families, villages, or the chiefdom.

1. Local Structure

Chiefdom Land Committees are to be chaired by the Paramount Chief or his representative. The composition of the CLC is to include one landowner and one land user (presumably a non-landowner) from each section of the chiefdom. Women must compose 30 percent of the members. The selection process is somewhat unclear: both the landowner and land-user members are to be “nominated by the Town or Village Area Land Committee in accordance with customary law” [NLCA §43c]. The statutory functions of the CLC include the following:

- Managing communal chiefdom lands;
- Enforcing rules for sustainable use of natural resources (forests, grazing lands, rivers, swamps);
- Managing communal village lands and enforcing rules for sustainable use of natural resources in those villages that have not adopted land-use rules;
- Certifying land registration applications, submitting those applications to the District Land Commission, and receiving the title documents;
- Maintaining a facsimile of registered customary land rights in the chiefdom;
- Managing the collection and use of land taxes levied by the chiefdom.

Village Area Land Committees (VALCs) are to be chaired by the village chief (or his representative) and be composed of four resident landowners and two resident non-landowners, plus the section chief. The resident landowners and non-landowners are to be “elected by a majority vote of two-thirds of the residents of the community aged 18 years and above” [NLCA, § 50]. At least 30 percent of the members are to be women. The statutory functions of the VALC include the following:

- Managing village communal lands;
- Adopting and enforcing rules for sustainable use of land and natural resources;
- Resolving land tenure disputes within the village.

The NLCA also makes provision for villages that have not created VALCs or have not adopted bye-laws governing communal land and the use of natural resources. The Chiefdom Council is authorized to manage and administer land and natural resources in villages without VALCs [NLCA, §75]. The bye-laws adopted by the Chiefdom Land Committee are governing in villages without bye-laws [NLCA §74 (1)], though village bye-laws, when adopted, “have priority of application and enforcement” [NLCA §74 (2)].

2. Process of Registration

The registry of land rights is to contain a record of various land tenure rights under customary law as well as general (non-customary) law. Those rights include (but are not limited to) ownership, possessory interests such as leasehold, mortgages and liens, encumbrances, and “other proprietary, possessory, or use rights recognized under customary law” [NLCA §60 (3)]. As proof of land rights, the District Land Registrar will issue title deeds, “customary land title certificates,” or other documentation [NLCA §62 (3) (b)]. For the purpose of registration, registrants may submit evidence of a land tenure right in various forms of documentation, including a title deed, customary land title certificate, lease agreement, mortgage deed, or other document “memorializing a proprietary or use right under general or customary law” [NLCA §67 (1)]; or in the absence of documentation, registrants may submit “oral or landscape based evidence” of a type to be determined by the National Land Commission [NLCA §67 (2)]. Also, time of registration matters: “Except where the right or its registration was obtained by fraud or dishonesty, earlier registered rights shall be considered superior to later registered rights” [NLCA §67 (3)]. However, “Non-registration of any land subject to customary law shall not invalidate title or ownership of the land” [NLCA §69]. Registration will be subject to a fee, although it can be waived or reduced for registrants with a monthly income below the minimum monthly wage. Any family or community seeking to register land may request the assistance of a para-legal or para-surveyor available through the District Land Commission office.

The registration of family land under customary law requires the mapping of the land area, a “signed boundary harmonization agreement with neighbouring land owners, and tree planting or designation of other “natural physical markers” to delineate the land boundaries [NLCA §65 (a)].

Villages and chiefdoms may register land considered under customary law to be communal land. The NCLA defines “Communal or Community land” as “land subject to customary law, owned and managed by a community in any of the provinces,” which “may include” wetlands, forests, grazing lands, market areas, sacred sites, [or] graveyards [NLCA, §1]. The registration of village communal land requires the adoption of community rules governing use of the land area, mapping the land area, establishment of a village area land committee, “signed boundary harmonization agreements with neighbouring communities,” and tree planting or designation of other “natural physical markers” to delineate the boundaries of the communal land area [NLCA §65 (b)]. Chiefdom Councils appear to be able to act in behalf of villages lacking village land committees to register communal land within the village [NLCA, §74, §75].

The registration of communal lands, whether land is held by a village or by the chiefdom, requires the same sort of process—submitting evidence of ownership and boundary harmonization agreements. It is possible that villages may claim parcels as communal land that are also claimed as family land. Resolution of the dispute turns on what customary law requires. Village lands that seem to be strong candidates for designation as communal include

sacred bush or forest and church grounds. What about school grounds? Common areas within villages? Court barrays? What about housing compounds—family or communal? Some lands may be communal with respect to the chiefdom rather than villages. Pathways and roads? Meeting places? Are there natural resources that serve the entire chiefdom and thus are candidates for communal registration at the chiefdom level? Large land areas, such as forests, not used by any single family but instead are open to all users, might be considered chiefdom communal land. Working through these distinctions at the chiefdom level may require lengthy discussion among relevant stakeholders.

Disputes over land tenure rights are apt to arise during the process of registration. Disputes may occur within landowning families, between landowning families, between villages and landowning families, or between villages. To resolve such disputes, each Chiefdom Land Committee is to establish a Land Adjudication Tribunal (LAT) as a subcommittee. The LAT has three members: one member of the Chiefdom Land Committee to serve as chair and two other persons selected by the Chiefdom Land Committee. At least one member must be literate (in order to keep records of meetings and findings), and at least one member must be a woman.

Intra-village disputes are first taken to the Village Area land Committee for resolution. Either party to a dispute may then lodge a complaint with the Chiefdom Land Committee. The LAT is assigned to gather information from the parties and “issue its findings on the validity of a land right within one month” from the date of the complaint [NLCA § 78 (7)]. If the Chiefdom Land Committee is party to a dispute, the District Land Commission is the designated adjudicating body. Either party may appeal the findings of the LAT to the Local Court within one week. Appeal may also be made to the District Land Commission and, if the dispute persists, to the Magistrate Court [see NLCA §79]. Land tenure disputes may also occur after land has been registered, but the LAT is constituted to hear only pre-registration disputes. The post-registration route of appeal seems to lie with village and chiefdom land committees, followed by the local court and/or district land commission. The National Land Commission is to establish a “grievance redress mechanism whereby a person can challenge decisions of the Commission in respect of land for which he has a right or claim” [NLCA §77 (1)].

F. SYNOPSIS OF *THE CUSTOMARY LAND RIGHTS ACT (CLRA) OF 2022*

This synopsis should not be construed as constituting legal advice or counsel. Chiefdom leaders and others are urged to consult relevant parts of the law and/or obtain legal counsel before acting on any of the relevant issues.

The CLRA addresses the rights of individuals within families and communities as landholding units. Discrimination in land tenure on the basis of gender, age, or tribal affiliation is prohibited: any citizen may acquire and own land anywhere in the country. The Act establishes rules governing the transfer of land use rights for family and community lands, intended to protect the holders of customary land rights against denial of their rights in the course of land-based transactions, especially by external investors who seek land for large-scale projects. Included is protection for access to common lands [see CLRA § (2, e)].

1. Family Lands

Title to family land is vested in the family as a unit. Family lands are to be managed sustainably “taking into consideration the rights and interests of the future generations of the family” [CLRA §10 (3)]. Male and female members of the family have the same rights and privileges. A Head of Family is precluded from making unilateral decisions related to land, “particularly relating to lease, assignment or grant of land” and is considered to be accountable to both male and female family members of “all actions taken” [CLRA §10 (a) (b)]. Prior to entering into any land transaction, the Head of Family is required to obtain “the written informed consent of at least 60% of the male and female adult members of the family” [CLRA §11 (1)]. Family members may establish a “negotiating committee to negotiate the land transaction” comprised of the Head of Family and a “fair representation” of male and female adult family members [CLRA §11 (4)]. The document signed by family members indicating consent to the land transaction is to be presented to the Chieftom Committee for certification to be signed by the Paramount Chief (or representative) and then submitted to the District Registry for registration.

Landowning families may continue, as well established by custom, to grant “seasonal, indefinite, short term, long term or any type of tenancy recognized under customary law” [CLRA §15 (1)]. A format for customary tenancies is specified as a schedule in the Act, apparently requiring a written agreement, including duration of the tenancy and “consideration to be paid or given by the tenant” [CLRA, Third Schedule]. Long term tenancies for commercial use must not exceed 50 years. Pledging land as security for a debt requires that land be registered before being pledged.

2. Community Lands and Resources

A chieftom or village area land committee adopts and enforces rules for the use of communal land in its jurisdiction, but subject to those rules, “all members of a community shall have access to use community land” [CLRA §13 (3)].

Long term tenancies are possible, and an indefinite tenancy agreement is prohibited for investment purposes. Any investment on communal land requires a high level of agreement in the community: “Acquisition of community land for investment shall not be valid unless the investor obtains the written informed consent of a fair representation of the male and female adult members of the community during a community meeting on the investment . . .” [CLRA §21 (1)].

The common resources of a community can also be affected by investment on family lands within or nearby the community. These communal interests are also protected by the Act: such communities “shall be provided with an equivalent or better alternative source of that common resource by the investor” [CLRA §36].

3. Ecological Sensitive Areas and Traditional Use of Natural Resources

The CLRA makes special provision for the protection of ecologically sensitive areas, including wetland, wildlife habitat, steep slopes, old growth or virgin forests, and “any other area designated as sensitive under customary law” [CLRA §1]. Officers in charge of mining, plantation, farming, housing, or “any other development activity” must ensure that these activities do not take place “within, near or adjacent to” ecologically sensitive areas [CLRA, section 21]. Persons guilty of causing harm to such areas are “fully responsible” for restoration of the area to its “original state” [CLRA §22 (2)].

Chieftdom councils and village communities are charged with adopting and enforcing “customary rules and practices” that protect and conserve ecologically sensitive areas [CLRA §23]. The chieftdom committee may enter into a co-management arrangement of an ecologically sensitive area with the “responsible government agency” [CLRA §22 (3)].

The CLRA also contains explicit protection for traditional users of natural resources for “livelihood, spiritual or religious purposes,” whose community lands lie “within, near or adjacent to” such resources, including “forests, grazing lands, rivers and swamps” [CLRA §23 (1)]. However, those traditional uses may be “restricted or terminated” by government “in collaboration with the Chieftdom Council,” if the resource is in “danger of depletion,” though the government is obliged “to cushion the effect of the restriction or termination of use on the communities” [CLRA §23 (2)].

The Chieftdom Land Committee and Village Land Committees are charged with adopting and enforcing rules for the “sustainable use” of natural resources, “including rules governing or outlawing extraction of natural resources, such as cutting timber or mining sand, for use outside the community” [CLRA §23 (4)].

4. Land Investment Rules

The CLRA contains a number of rules intended to protect the interests of customary landowners and communities. Non-citizens are limited to a leasehold interest in customary lands of no more than 50 years. Ten percent of the shares in a land based foreign investment is reserved for Sierra Leoneans, with priority given to landowners in the “project community” [CLRA §26 (2-3)]. Land “automatically” reverts to its owners if investors fail to utilize “or fully utilize” the land “for the purpose for which it was acquired” [CLRA §27 (5)]. The government is charged with ensuring that “communities do not suffer land stress as a result of the leasehold” [CLRA §27 (6)]. Of particular note for subsistence farming communities, community members have a right to use leased land for grazing or farming as long as the use does not adversely affect “the business of the lease” [CLRA §27 (7)].

Compensation is required for certain damages caused by investment activity. Investors who infringe on the “rights or interests of lawful occupiers of land” must compensate them for the “disturbance” caused [CLRA §38]. When leased land contains crops, landowners must be

compensated for loss of crops caused by the investment at market value or according to “rates set by the relevant government agency” [CLRA §39].

Specific rules apply to the process of negotiating a land investment lease to ensure that the consent of customary landowners (60 percent of the members of a landowning family or a fair representation of a landowning community) be well informed. Investors are obliged to provide “concerned communities” with “relevant information” prior to the start of negotiations, concerning the “nature, scope, risks and opportunities” of the project, a business plan, and required government approval [CLRA §29]. Included in the lease agreement is the expected use of natural resources: permitted changes to the natural landscape, specific resources to be used and the “terms of use,” rules of use the investor must follow, and expected environmental impacts [CLRA, Second Schedule (4-5)]. A lease agreement with the required signatures of the landowners is required prior to beginning investment activity. The “demarcation and survey” of land leased for investment requires “full participation” by landowning families or communities [CLRA §42].

Restrictive rules apply to displacement and resettlement of communities affected by land investments. Investors are required to show that displacement of communities, “in whole or in part,” is “unavoidable” [CLRA §43 (1-2)]. In addition to approval by government ministry, community approval is required: investors must obtain “the free, prior and informed consent of the adult male and female members of the affected community” [CLRA §43 (6)]. Unanticipated displacement during the course of an investment is permitted only if there is “real and present danger to the life and livelihood of the community” [CLRA §43 (4)].

Additional conditions apply if and when displacement and resettlement occur. The full cost is borne by the investor; community members, “particularly women and youth,” are “consulted and meaningfully involved” in the process of resettlement; the investor has conducted a “comprehensive socio-economic baseline study and submitted to both government and the community a resettlement action plan for their approval; resettlement must not “result in the deterioration of living conditions” for community inhabitants; “mitigation measures” are included in the resettlement action plan and “agreed with the community;” structures built in a new location are covered by a 5-year guarantee against “substandard materials or poor workmanship;” no resettlement occurs until “required structures have been constructed in the new location and certified fit for habitation and use” [CLRA §43 (7-14)].

Complaints against investors may be brought before the Village Area Land Committee or Chiefdom Land Committee for resolution, unless of a special nature that requires resolution by the Environment Protection Agency or national Minerals Agency [CLRA §44 (5-6)]. Enforcement is carried out by the Chiefdom Council with appeal to the Local Court.