Reform of Liberia's Civil Law Concerning Land

A Proposed Strategy

Report to the Land Commission

John W. Bruce (International Consultant)
&
Boakai N. Kanneh (National Consultant)

Final

February 16, 2011

List of Acronyms

CNDRA	Center for National Documents and Records/Archives
DLSC	Department of Lands, Surveys and Cartography
FAO	Food and Agriculture Organization
FDA	Forestry Development Authority
GIS	Geographic Information Systems
GPS	Global Positioning Satellite
INA	Interim National Assembly
LCR	Liberian Codes Revised
LIS	Land Information Systems
MCC	Millennium Challenge Corporation
MIA	Ministry of Internal Affairs
MLME	Ministry of Lands, Mines and Energy
PCC	Public Procurement & Concessions
PRC	People's Redemption Council
SOW	Scope of Work
TOR	Terms of Reference
UNCHR	United Nations Centre for Human Settlements
UN-HABITAT	United Nations Human Settlements Programme
USAID	United States Agency for International Development

Introduction

Reform of land law is increasingly seen as critical to both development processes and post-conflict reconstruction,[1] and proposals for reform of the land law of Liberia are a key part of the mandate of the Land Commission. The law establishing the Land Commission in Section 3.1.3 mandates the Commission to "recommend remedies for inadequacies, including but not limited to, actions, programs and reforms of land policy, law and institutions." There are number of laws and regulations in Liberia that deal with land directly, and many more that interact with the law concerning land in important ways. Review and reforms are considerable tasks. In addition to identifying needed changes in the law concerning land, it is important that the *process* of law reform be considered and its place defined in relation to other activities, in particular land policy-making.

The consultants' scope of work indicates that they are to review the civil law concerning land in Liberia. They are to identify strengths, flaws and gaps, and propose a strategic approach to accomplishing necessary revisions and new laws within the five-year time frame of the Commission. Some laws are simply antiquated, and need replacement for that reason. Others raise serious policy questions. In other cases, there are simply gaps in the law that require filling. The consultants reviewed existing laws and are proposing new laws. They also suggest how the work ahead might best be organized, and the process by which the Commission can move to consider key land policies and then move on to the reforms of law required by those policy decisions.

The consultants wish to thank the Chairman of the Land Commission, Dr. Othello Brandy; Commissioner Eddington Varmah, the Commissioner responsible for legal matters; Mr. Ambrose Gbormie (Program Officer for Commissioner Varmah) and Mr. Caleb Stevens, Esq. (Carter Center Law Fellow with the Commission) for their very considerable assistance. The consultants are grateful to all in the Commission Secretariat for the full cooperation and support they received, to Dr. Jeanette Carter for her advice, as well as her work on the SOW and contacts, and Ms. Aletha Brown, for her assistance with contracting and travel arrangements.

The funding for this activity was provided to the Land Commission by the World Bank, and thanks are due to Nyaneba Nkrumah, the task manager for the Bank's assistance to the Land Commission.

[1] See Bruce, John W., "Reform of Land Law in the Context of World Bank Lending", at pp. 11-65 of John W. Bruce and others (eds.) *Land Law Reform: Achieving Development Policy Objectives*. Washington DC: Legal Vice-Presidency, World Bank, 2006.

Executive Summary

1. The review and reform of land policy and the law concerning land are core tasks of the Land Commission, tasks which deserve the highest priority. The purpose of this consultancy is to propose a strategy for accomplishing this task within its five year time frame, but with the thoughtful consideration and stakeholder consultation that these important issues deserve.

2. Consideration of land policy should precede the drafting of new laws on land. Laws are a key tool in implementing policy, but not the only tool. The Commission has established a good precedent in the policy review process it has pursued in reviewing the public land sale program and public land issues more generally, then identifying the reforms that do and do not require legal reforms. It is important that continuity be maintained between that policy exercise and the drafting of needed laws. The Commission should remain actively involved through the legal drafting process and presentation of bills to the Legislature.

3. Existing land policy has not been articulated in any comprehensive way by Liberian governments, but existing land laws provide evidence of the policies concerned. It is therefore appropriate to begin with a consideration of existing laws. In the review of over twenty-five laws dealing directly with land or land-based resources, it was found that many of the more fundamental laws, enacted in the late 19th century, have been rendered seriously inadequate by changing conditions, needs and values. A thorough overhaul of the legal framework for land is needed. Because some legal reforms are urgent, while others pose issues for which studies are only beginning, it is preferable for the Commission to propose a number of new laws, rather than a single comprehensive law on land. These laws should in the end provide a coherent and consistent legal framework for land.

4. One issue of particular consequence concerns the legal treatment of customary land tenure. Liberia has in practice had a dualistic legal system, and those holding land under custom suffer serious insecurity of tenure. A key reform task is providing for those holders under custom a security of tenure comparable to that of those holding under statutory tenure. To achieve this, the two systems need to be harmonized: customary rights should be recognized, given legal parity with statutory rights, and provided with comparable legal protection by national law.

5. Reform of the law relating to land is not just a matter of reforming property rights, but must deal with the institutions which implement land law. Their legal mandates and structures are a critical part of the legal framework for land. Liberia's institutional framework for land administration and management is fragmented: sectoral and other agencies play major roles and the ministry with a cross-cutting responsibility for land has a notably weak mandate. Consideration should be given to the creation of a new agency for dealing with land, one with a much more robust mandate. At the same time, authority over land at county and sub-county levels needs to be reformed, both to achieve the objectives of the government's decentralization policy and to ensure that there are mutually supportive linkages to the central government agency responsible for land.

6. The law reform task facing the Commission is very considerable. It cannot and should not be tackled one law at a time. In order to accomplish it within the time frame allowed and to do so with due deliberation and consultation, the Commission should reorient its staff and other resources. Rather than one task force dealing with policy reform, there should be at least three such task forces, each examining particular clusters of policy issues and laws, enunciating policies, and moving on to develop any needed new laws.

7. In order to expedite this work, and to ensure that related laws are considered together, the work of the Commission should be organized into a number of clusters, each of which should be the responsibility of a different task force. Three such clusters are recommended:

    a) A real property rights cluster, dealing with public land, private land, and community land;

    b) An urban land management cluster, dealing with several existing laws addressing urban concerns but adding new elements such as urban land use planning and regularization/readjustment of urban informal settlements, and

    c) A land administration cluster, dealing with the institutional framework for land administration and management, including services provided by or regulated by those institutions, including land survey, land registration (title registration and deeds registration), and public land management.

    There are two land matters that fall outside these clusters but do need review and reform: the real property tax and condominiums. These are seen as less urgent but should nonetheless be explored by the Commission.

8. Policy work for each cluster should begin as soon as possible, and teams of local and international consultants should be contracted to conduct detailed reviews of policy and law for those clusters. Those consultants should make detailed recommendations on policy and law, upon which basis the drafting of any needed new laws can begin. The donor agencies supporting the Commission should be approached as soon as possible with regard to needed consultancies and consultations. Some comparative advantages of the several donors for work in different clusters are noted.

Contents

1. The Consultancy

The scope of work for the consultants, developed in consultation with the World Bank and other land sector actors, calls for them to review and assess the civil law on land, including both private and public land. They are asked to identify gaps and propose changes to improve and modernize these bodies of laws. Detailed criteria for this assessment are provided in terms of policy objectives. The recommendations will not be exhaustive, but they should identify the most serious problems and priorities, and they propose a strategic, phased approach to policy and law reform. The SOW requires that the recommendations "provide a basis upon which the Land Commission can carry out consultation with stakeholders on proposed reforms and eventually put forward detailed land law reform proposals for further development in collaboration with the Law Reform Commission." The purpose of this report is not to provide highly detailed recommendations on specific statutes, but to assess them and to provide recommendations regarding them that allow a law reform strategy to be developed that will provide a base upon which further law reform activities can build.

The key provisions of the SOW state:

The Scope of Work under this contract is to work with the Land Commission and other key partners to develop a strategy for the land law revision process to be undertaken by the Land Commission under the terms of its mandate.

- Identifying what needs to be done to implement the land law revision process, including possible approaches and the steps involved.
- Identifying consultancies to focus on particular bodies of law and to develop their TORS
- Identifying and organizing the processes of reviewing laws and the drafting of revisions or new laws.
- Identifying options to be explored for the harmonization of statutory and customary law
- Meeting with and consulting with relevant officials, e.g. MLME and the Law Reform Commission, in achieving the above.

An initial mission took place for two weeks in August 2010, and was reported upon in an inception report. The consultants, in developing their inception report, held initial discussions with the Commissioners whose responsibilities are most directly related to the policy and legal areas (including the Chairman, Dr. C.T.O. Brandy; Vice-Chairman Walter Wisner (land administration), Commissioner Eddington Varmah (legal reform), and Commissioner Estelle Liberty (land policy) and other key stakeholders, as required by the terms of reference. This has included key staff of the Law Reform Commission, with which the Land Commission has a contract for collection of statutes and other relevant legal materials, and for summarizing, reviewing and analyzing all decisions of the Supreme Court dealing with land law. The international consultant also met with representatives of MCC, USAID and UNCHS to discuss coordination of donor assistance on law reform activities. An Inception Report was presented by the consultants at the end of the August 2010 mission and approved by the Commission. Some portions of this report are incorporated into this final report.

During the gap between missions, the national consultant continued working with Mr. Ambrose Gbomie (Program Officer for Commissioner Varmah) and Mr. Caleb Stevens, Esq. (Carter Center Law Fellow with the Commission) to collect all relevant statutes and other helpful materials. The full list of the laws and other materials assembled is attached in Annex A. The national consultant also met with several senior members of the judiciary, who shared their perceptions of the state of the law relating to land. A full list of those met with by the consultants is provided in Annex B. The national consultant also liaised with the Law Reform Commission, which was collecting, summarizing and analyzing the precedents of the Supreme Court concerning land. By the consultants' second mission in December 2010, the Law Reform Commission had completed and submitted its review of the Supreme Court cases on land, with summaries of some key laws. The case summaries and summaries of key laws have been useful, but analysis of the cases remains to be done. It was, however, possible to draw from the case summaries some impressions regarding the nature of the common law concerning land, which was helpful in thinking through the relative role to be played by statutory and judge-made law in the land law as reformed. It is hoped that the further analysis of this material expected from the Law Reform Commission will be completed shortly.

2. Land Policy-Making and Land Law Reform

The consultants have been able to participate in the process of policy consideration by the Commission's land policy task force dealing with public lands, operating under the leadership of Commissioner Estelle Liberty. That process has been thoughtful and deliberate, and as outlined below, provides an appropriate model for dealing with other specific areas of policy reform and recommendations for legal reforms.

It cannot be stressed too much that thoughtful policy-making should precede legal drafting. Law is one means of implementing policy. Good policy development requires broad expert and popular consultation. The most important stakeholders are not lawyers or officials, but those whose property rights and livelihoods are affected by existing policy and law. These are the people "who wear the shoes, and so know how they fit". Once basic policy positions are developed, if it is clear that a law needs to be revised or replaced in order to achieve the policy objectives, then that policy serves as directions to the legal drafting team.

That policy development process is best done by an interdisciplinary task force on which key stakeholders are represented, including both concerned government agencies and civil society. This is the case with the Land Commission's task force considering public lands. Currently, that task force has a sub-committee preparing an interim policy statement on public land and several other sub-committees working on particularly difficult policy domains, such as appropriate pricing of public land and the appropriate sizes for allocations of public land.

Based in part upon the good practices of the Commission's land policy task force, it is recommended that the policy reform to law reform process for each area of law be as follows:

1) The Commissioner concerned should organize a task force with broad stakeholder participation to consider and develop policy recommendations for the policy area concerned.
2) Any needed consultancies should be commissioned.

3) A systematic review of the current policy and legal position should be carried out by the task force through review of information from consultants, public consultations, and invited speakers on issues concerned.

4) Development of an interim policy statement for review by the full Commission.

5) Upon approval of the interim policy statement by the Commission, consultation with the public and civil society and consultation with concerned government agencies on the interim policy statement.

6) Based on the feedback from those consultations, the Commission should then finalize its policy recommendations. The recommendations should be specific with regard to key needed legal changes.

7) That policy should be passed to a Legal Drafting Team assembled by the Commission. That Team should be led by the concerned Commissioner from the Land Commission and include both lawyers and non-lawyers. There should be one member from the Law Reform Commission. Key members of the relevant standing committees of the legislature should also participate, and there should be contacts with the President's legislative liaison to ensure he/she is aware of the proposed bill and its contents.

8) The role of the Legal Drafting Team is to guide and supervise the legal drafter, who should be a member of the Team. The Team's role is not to draft the law. Committees do not draft well; their role is to keep the legal drafting exercise on track from a policy standpoint.

9) The Commission should wherever possible engage an international consultant to give the Team the benefit of international best practices, and a Liberian legal lawyer familiar with the conventions of statutory drafting, construction and interpretation in Liberia.[2]

10) The draft law or legal amendments should be reviewed by the Team and when it is in good shape, they should forward it to a review committee for its comments. This could be a legal review team organized by the Land Commission, or arranged through the Law Reform Commission. At any rate, the Law Reform Commission should participate. Broad popular consultation on a law is difficult, given its technical nature. Rather the main popular consultation should have taken place at the policy stage. But it is a good idea to publish the draft law, or a summary of and rationale for the draft law, in newspapers to allow for public discussion and to hold small workshops on its provisions for specific interest groups, including legislators.

11) Based on the feedback, the bill should be finalized and formally proposed to the President for submission to the Legislature. Ideally, it should be jointly proposed by the Land Commission and the Law Reform Commission, or failing that, the Land Commission.

Different laws may require somewhat different processes, depending for instance on whether they deal with fundamental policy issues or more technical matters. The policy to law process will take time. Preparation of a law will often take a year, even if it is undertaken intensively, though the time needed will, of course, depend on the complexity of the area of law to be covered. If the Commission goes at this one policy domain and one law at a time, it

[2] It should be noted that Liberia has a General Construction Law (Vol. III, Title 15, Liberian Codes Revised). In this context "construction" refers to the construction (interpretation) of statutes.

will not be able to complete the needed work in any reasonable time frame. Section 5 of this report includes further suggestions on how the Commission can try to organize its work to move the policy/law reform process forward expeditiously.

3. A Threshold Question: One or Several Laws on Land?

The international consultant in his 2007 report to the World Bank suggested a single new comprehensive law on land be the objective pursued, but subsequent discussions with the Commissioners and others have made it clear that this may not be the appropriate approach. There are some areas of law for which there are more urgent needs and stronger popular demand for reforms, notably the Public Lands Law. A current "single land law" drafting effort for Ghana has become badly bogged down, raising questions about the practicality of the approach. Policies may need to be developed and laws to implement those policies prepared and enacted without waiting for all policy domains to be covered.

Doing a number of laws rather than a single law will have the advantage of sending bills of a digestible length to the Legislature rather than a single, extremely long law over which deliberations might easily stall. Doing a succession of new laws has a disadvantage, in that coordination of the provisions of the various laws will be more challenging, but this should not be too problematic given that the Land Commission will be exercising over-all management of the legal drafting process. The prospect of dealing with a very long list of revised or new laws will also be daunting. This report attempts to identify several policy domains, each involving several laws, and proposes that these be dealt with as clusters for purposes of law reform. This is covered in Section 7 of this report.

It is suggested that the style of legal drafting employed emphasize brevity, clarity and minimal use of legal jargon, and that matters of process and other detail usually be left to regulations to be made under each law. It is further recommended that basic regulations be prepared in draft at the same time as the law itself and be ready for immediate promulgation upon enactment of the law.
The consultants consider that the review of existing laws was the only sound basis on which a strategy for law reform could be developed, and this review is presented in the following part of this report.

4. Existing Laws: Assessment, Issues and Recommendations

This section reviews particular laws, assesses their adequacy, notes issues that need to be explored further, and recommends whether the statute is adequate as it stands, requires amendment, or requires repeal and replacement. General summaries of the laws covered here are presented in Annex C.

4.1 The Constitution, 1986

The 1986 Liberian Constitution includes a number of provisions related to real property rights.

Article 22 provides that "Every person shall have the right to own property alone as well as in association with others." It limits that right to Liberian citizens, but makes an exception for non-citizen missionary, educational and other benevolent institutions. Such provisions are common in constitutions and pose no problem from a human rights standpoint.

Discriminations on the basis of citizenship and non-citizenship are explicitly noted as acceptable in the International Convention for the Elimination of All Forms of Racial Discrimination (Art. 1.2).

But Article 27 provides that citizenship is limited to persons who are "Negroes or of Negro descent", in effect barring persons not meeting that racial qualification from land ownership. This raises serious questions under the same International Convention for the Elimination of All Forms of Racial Discrimination, to which Liberia has acceded, which explicitly prohibits racial qualifications for citizenship (Art. 5 (d)(iii)). In 1985 the Interim National Assembly legislated to allow non-citizen ownership of land but retained the racial limitation on citizenship (INA Decree of December 11, 1985). This was almost immediately reversed by the 1986 Constitution. Consultations held by the Land Commission in 2009 indicated strong popular support for the restriction of citizenship and access to land ownership.

Article 22 provides that private property rights do not apply to mineral resources, which belong to the Republic and are to be used by and for the entire Republic. This provision is more limited than the parallel provisions of many constitutions, which often list other resources as by their nature belonging to the state and not susceptible of private ownership. These may include resources such as the beds of lakes and rivers, a coastal zone or beaches, or a defense zone along international borders of the country.

Article 23 protects the rights of men and women against their spouses and the creditors of their spouses and further requires the enactment of a law on decedents' estates to ensure the protection of surviving spouses under both statutory and customary marriages. That law has since been enacted and is reviewed later in this section.

Article 24 indicates that the state guarantees the inviolability of property rights but then provides, as do most constitutions, for the expropriation of property for public purposes. It requires prompt payment of just compensation where this occurs. There is a lack of procedural provisions.

Article 65 contains the provision that, "The courts shall apply both statutory and customary laws in accordance with the standards enacted by the Legislature". This provides the constitutional basis for the application in the courts of the customary land tenure rules under which many rural Liberians hold their land.

These provisions are for the most part sound and unobjectionable. A few are questionable, for instance the relatively narrow provision on resources which by their nature belong to the state, and the racial citizenship qualification with its property ramifications. These call for attention, but realistically constitutional amendment is almost never done without substantial political impetus, often provided by the accumulation of several needed amendments over many years. The issues identified here are likely to have to wait for an occasion when the Government is inclined to review the Constitution. It is thus not recommended that they form a part of the immediate legislative reform program of the Land Commission. The Commission should, however, consider going on record with regard to these points in the Land Policy which it will prepare.

4.2 Public Lands Law (Vol. V, Title 34, Liberian Codes Revised)

The Public Lands Law is one of the two or three most influential laws dealing with land, and is treated here in some detail. It is an antiquated statute, still referring to the "hinterlands" some decades after this public administration category ceased to exist. It provides for County Land Commissioners (Chapter 1) and Public Surveyors (Chapter 2) to be appointed for each County by the President, and for a program of public land sale through the Office of the President (Chapter 3). The County Land Commissioners serve as part of the MIA's local government structure and report to the County Superintendent. The Resident Surveyor is appointed by the President on the advice of the Ministry of Lands, Mines and Energy and is supervised by that Ministry's Department of Lands, Surveys and Cartography, but works very closely with the County Land Commissioner. The duties of these officials are framed by the law largely in terms of their role in the public land sale program, by which all deeds in Liberia originated, but they are also involved in the processes for registration of subsequent deeds of sale, probate deeds and other instruments affecting land.

The public land sales program has played a controversial role in Liberian history as the primary vehicle by which land in the interior (what was once referred to as the "hinterlands") has been subtracted from land held under custom by the original inhabitants and titled to elite Liberians. The program has been associated with political patronage by Presidents, and has been and remained until very recently a program fraught with abuses by officials and surveyors. While some who have traditionally occupied the land have been able to "purchase their own land", this seems an anomalous and even offensive approach to validating customary rights, and the amount of land covered by those deeds is limited.

The absence of a definition of public lands in the statute is a key defect. While the juridical basis for the position is questionable, most commentators would agree that the Liberian government has quite consistently behaved as if all land which is not under deed is public land. But the survey, mapping and registration of deeded land is so imperfect that it makes it difficult to identify the residual public land. This renders unrealistic the requirement of the statute that the County Land Commissioner keep a record of all public land in the county, and in fact today's government allocations of presumed public land often run afoul of earlier deeded land of which the allocators were not aware.

While the statute prohibits sale of lands which form part of tribal reserves, tribal reserves are not defined beyond a general reference to community "need" and very few of these reserves have been demarcated. While the law specifies that they exist and are valid regardless of whether they have been demarcated, from a practical standpoint it makes the protection of the reserves difficult. A further complication is that the requirement of obtaining a tribal certificate from tribal authorities before sale of the land as public land takes place does not always result in consultation with those who actually represent communities in land matters.

In addition, the provision in the statute of antiquated land sale prices far below the actual value of the land has both fostered corruption and led to non-compliance with the limits by local officials. The President has suspended public land sales, and at her request the Land Commission has been vetting land sale applications and preparing interim procedures and guidelines for public land sales to be in place before the moratorium is lifted. These cannot amend the law, however, and do not do away with the need for a thorough reconsideration of these provisions on public land sales.

The Commission, asked by the Office of the President to vet existing proposed land sales, proposed and obtained a moratorium on public land sales while that process went forward and while the Commission prepares interim procedures and guidelines for public land sales, to deal with some of the more serious defects in the program and so address some of the issues raised in public consultations and expert testimony to the Commission.

In addition to provisions on public land sales, the Public Lands Law also has provisions on:

- Allocation and titling of land to immigrants and provision of deeds in fee simple for "aborigines" which have attained a necessary degree of civilization (Chapter 4), which provisions are today irrelevant and/or offensive and should be repealed;
- Leasing of public lands to foreigners and legations (Chapter 5), which could profitably be expanded to include leasing to citizens as well, as an alternative to public land sales, to be used to allocate land for larger commercial operations and subject to development conditions;
- Provision on escheat (reversion of land to the state where there are no heirs to a deceased owner) (Chapter 6), a reasonable provision but one which would be better included in a Real Property Law;
- Provision for correction of deeds by the President, but only after cancellation of the deed containing the error by a court of equity (Chapter 7), which might better be in the Deed Registry Act and should in any case not require the direct participation by the President.

Aside from the problems with particular provisions of this law, it falls well short of a comprehensive legal regime for public land management. The Commission is giving priority to policy development on public land and development of a new Public Lands Law. In its deliberations, it is suggested that the Commission consider the following possible reforms:

- Propose a new law relating to public land which defines public land and clearly distinguishes between public land and land held by local communities under customary land tenure;
- Require an inventory of public land, including clear data on the extent to which such land is encumbered by other rights;
- Allow leases and concessions of public land to citizens as well as foreigners (this is the normal practice internationally);
- Limit public land sales to relatively modest amounts of land, resorting instead to leases with development conditions for somewhat larger scale operations, and to concessions for large plantation enterprises and mineral exploitation;
- Provide for sale prices and rentals in a schedule in a regulation rather than in the law itself, making it possible to adjust those values over time without going back to the legislature; the new prices should closely approximate market value, and provision should be made for public land sale by public auction;
- Provide specifically for those who have been in long-term occupation of the land they wish to purchase (for instance those who have held the land under customary land tenure) to be allowed to purchase that land at a price that simply covers the administrative costs of the purchase;

- Provide for a robust program of public land management rather than focusing on public land sales;
- Task the County Land Commissioners and County Surveyors with a much more varied and substantial mandate for public land management, equipping and retraining the cadre and dismissing those who have been involved in corrupt practices; and
- End the presidential appointment of Land Commissioners and Public Surveyors, breaking the long historical association of these appointments with political patronage, and provide for their integration into the decentralized staff of the Ministry of Lands, Mines and Energy or such other institution as may be responsible for land. (Part 6 of this report deals with institutional reforms.)

4.3 Public Procurement and Concessions Law (Sept. 18, 2010)

While not defined in the law, the generally accepted definition of a concession is a partnership in which Government, in order to accomplish a government purpose, makes land available to a private entity such as a corporation and that corporation agrees to carry out certain activities on that land to achieve that government purpose. Rents to government for the land may be involved but there will more typically be a sharing of the revenue from that activity. Common concession types in Liberia are mineral concessions, forestry concessions, mining concessions and agricultural concessions. These are typically large-scale operations for which the private partner brings both expertise and investment capital. Concessions in Liberia have been associated with direct foreign investment, but Liberian firms can equally apply for and receive concessions.

The Law creates a Public Procurement and Concessions Commission. The Commission under S. 6 of the law includes a chairperson, three public sector members (including a lawyer from the Office of the Attorney General), and three persons nominated by the private sector. The Commission deals with both simple procurements of goods and services and with concessions. The Commission has a regulatory role. Concessions continue to be made by the sectoral ministries. The Law refers to the Ministries or other government agencies entering into the concession as the Concession Entity. It seems that where a ministry does not have an explicit authority under law to make concessions (as in the case of the Ministry of Agriculture), this competence is assumed to flow from the general power of the ministry to promote the activities for which they are responsible.

The Law seeks to ensure certain processes are observed in the making of concessions. An Inter-ministerial Concession Committee is created to monitor and ensure that the provisions of the law are observed for each concession. Competitive bidding is provided for in some detail, but sole source procurement is permitted where certain conditions are met, such as the concession requiring specialized expertise that is available from only one candidate for the concession (S. 101(1)(a). More significant, unsolicited bids are provided for (S. 101(3)), undermining many of the process protections provided by the law; the consultants have the impression that many concessions are in fact awarded in response to such unsolicited proposals.

The process by which land or other natural resource for a concession is identified and its availability ascertained is obscure. Section 90(1) provides for public consultations to be carried out by the Concession Entity (not the Concession Committee) prior to finalization of bid documents, but there is no indication of how, when or where such consultations should

occur, and no suggestion that this should concern those who may have been using the land. Land is similarly not mentioned in the article that lists issues to be considered in negotiations (S. 119). Section 117 provides in general terms for a legal opinion from the Ministry of Justice; this could conceivably include assurances from Government that the land concerned is in fact public land and unencumbered by other rights, but the provision is in general terms and does not mention land. Section 125 provides a right to review but only in those cases where in the granting of the concession this law or its regulations have been violated. The right to review does not appear to be available to those whose use or ownership in the land is adversely affected by the concession, because the law places no responsibility upon the concession entity to ensure that this does not occur.

Stories abound of concessions which overlap existing private rights in land, or even other concessions. The Law does not provide an effective mechanism for coordinating the concession granting activities of the concerned ministries and other government agencies. There is no data base of public land that would allow them to effectively do so. The international consultant has seen concessions that commit government to use its eminent domain power to secure any privately owned land inadvertently included in the concession. The fact is that government does not have an inventory of public land available for large-scale concessions. The land is often self-identified by the investors in consultation with local officials, and then becomes the subject of an unsolicited bid. The failure of the PPC law to require a thorough local consultation and respect for both deeded and customary land rights in the area creates a situation parallel to that which has long existed for public land sales and has generated considerable local resentment. It is ironic that at the point in time when the Land Commission is working with the Office of the President to remedy the situations regarding public land sales, the same problems are being generated on a much larger scale by a growing rush of concessions.

The consultants consider that while this law seeks to provide for the badly needed coordination of concessions, it is likely to be ineffective. This is because it mandates neither measures to identify public land that might be available for such purposes nor measures to ensure that investors do receive clear property rights in the land under concession. While forestry sector legislation includes substantial provisions on forestry concessions, and mineral sector legislation contains some but much sketchier provisions on mineral concessions, there is no such provision for agricultural concessions. There is a need for the promulgation of a general legal framework for concessions, including protections of the rights and livelihoods of local people affected by them, and this would best be handled within the Public Lands Law. The provision of the law now under review is woefully vague and inadequate with regard to public consultation, and could be greatly improved. Mozambique has recently revised its procedures in these cases; these could provide a good basis for discussion of future provisions of such procedures in the context of a new Public Lands Law.

This law requires reconsideration and amendment, in particular to provide protections to existing land users in the area of a concession and to require a process to ascertain the claims and needs of those land user communities.

4.4 Minerals and Mining Law (September 20, 2000), Part 1, Title 23, Liberian Codes Revised

This law reaffirms state ownership of all minerals established by the Constitution but clarifies that minerals once mined can be private property (Ss. 2.1, 2.3). In S. 10 it declares as zones protected from mining "land owned within the boundaries of cities, commonwealth districts, municipal districts, cemeteries, transportation or communication facilities, aqueducts, military bases, ports, Poro or Sande grounds, and other grounds reserved for public purposes". Government's claim overrides any landowners' right, but promises "just, prompt and adequate compensation for any diminution in the value of the land caused by the disturbance, disfigurement or other factors caused by the exercise of the government's right…" (S. 11.3). Those negatively affected have a right to petition the Minister (S. 11.5).

Once there is a clear general framework for concessions of public lands, it would be appropriate to reexamine this law, which might require amendment to realign it with the new Public Lands Law.

4.5 Natural Resources Law (Vol. IV, Title 23, Liberian Codes Revised)

This law seems to have been reduced in scope and rendered less coherent by the enactment of other more specialized legislation on natural resources and the amendments they made to this law. For example, protected areas, which might be covered in this law, are dealt with in the National Forestry Reform Law of 2006. In its present form, the law primarily addresses conservation of fishery resources and has some fragmentary provisions relating to diamonds. It needs to be fundamentally reconsidered, most usefully in the context of a broader review of the law on conservation of natural resources such as biodiversity.

4.6 National Forestry Reform Law of 2006

Because of the concern of the Liberian government in the immediate post-war years to resume exports of forest products as soon as possible, discussions of forest policy and law reform were given priority. This had the effect of some fundamental property rights issues regarding land, a multi-purpose resource, being discussed and legislated upon from a single-purpose (forestry) perspective, with some questionable results.[3]

The definition of forest land is provided in S. 1.3: "A tract of land, including its flora and fauna, capable [authors' emphasis] of producing Forest Resources, not including land in urban areas, land in permanent settlements, and land that has been in long-term use for non-shifting cultivation of crops or livestock in a manner that precludes producing Forest Resources." Section 2.1 of the Law goes on to proclaim that "All Forest Resources in Liberia" are "held in trust by the Republic for the benefit of the People", though it excludes forest resources located in communal forests and forest resources that have been developed on private or deeded land through artificial regeneration. These provisions radically privilege forestry as a land use, and bring the vast majority of land in Liberia into the forest sector and under the authority of the Forestry Development Authority. This includes most of the land

[3] For an excellent discussion of these issues, and the most useful recent work on customary land tenure in Liberia, see Wiley, Liz Alden. 2007. "*So Who Owns the Forest?" An Investigation into Forest Ownership and Customary Land Rights in Liberia* (Monrovia: Sustainable Development Institute and FERN).

from which Liberians derive their food; land in farm/forest fallow would now come under the management of the Forestry Development Authority (FDA).

The law recognizes commercial forests, protected forests and communal forests, and is tasked with developing and validating a plan indicating the specific areas to be in each type of forestry (Ss. 4.4 and 4.5). A fundamental objective of the law is to ensure that no commercial cutting occurs without the permission of the FDA (S. 5.1). It provides in Section 5.3 for Forestry Management Contracts for areas between 50,000 and 400,000 hectares, which may be subject to forestry management contracts or cutting contracts. For forest management contracts between 50,000 and 99,000 hectares, only bidders of 51% Liberian ownership will be accepted for the first bidding cycle, while larger forest management contracts are open to both Liberian and international investors. The law also provides for Timber Sale Contracts, Forest Use Permits and Private Use Permits. Timber sale contracts are sales of the right to cut timber by a government authority (S. 5.4) while Forest Use Permits (S. 5.5) may be granted for limited commercial purposes, including only for (i) production of charcoal, (ii) tourism, (iii) research and education, (iv) wildlife-related activities, (v) harvesting of small amounts of timber for local use, (vi) harvest or use of non-timber forest products. Forest use permits are awarded through a concessions process under the Public Procurement and Concessions Act if the value of Forest Resources exceeds US$10,000 "during the term of the permit". The Authority is to restrict issuance of forest use permits to specified classes of persons, such as “subsistence farmers, forest-dependent communities, residents of a particular county or district, academic researchers, artisans and persons undertaking tourism, eco-tourism and similar conservation-based activities." Finally, Private Use Permits (S. 5.6) for commercial use are awarded to owners of private forest land.

In granting forest management contracts and timber sale contracts, the FDA is required to comply with the requirements of the Public Procurement and Concessions Act and other applicable laws (S. 3.3). The Forestry Reform Law very usefully adds additional requirements to those set out in the Public Procurement and Concessions Law. It requires that there be an environmental assessment (S. 5.3.b.4), and that the holder “establish a social agreement with local forest-dependent communities, approved by the Authority, that defines these communities' benefits and access rights” (S. 5.3.b.6).

Private owners of forest land are subject to the law’s regulatory framework. They are required to have the requisite permits, a management plan, and a written social agreement attested by the Authority that defines benefits and access rights for local forest-dependent communities. Section 11.2 provides that land owners can only prospect, log and hunt in accordance with the law, and Section 11.3 says that if government grants permission to use forest resources, no land owner can bar the use, but the land owner is entitled to “just, prompt and adequate compensation for any diminution in value.” The power of government to grant private ownership of forest lands requires FDA approval: “The Government shall not grant title over Forest Land to private parties without giving public notice, allowing 60 days opportunity for public comment, and obtaining written approval from the Authority” (S. 8.2).

The law also provides for protected areas and national forests. Section 9.1 provides that Protected Forest Areas Network shall cover at least 30% of existing forested area, covering about 1.5 million hectares. Section 9.10 provides that the Authority, "in consultation with local communities, counties and other local authorities" must issue Regulations "governing activities in Protected Forest Areas." The Authority is to in consultation with local

communities, non-governmental organizations and interested international organizations, "undertake efforts to provide alternative livelihoods for communities adversely affected by the establishment or maintenance of Protected Forest Areas."

Section 10.1 provides for communal forests. The FDA is to issue regulations granting local communities "user and management rights", "transfer to them control of forest use", and "build their capacity for sustainable forest management." The concept of community forest reflected in the law seems limited to subsistence use of forest resources. Section 9.1 provides that, "No Person shall . . . in Communal Forests, prospect, mine, farm, or extract Timber for Commercial Use." Minimum content for the regulations are specified, but recognizing the inadequacy of these provisions, the law also provides that within one year of the law entering into force the Authority must present a community rights law to the Legislature.

This is a relatively recent law, and in many ways reflects good practice in forestry legislation. But it is flawed in two ways. First, the extremely broad definition of forestry land radically privileges forestry as a land use and expands the regulatory authority of the FDA far beyond its realistic reach. It is a classic case of regulatory overreach, and is a regrettable instance of land, a multi-purpose resource, being legislated on from the point of a single use. Most rural communities in Liberia are forest-dependent to a significant degree, and here the law particularly falls short; the mindset reflected is paternalistic: Forests must be protected from the rural Liberians who have long used them. The pattern is not uncommon elsewhere: the state legislates to impoverish local people by depriving them of their most valuable resource, arguing that those resources are needed for the larger national interest. This is possible because of the weak and poorly defined rights of rural people in the resources whose use they have long enjoyed.

The Community Rights Law with respect to Forest Lands (2009), reviewed below, has alleviated these problems to some degree, but the Commission should consider amendments to some key provisions of this law, in particular the definition of forest land, the community forestry provisions (for better alignment with the 2009 law), and some of the restrictions on private landowners regarding forestry activities on their land.

4.7 Community Rights Law with respect to Forest Lands (2009)

In Section 1, the definitions section, the law defines “community”, making it clear that the term can include a single village or town, or a group of villages or towns, or chiefdom. Most critically, it expands the definition of “community forestry” from the 2006 Forestry Reform Law to include commercial forestry by communities: "The governance and management of community forests by a community for commercial and non-commercial purposes to further the development of the community and enhance the livelihoods of community members." In the definition of “community-based forest management” it makes a critical connection to customary land tenure: "Forest management activities that are carried out by a community with respect to forest resources for which the community has customary tenure or other forms of proprietorship or guardianship."

This is the missing element in the Forestry Reform Law, the connection between community land rights and community forestry, and making the connection in this statute becomes the basis for asserting community rights in community forestry, rather than something created by a permit from government. Further, in the definition of “community forestry land” it uses the term ownership to characterize that tenure relationship: "Forested or partially-forested land

traditionally owned or used by communities for socio-cultural, economic and development purposes." The definitions of community land area and customary land similarly convey that the control of this land is not by permit but by historic right, and the latter repeats the provision of the old Hinterlands Regulations that recognition of the customary rights does not require its registration under statutory entitlements.

Section 2.1 states the objective of the new law: to "empower communities to fully engage in the sustainable management of the forests of Liberia" in accordance with Chapter 10 of National Forestry Reform Law of 2006 "by creating a legal framework that defines and supports community rights in the management and use of forest resources". Among the "guiding principles" set out in 2.2 are that (a) "All forest resources on community forest lands are owned by local communities, (d) "recognition of community land tenure rights shall apply to tenure systems recognized by the Constitution and laws of Liberia", and (e) matters related to land tenure to be handled by the Land Commission."

Section 2.3 on Community Forest Land provides further: (a) Forest land areas between 5,001 and 49,999 hectares "may be" Community Forest Land; (b) Community Forest Land is Aborigines Grant Deeds, Public Land Deeds, Public Land Sale Deeds, Tribal Land Deed Certificates[4] and Warranty Deeds; (c) Deeds mentioned in (b) that have been authenticated as certified are Community Forest Land, and (d) forest land and community land recognized under this law are Community Forest Land. Section 3.1 on community rights gives communities the right to control the use and management of community forestry resources, to enter into small-scale commercial contracts, to negotiate and enter into social contracts with concessionaires, and to take at least 55% of all revenues and income from large-scale commercial concessions.

This said, the regulatory role of the FDA remains clear. Community forestry is an activity carried out under its supervision. But the Community Rights Law dramatically changes the orientation of the Forestry Reform Law with regard to community land and community forestry, and with regard to the ability of those communities to participate in commercial forestry. While the law does not contain a repeals provision, it stresses in S. 9.1 that, "Where there are conflicts of law existing between the National Forestry Reform Law of 2006 and the Community Rights Law of 2009 with respect to forest lands, the Community Rights Law takes precedence and becomes binding." It remains the fact, however, that both the 2006 and 2008 laws deal with what are fundamental land tenure issues from a forestry perspective. If an adequate land tenure regime is to be constructed for land under customary right, there will be a need to rework some of the provisions of both laws to nest these reform provisions within the larger reform program.

4.8 Property Law (Vol. V, Title 29, Liberian Codes Revised, Chapters 1 to 7)

The law of property in most common law countries resides primarily in judicial precedents and not in statutes. The typical property law statute in most common law jurisdictions looks a bit like this Liberian law: an accumulation of specific provisions enacted when the legislature felt a need to supplement the common law. It is not remotely a comprehensive setting out of the law on real property or property generally.

[4] This wording is unfortunate, not in the inclusion of a reference to tribal certificates but in the use of the term "tribal deed certificate". A tribal certificate is not itself a deed, though its issuance by tribal authorities is a step in the process towards issuance of a deed. The usage in this law may strengthen the existing misperception on the part of many that a tribal certificate is the equivalent of a deed.

Chapter 1 deals with the probate and registration of instruments dealing with real property. Such instruments, including deeds, mortgages and other conveyances, must be signed by at least two parties. It must then first be probated, with an opportunity for objections, and then registered in the register of deeds. A conveyance not probated within four months of its execution is said to be void.[5] These brief and antiquated provisions do not constitute an adequate regime for deeds registration, and should be replaced by a modern Deeds Registration Law (or provisions on deed registration nested within a broader law on registration of rights in land, discussed in the next section of this report).

Chapter 2 is entitled "landlord and tenant" but deals only with leases to foreigners. Since foreigners are barred by the Constitution from land ownership, the option of leasehold is provided. The term is limited to 21 years, but two extensions for the same period are possible. Rent increases are restricted. Leases may be more than 21 years for foreign businessmen for major investments. The details of these provisions may need to be reexamined in light of new legal provisions on concessions, but something similar would need to go into a new real property law.

Chapter 3 is the Alien Mortgage Guaranty Act, which deals with the issue of a foreign lender who cannot own land in Liberia foreclosing on a mortgage from a Liberian borrower who has secured that loan with land. It also applies to local firms with majority foreign shareholding. It provides for sale by foreclosure but denies the foreign lender the opportunity to bid on the property at foreclosure. If the foreclosure sale produces less than the debt secured, the Government guarantees payment of the remainder of the debt. The arrangement seems odd, and may no longer be utilized by lenders. This should be verified and if it should prove to be the case, there is no need to maintain such a provision in law.

There is no Chapter 4, that chapter having been repealed.

Chapter 5 deals generally with foreclosure of mortgages. It provides for foreclosure sales, and has detailed if antiquated provisions of the notice required for such a sale. It provides that the mortgagee may purchase the property. Provision is made for probate and registration of any resulting deed. This is a very partial statement of the law concerning mortgages, and, in a new real property law, a far more robust coverage is recommended.

Chapter 6 deals with partition of land owned jointly or in common. The provisions allow the co-owner to petition the local Circuit Court for partition and sets out a process by which this occurs. It gives the court the authority to appoint commissioners to conduct such partitions, and sets out the process of partition. Where the commissioners find that the parcel cannot be partitioned without "great injury to the interests of the owners", the commissioners may recommend and the court may order sale of the property by auction to the highest bidder. The provisions are sound so far as they go, but such provisions have been seen to have limitations in countries where large properties have over generations gone undivided or been divided only informally among heirs. We understand this to be the case in Liberia, as it is within many African-American communities in the United States. Last year a model law on "heir property" was approved in the US for possible enactment in states where this situation

[5] The Liberian Supreme Court has held that "void" here means "voidable", if another comes and timely probates and registers a transaction. The court concludes "The fact that an agreement relating to real property has not been admitted to probate within the time required by law does not render the instrument void but *only voidable* as to third parties who are not contracting parties." Clark v. Snyder, 9 Liberian Law Reports 111, 114 (1945).

is common, and those involved in law revision in this area should examine that model law to see if it contains provisions that might be useful in Liberia.

Chapter 7 provides a process for exercise of the widow's common law right of dower, a right to a third of the deceased husband's real property. It begins with filing of a petition by the widow in the probate court where the property is located. Appointment of commissioners by the court to assess the dower is provided for. Where it is impractical to partition the property involved in the dower, the widow may receive a third of the rents on the property rather than a third of the property itself. The provisions seem to apply only to "freehold estates" (S. 90) and they need to be examined closely and made consistent with the much more recent law on equal rights for women in customary marriages, reviewed below.

How to proceed with this law? As suggested at the outset, its general character is similar to many property laws in American states; it supplements the common law on real property in fragmented but useful ways. On the other hand, many of the particular provisions have problems that suggest that they should be reexamined and amended if not replaced. The Deed Registration provisions are particularly inadequate, failing to provide for the organization of the registers, their maintenance and security, and a variety of other important matters. It has already been suggested that new legislation is needed in that area.

But there is a broader issue here. Many countries in Africa have enacted comprehensive Land Laws in recent decades. In countries in the French legal tradition, this is no innovation; they have always had extensive real property provisions in their Civil Codes. But it is an innovation in common law countries, part of a broader trend of restating the common law in statutes which can be more easily accessed by law students, members of the bar and the judiciary, not to mention citizens without formal legal training. Such laws have been enacted in several countries with a common law heritage including Nigeria, Tanzania, Sudan and Uganda. They typically have several pages of basic provisions on real property, providing a clear general legal framework (an outline that is often hard to discern in fragmented judge-made law), and providing basics on ownership, leaseholds, mortgages and easements. These provisions restate and to some extent modernize the common law, making it far more accessible. They do not replace the common law, as judges continue to resolve disputes by reference to both the statute (for general rules) and to the common law embodied in judicial precedent (where needed to resolve how to proceed in the special circumstances of a particular case).

Such an act might be denominated the "Private Land Law". The consultants recommend that this option be given very serious consideration. Models for such a statute are available from the other African countries mentioned, though of course the content should be specific to Liberia's policy and legal values. The models from the US are not very helpful in this case. There is no Uniform Real Property Act, and the Restatement of Law on Real Property (initiated by the American Law Institute in 1937) now fills several dense volumes and deals with real property matters at a level of detail that is not very useful as a model for a law focused on basics. (It would however be appropriate in developing such a Liberian law to refer to the Restatement for ideas on how to frame particular basic rules.)

4.9 Decedents Estates Law, 1992 (Chapter 3 of Title 8, Liberian Codes Revised)

The Decedents Estates Law confirms the rights of all persons, including "tribal persons" to make last wills and testaments disposing of their property upon their death, subject to certain

limitations imposed by law, such as the widow's right of dower. The Law provides for the rules (rules of intestacy) by which estates, including both real and personal property, are to be divided among heirs in the absence of a will. It also contains a codification of the widow's common law right of dower, a right to 1/3 of the deceased husband's realty.
The new owner of the land (the heir) is responsible for registering the inheritance. It would be better if the law required the probate court to send the record of the probate directly to the deed registry with instructions to register any probate deed or other instrument relating to the land. Section 2.28 protects land purchasers from the risks of land under undisclosed wills by providing that a good faith purchase for a valuable consideration cannot be upset by a will not probated for two years after the devise.

Because the law on decedents' estates involves not just real property but also personal property, this area of law should not be subsumed within a proposed Law on Private Land. It should remain a separate statute but can, however, be referenced within a Law on Private Land, particularly with respect to the dower right and the right provided for a wife or wives to remain in the residence of the deceased to administer the estate.

4.10 Devolution of Estates and Establishment of Rights of Inheritance for Spouses of both Statutory and Customary Marriages (December 1, 2003)

This law, often referred to as the "Equal Rights of the Customary Marriage Law", provides that certain common law rights of widows, such as the right of dower, also apply to customary marriages. Chapter 2 is a broad declaration of the rights of women in customary marriages. It affirms the human rights of such women, makes the right of dower applicable to them, and provides that land acquired by such women shall belong to them alone. Chapter 3 makes the Decedents Estates Law applicable to women in customary marriages, specifically affirming a number of the rights set out in that law, including the right of "tribal persons" to dispose of their estates by will.

This statute is sound in its intention but not well drafted. It would be appropriate at some point to import its provisions into the Decedents Estate Law, so that these would be a single statute. As suggested earlier, because the law on decedents' estates covers both personal and real property, this does not necessarily form a part of the land reform task of the Commission, but might be taken on by the Commission if the Commission considered it deserved priority.

4.11 Registered Land Law (1974), Chapter 8 of the Liberian Codes Revised

This is a Torrens-style title registration law, enacted on May 20, 1974, after a decade of discussion of the need for an improved system for recording rights in land.[6]

This is a model favored by most commentators and donor agencies over deed registration, principally because it allows for systematic adjudication and registration of titles within declared adjudication areas, based on comprehensive mapping. There is a parcel file for each parcel, showing the property rights in the parcel, and that file has a unique number that links it to the parcel as shown on the survey map for the area. The parcel on the map bears the

[6] For an early discussion of the problems with the deeds registry system and proposed reforms, see Bentsi-Enchill, Kwamena, and Gerald H. Zarr, "The Assurance of Land Titles and Transactions in Liberia", Liberian Law Journal 2 (1966): 94-121.

same unique number. It also by the very act of registration clears the title of most defects, rendering the register highly reliable.

The intention in 1974 was to replace deed registration with this system, and this is still the inclination of the Ministry of Lands, Mines and Energy. But pilot work in the late 1970s and early 1980s in Monrovia experienced difficulties. Implementation had to be abandoned and has never resumed. The World Bank is interested in helping Liberia resuscitate and apply this system, but the Commission has advised caution in light of the failed pilot work. A study is currently underway to determine the causes for the implementation difficulties experienced in the first pilots.[7]

The law preserves the special role of probate courts under the Deed Registry System (S. 8.6). It makes the Registrar of Deeds also the Registrar of Land (S. 8.7.1), and the National Archives the location for the Registrar of Lands, as it is for the Registrar of Deeds (S. 8.7.3). Implementation of the law takes place when the Minister of Lands, Mines and Energy through the Probate Court declares that titles within a given area are to be adjudicated (S. 8.11). A referee to decide conflicting land claims and a Demarcation/Recording Officer for the adjudication area are appointed by the Chief Justice, and a Survey Officer is appointed by the Minister of Lands, Mines and Energy (S. 8.21). Where there are disputes which cannot be negotiated by the Demarcation and Recording Officer, these are referred to the Referee for decision, except that inheritance disputes go to the Circuit Court. Appeals may be taken from both to the Supreme Court (S. 8.51).

The law sets out the principles binding upon the referee (S. 8.52) in deciding on claims:

- If there is a good documentary title which would prevail if challenged, he records that person tentatively as the owner of the parcel;
- If there is open, peaceful and interrupted possession for twenty years or more, the possessor should be recorded tentatively as owner (the possessor must not have acknowledged the title of any other and must have used the land to the exclusion of others);
- If there is a possessor who is unable to provide sufficient proof to be registered as an owner, he can be tentatively recorded as owner subject to substantiation within six months. If no private rights are established, the land should be recorded as public land.

There is no reference here to registration of the customary law landholdings of individuals or families. Instead, they would be covered under the provisions on long-term occupations and use of the land. It is important to note that an individual's customary right is neither registrable, nor is its existence the basis for registration of a common law right. Possession

[7] For a 2006 discussion of the issues regarding implementation of this law, see Ministry of Lands, Mines and Energy. 2006. "Memorandum of Understanding for the Conceptual Understanding of the Challenges to Land Title and Registration and Corresponding Resolutions to Said Challenges" (Monrovia, MLME, October 21, 2006.) See also Johnson, Koboi. 2006. "Property Law of Liberia, Specifically an Act to Amend the Property Law to Provide for a New System for Registration of Land and for Dealing in Land So Registered", paper presented to a Real Estate Registration and Real Property Tax Practicum, Workshop Organized by USAID/LTI and the Ministry of Lands, Mines and Energy, October 20-21, 2006.

is, and so extended possession can be the basis for registration of land under a customary right. However, the right registered will be a freehold or other common law right: the law makes no provision for registration of customary rights of individuals or families as customary rights. This changes existing rights, and often involves ignoring customary rights that do not fit the common law models. This aspect of the Law deserves reconsideration in light of innovative approaches in a number of other African countries in recent years toward registering customary rights, i.e., the pilot work now being carried out in Ghana with MCC support.

While the law does not deal with individual's customary rights, there are two provisions that address local communities' group rights under customary land tenure. These prescribe how tribal reserves and communal holdings should be shown on the register, as so provide insight into the official thinking on their legal nature.

- The first is a specific instruction in Section 8.52(d) on registration of a tribal reserve or communal holding: "If such land is part of a Tribal Reserve or communal holding, he shall further record the fact that such public land is subject thereto and, if feasible, shall describe the boundaries of the reserve or communal holding and the name or names of the tribe or tribes entitled to Tribal Reserve rights or holdings therein." The land in these categories is assumed to be public land and is to be registered as such, subject to use rights involved in the tribal reserve or communal holding.
- The second provision is Section 8.123, which provides that, "The registration of land as public land, subject to any registered encumbrances, which shall include without limitation, interests in and rights over such land granted in concession and other agreements made under authority of law, and by way of delineation of Tribal Reserve areas and communal holdings, shall enable such land to be disposed of in accordance with the provisions relating thereto contained in the Public Lands Law and in any other law providing for dispositions of public lands, by a disposition which is registrable under the provisions of this chapter." Such land is thus to be registered as public land, and the communal right or tribal reserve as an encumbrance on that public land. To the extent that the land can be disposed of under the Public Lands Law and other laws (and these rights cannot be freely transacted), then once the land is registered, the transfer must be by registered transfer.

As noted earlier, rights registered under this law (as under most land registration laws) are relatively conclusive. A registered title can be set aside if fraud is proved in an action filed within ten years from the final order for registration in the court where registration proceedings were held. Where the right has been transferred to an innocent purchaser for value without notice of the fraud, he will be protected even where fraud was involved in the earlier registration (S. 8. 58). Absent a fraud raised within that period, however, registration confers clear title: "Registration vests title and free of all encumbrances except those shown on the register and claims created by the operation of law…" Encumbrances or transfers that are required by law to be registered do not take effect until registered (S. 8.121(1) and (2)), and registered land is not affected by prescription or adverse possession (S. 8.124). Given the widespread land document fraud in recent years, there probably needs to be careful consideration of whether this limitation on raising objections of fraud is still appropriate. Of course it affects only parcels registered under this law.

Finally, the Government will indemnify anyone who relies on the information shown on the Register and suffers thereby. But there will be no indemnity for anyone who substantially

contributed to the error or omission (S. 8.193). Compensation may not exceed prescribed amounts (S. 8.194). Claims are made to a Permanent Claims Commission, which awards indemnity (S. 8.95). [Note: The Permanent Claims Commission, referred to in several statutes, has never been created.]

Review of this law suggests a number of problems. Few modern title registration laws involve such a heavy involvement of the court system in the adjudication process, and the role of the Chief Justice may be unique to Liberia. Instead, the tendency is to rely heavily upon mediated resolutions by community-based committees formed for this purpose, and then allowing any unresolved disputes to make their way through the court system. The process in the current law seems unduly cumbersome; it may reflect the conservatism of the Liberian legal profession. A more expeditious process should be considered, but where mediation fails the disputes should be moved into the court system for final resolution.

Similarly, the procedures for notification of adjudication work seem unduly complex, involving public notification of the activity, newspaper ads and then verification and re-verification that notice has been given. Simplification may be possible, but there are many more Liberians living abroad today than in 1974, and it may be appropriate to include new provisions on notifications aimed at them, as in other countries with large numbers of citizens living abroad.

Perhaps most serious, the law has no provision for the process of sensitization of the local community prior to systematic adjudication. This is today recognized as essential, and its absence has been cited as undermining numerous pilot registration efforts in Africa. Without adequate explanation of the potential benefits of the process to landholders and assistance in understanding what is expected of them during the process, the process will be regarded with suspicion and receive poor cooperation from the community. Moreover, the system depends upon voluntary updating of information by those involved in transfers and this will not happen unless they are convinced of the value of the system.

Finally, the definitions section of the act refers to “precise” boundaries. This might be read to require boundaries established by classic geodetic survey, and it is important to clarify that other methods such as GPS and even “general boundaries” based on physical features may be used in some cases. It is a mistake to prescribe survey methods in laws because the technology is evolving so rapidly; instead, the law should simply provide that survey standards will be dealt with in regulations, which can be more easily updated. The order for survey and adjudication of an area should specify which of the allowable methods (or combination of those methods) is to be used in that particular case. In the same technological vein, it is important to provide in law for the use of computers and electronic copies of legal instruments in the title (and deed) registration systems.

While the consensus among surveyors and other specialists is supportive of conversion to title registration, the process is costly and time-consuming. This has led to increasing interest in more participatory, community-based efforts, such as the recording of household land rights being implemented in parts of Ethiopia and the community delimitation and rights certification being carried out in Mozambique with NGO assistance. Liberia should consider these options as well, and should have a law on land registration which leaves room for experimentation with new approaches to recording property rights. It should also, however, include a clear notion of how they relate to the more formal title and deed registration systems and how they may be incorporated into those systems if desired.

How to proceed with this law? It is relatively recent, reflects good practice in many regards, and a good deal could be accomplished through selective amendments to it. However, since this report urges the need for new provisions on Deeds Registration to replace the fragmentary provisions in the current Property Law, consideration should be given to a single law covering all forms of registration. This could help greatly in the coordination of the two systems, which will need to operate in parallel for at least a generation. This is because title registration is implemented systematically, locale by locale, and takes many years to replace the deed registration system, and the deed registration system must in the interim continue to function as well as possible in the areas of the country not yet brought under the newer system. Finally, such a consolidated law might provide as well for more community-based and participatory recording of land rights, including recording of community land rights.

4.12 PRC Decree # 23 of 1980, providing for the Licensing and Registration of Land Surveyors and for the Control and Regulation of Surveys and Survey Methods and for the Protection of Survey Monuments, Markers, Beacons and other Reference Appurtenances within the Republic of Liberia. (Chapter 9.7 of the Liberian Codes Revised).

This decree provides for the appointment by the Minister of Lands, Mines and Energy of a Land Surveyors Licensing and Registration Board, which is responsible for licensing and registration of surveyors in Liberia. It provides for the qualifications of surveyors, and the procedures of the Board, including how the Board should proceed in cases where surveyors are accused of malpractice. It also creates a number of crimes including the unauthorized practice of surveying and various malpractices by surveyors. In addition, in Section 9.16, it provides that all Land Commissioners shall become personnel of the Ministry of Lands, Mines and Energy. This last provision is surprising, given that the consultants were told repeatedly and consistently that while the County Surveyors reported to the Ministry of Lands, Mines and Energy, the Land Commissioners reported to the Ministry of Internal Affairs. This inconsistency requires clarification, and needs to be considered within the more general context of reform of land administration institutions. There is a need for a law on surveys, and this to some extent fills that need. It needs substantial amendment, however. There is a need to clarify the matter of the supervision of County Surveyors and County Land Commissioners. There is also a need to amend the provisions on qualifications of surveyors to recognize the role now being played by GPS technology in land survey. At this point they are framed in terms of classic geodetic survey, and a bachelor's degree in a relevant technical field is required. It is a mistake to try to prescribe survey technologies in laws. Technologies change rapidly. Regulations are a more appropriate place for this, because they can be amended easily. A new set of provisions on land survey needs to be developed, perhaps within a large statute on land administration, and a set of regulations prepared and promulgated.[8]

[8] A set of regulations entitled "Cadastral Survey and Mapping Regulations" was drafted at some point after 1980, but the copy available to the consultants does not bear a date or a signature of the Minister. Consultants' discussions with long-time Ministry staff confirmed that this was simply a draft, and was never promulgated.

4.13 Real Property Tax Code (Chapter 20, Revenue and Finance Law, 2000)

This is again a relatively recent law, part of the Revenue and Finance Law which was revised in 2000. The Ministry of Finance's Real Estate Tax Division assesses and collects the real property tax. Its current implementation is partial to say the least. Finance targets some large businesses holding land where collection will pay major dividends. Most property owners such as homeowners and farmers are left to decide if they want to pay. Some do, conscientiously. Others do not, but if they want to get a loan secured by the property, or transfer the property, then they need to show that there is no tax lien against the property, which will involve getting a valuation done in many cases and may involve payment of back taxes. There is a public assessor in the Real Estate Tax Division at Finance.

Section 2000 provides for a tax on each parcel of unimproved land at a rate depending on geographical location, and a tax on each parcel of improved land as percentage of assessed value, the rate depending on the use classification of buildings and other improvements on the land. For unimproved farmland, the tax is $5/acre with a maximum of $200/parcel. Where values are to be assessed, the standard under Section 2001 is market value as of the date of the assessment.

This law is relatively recent and based on reasonable models, but it could be improved significantly. Its dependence on assessment of market values of individual holdings seems unrealistic for most land in rural areas. A tax high enough to cover the costs of assessment and collection would be quite high. The global $ 5/hectare rate is too general. It charges too little for valuable agricultural land and too much for many rural smallholders to pay. Other African countries which have grappled with these issues, such as Mozambique, have sometimes adopted an admittedly rough and ready "zonal" or "mass" assessment approach. All parcels in zones defined by law pay a common rate/hectare. The rate for the zone is based on factors such as the quality of land in the area and the proximity of land in the zone to roads and markets. Smallholders are typically exempted entirely, or charged some standard fee similar to a "hut tax".

In addition, the Code in Section 2010 creates a direct link between tax payment and land registration. Before a deed or lease agreement or any other documents passing title or interest in real property can be probated and registered, all delinquent taxes must be paid and a tax receipt produced to evidence this. The title cannot vest in the purchaser until this has been done. This needs to be reconsidered. It is a selective enforcement of property taxes and really functions as a tax on the transaction. It can pose problems in other areas. There is a broad consensus among those who work on land registration systems that use of the land registry system for policing property tax payments (or to extract "transaction taxes" or "stamp duties" on transactions) only creates incentives for landowners to avoid the registry system through informal transactions and non-formalization of inheritances. This undermines government's attempts to maintain accurate records of rights in land, and also the potential of this source of revenue. A number of countries have recently eliminated such charges, or radically limited the amounts that can be collected. In Egypt several years ago, the reduction in fees resulted in an increase of revenue because far more transactions were then conducted within the formal regime and registered.

The suggestion is often heard that land taxation be used by government to push land held idle onto the mark and avoid land speculation. It is quite true that any system that does not impose a cost on holding large areas of land encourages speculation and the holding of land

out of use. It is sometimes suggested that there should be a progressive tax on land, or a penalty tax on unutilized land. The former may be manageable, but the latter, while arguable in principle, seems in attempts in other countries to have proven difficult to implement in practice. This is largely because it is difficult to define satisfactorily what constitutes "underutilization". Penalties for such are typically avoided by the owner at modest cost by establishing herds of cattle on the land, or establishing nature conservancies for wildlife or bird viewing by tourists.

Amendments to this law should be considered. FAO has strong expertise in this area, and it is recommended that expertise from that organization be drawn upon by the Commission.

4.14 The Investment Act of 2010

The only relevant provisions of this law concern expropriation. Section 7 essentially repeats the constitutional standards for expropriation and compensation, presumably to reassure investors. The Law does not however provide any indication of how investors can proceed to access land for investment purposes, or contain any provisions regarding their holding and use of such land. The consultants were told that still another version of this very recent law is being discussed in the Legislature. Any new investment law should set out clearly the terms on which and process by which investors can obtain land, the tenure options open to foreign investors, and standards to determine the nationality of firms. These areas are covered in most modern investment laws.

4.15 Local Government Law (Vol. IV, Title 20, Liberian Codes Revised)

This local government law is badly outdated, still containing references to the county areas and hinterlands. It contains virtually no references with regard to the role of local government in land administration and management. This area needs to be covered in new legislation on local government, which is planned. In the context of decentralization, the Governance Commission is working on the policy basis for a revision of this law. While the Land Commission thus need not consider this as part of its policy and law reform agenda, it should coordinate closely with the Governance Commission and the Ministry of Internal Affairs on these issues. This will be particularly important in relation to the development of an Urban Land Code.

4.16 Zoning Act for the City of Monrovia

This Zoning Law is a standard and quite adequate law as far as it goes, that is, with respect to zoning. It provides in considerable detail for a variety of residential districts, business districts, and mixed districts, and for continuance of non-conforming uses. The law is enforced by the Ministry of Public Works in coordination with the Municipality. It applies to the City of Monrovia, but it is expressly provided in Section 1.2 of the law that it should be used as a model by other Liberian municipalities. The exact effect of that provision is not clear, but in any case the statute has been reenacted virtually unaltered with broader applicability as the national Zoning Law (see below).

4.17 Zoning Law (Vol. VI, Title 38, Liberian Codes Revised)

While the Zoning Law for the City of Monrovia has been reenacted as a national zoning law, it is applied only in the City of Monrovia. There is a Zoning Council which sits only for

Monrovia, and the Ministry of Public Works collaborates with this Council in implementing the law. The only Zoning Office nationally is that of the Zoning Officer for Monrovia, who is from the Ministry of Public Works.

Interviews with municipality staff and others indicated that this law was historically implemented well in the City of Monrovia. Sinkor is within the city, but major urban areas such as Paynesville, Congotown, and Gardnersville are not. The law does not apply outside the city, and it needs to be extended to apply to the greater Monrovia metropolitan area but also needs to be examined carefully to determine whether the standards it provides can be applied realistically to land use in the expansion areas. It may be that new zoning classifications will be required.

The larger problem is not the substance of the Zoning Law, though some details may need reconsideration if the law is to be more broadly applied, but the lack of other elements of a coherent regulatory framework for land in the urban context. Some problems:

- Zoning as a regulatory tool should be employed within a broader framework of urban land use planning, but there is no national law on land use planning, beyond certain quite limited provisions in the Local Government Law, handled by the Ministry of Internal Affairs.
- Control of public land within the municipalities remains the responsibility of county land commissioners, rather than the municipal governments. There is a need to reconsider this position, and in the proposed law on public land to vest ownership and management of such land in the municipalities themselves. An inventory of public land within the municipalities is an urgent need.
- There is effectively no Building Code, and conflicting information as to whether such a code has ever existed, though promulgation of regulations governing building standards is provided for in the Zoning Law.
- There is currently no legal framework for urban land regularization/readjustment, a major gap considering the extent of informal land occupation in and around Monrovia and some other Liberian cities. The Urban Transformation Law proposed and outlined by McAuslan during his UN-HABITAT consultancy for the Land Commission[9] can provide a useful basis for preparation of such a law.
- While Zoning is the responsibility of the Ministry of Public Works, the Ministry of Internal Affairs is currently responsible for physical planning, including land use planning. (The Ministry of Planning deals instead with economic planning.) This is a potentially dysfunctional bifurcation of authority, best bridged at local government level, but there is currently no systematic coordination of these activities in law or in practice.

The First National Urban Land Conference in 2010 recommended revision of both the Zoning Law and the Building Code. The Zoning Law/Zoning Act for the City of Monrovia, in Section 5.1(3) requires the Ministry of Public Works, with approval by the Zoning Council, "to prepare from time to time building codes and subdivision regulations, which will control type of construction, construction material, and the situation, positioning, and use of buildings." The consultants received unclear information on whether a Building Code

[99] McAuslan 2009, Better Cities for All: the way forward for an urban law reform. Report to the Land Commission. (Monrovia: UN-HABITAT).

was ever enacted and applied. One official indicated that such a code once existed but has been lost.

A thorough overhaul of the law in this area is indicated. A comprehensive approach is needed. It would be appropriate to work toward an Urban Land Code, encompassing provisions from the existing Zoning Law and development of a Building Code. (Caution will be needed in the development of the Building Code. Anecdotal evidence suggested that the municipality has sometimes discouraged construction using mud blocks and tin roofs. These components, if fabricated and used in modern ways, can help provide affordable housing in Liberia's rapidly expanding urban areas.) These bodies of law need not only to be updated but coordinated with other related bodies of law and their implementation nested within an integrated structure for municipal land administration that reflects government's decentralization priorities.

In addition, there is a need for new provisions on a) municipal ownership and management of public lands, b) urban land use planning, and c) regularization of urban lands informally occupied. Such a Code should deal in detail with the roles and coordination of the different agencies involved, and in line with the policy of decentralization, aim to strengthen the power and role of municipalities in urban land administration and management.

4.18 Aborigines Law (Title 1, Vol. 1, 1956)

This enactment is important to any discussion of the legal status of customary rights in land, a major issue facing the Commission. In Section 600 it repealed and replaced a succession of "Rules Governing the Hinterlands of Liberia" enacted as a law in 1949 but then reissued from time to time by the Ministry of Internal Affairs with minor but sometimes significant modifications.[10] The Aborigines Law is, as its title suggests, clearly a law from another, earlier and less sensitive time. Its language is offensive and it certainly should not form part of Liberia's corpus of law.

That said, it is this enactment which provides the legal foundation for key concepts in Liberia's law concerning land under customary land tenure, in particular the concepts of "communal land" and "tribal reserves".[11] In Section 75, it follows through on the Constitution's mandate for application of customary law by making the clan chief responsible for application of the customs of his community. Its Chapter 11 has provisions (especially Ss. 270-273) dealing with customary land tenure, specifically on tribal reserves, communal lands and their subdivision into family holdings in fee simple, and leases of tribal land to outsiders. It also provides in general terms for the free exercise by tribal authorities of tribal customs and traditions "insofar as these are not contrary to statute or administrative regulations" (S. 350), and for a right of equal protection of the property rights of aborigines (S. 370). Only a few sections of the law deal with land, but if they are not in force, that would leave a large gap in Liberia's property law.

[10] Ch. 30: art. 600. Repealers. Statutes repealed include "Hinterland Regulations app. L. 1949-50, Ch. XXXVI, except arts. 37, 54 (j) and 70."

[11] The lack of a good database on customary land tenure in Liberia is a long-standing problem and has been noted by numerous authors. For an early discussion see Allot, Anthony N. "A Report on the Feasibility of Research into Liberian Customary Law", Liberian Law Journal 3(2) (December 1967) 83.

The legal status of this law is in question because it was not included in the Liberian Codes Revised in 1973. Notes by the compilers suggest that some items were excluded because they were antiquated. It is not clear if that was the basis for excluding this law, but if so, it would be entirely understandable. Does omission of the law from the revised code mean that it is no longer in force? Did the omission accomplish an implied repeal? The argument that an implied repeal took place draws strength from the fact that the revised code was not just compiled by a publisher but enacted by the legislature to bring it into force, replacing earlier laws. That would seem a basis for considering the law to have been repealed. On the other hand, it is clear that the legislature considered this law might be in force after 1973, as evidenced by the fact that at a later date it enacted other laws which referred to and repealed particular articles of the Aborigines Law. The legal position is muddy, to say the least. It might be useful for the Commission to seek an advisory opinion from the Attorney General or the Supreme Court on the status of this law, if Liberian law allows such.

That said, the Commission's task is not to ascertain existing law but to recommend what shape the law should take in the future. It is clear that this particular law needs to be replaced, and this needs to happen in two contexts. On one hand its provisions on local administration should be replaced by a modern local government law, applicable throughout Liberia. Work on such a law is underway under the aegis of the Governance Commission. With respect to the land matters that concern the Commission, its provisions should be replaced by a Law on Community Land, proposed earlier in this report. It is quite possible, however, that some of the concepts which the Aborigines Law incorporates can be used in the context of the new law. These should be reviewed carefully as part of the drafting of that law. They are part of the legal reality on the ground, whatever the formal status of this law.

4.19 Rules and Regulations Governing the Hinterlands of Liberia, Ministry of Internal Affairs (January 7, 2001)

These rules are a successor to the earlier Law and Regulations on the Hinterlands noted in the prior section as repealed by enactment of the Aborigines Law. The 2001 rules were as the earlier rules promulgated by and administered by the Ministry of Internal Affairs. While earlier versions had referred to the "Hinterland Law and Regulations" this version refers only of "Rules and Regulations". Substantively, it is identical with the earlier versions. These regulations apply not only to the Hinterlands but to land under customary land tenure in the older counties of Liberia as well.

The re-promulgation of this document as "rules and regulations" appears to be an attempt by the Ministry to fill with a regulation the lacuna left by the absence of the Aborigines Law from the statute books after 1973. The Ministry of Internal Affairs has the authority to issue regulations for local governance under the Executive Law (Title 12, LCLR 1973) and the Local Government Law (Title 20, LCLR 1973), and may have issued this document in exercise of that authority. Some of the matters provided for in the document, in particular those dealing with property rights, should normally not be done in a regulation but in a law, and the re-promulgation is arguably an unconstitutional overreach by the Executive and thus invalid. In practice, most officials and local people in Liberia consider these rules to still be in force and behave accordingly. They are part of the "law in action" on the ground, and an aspect of rural realities.[12]

[12] The Ministry more recently promulgated rules and regulations concerning local government. These appear to apply throughout the country. They cover some of the same matters covered in the Hinterland Rules and Regulations regarding the structure of local government, but there is nothing in these new regulations with

Again, the task of the Commission is not to decide the constitutional issue, but instead to suggest how to move toward a sound legal regime for such land in the future. The consultants recommend that the areas of the Hinterland Rules dealing with land under customary land tenure should be replaced by provisions of a Community Land Law.

This concludes the review of existing pieces of legislation. Now, before proposing a strategy and structure for law reform, the report diverts to discuss in the following two chapters two substantive areas which have important implications for the law reforms: 1) harmonization of customary and civil law concerning land, and 2) institutional arrangements for land administration and management.

5. A Special Challenge: Harmonizing Civil and Customary Land Law

Liberia today exhibits the duality often seen in other African countries: 1) a sector historically associated with cities and some rural areas (in Liberia the coastal areas) in which imported property forms such as private individual ownership dominate, and 2) a sector historically associated with the interior of the country which those imported forms have only penetrated to a limited extent and where much of the land remains managed under local custom. In Liberia, the second sector has been neglected in legal development, and those holding land there enjoy far less tenure security than their counterparts who hold land in individual ownership. Their sense that they lack security of tenure was an important consideration in the creation of the Land Commission, having been raised repeatedly during the public consultations leading up to the creation of the Commission.[13]

5.1 Harmonization or Unification?

Many countries in Africa in the post-independence period pursued "unification" strategies, and legislated to create a uniform national land tenure system. This failed in most countries, in part because it is difficult to force such legal chance on local communities whose cultural values are reflected in their land custom, and in part because of the limited capacity of national governments to effectively assume the tasks of local land administration and management. Customary institutions have proved remarkably resilient.[14]

There are some instances where a degree of success has attended unification policies. Ethiopia and Tanzania have made significant progress toward unification with an emphasis on community control of local land resources, in part because these two countries had earlier built strong community-level civil institutions capable of undertaking the needed roles. Customary land tenure is disappearing in those countries. But in most African countries

---

regard to land under customary tenure and nothing in them to suggest that there was an intention in promulgating them to repeal the Hinterland Regulations. See Rules and Regulations Governing Local Government Officials of the Political Sub-Divisions of Liberia (Revised Edition), Ministry of Internal Affairs (February 24, 2005).

[13] For a relatively recent note on the Liberian situation, with a focus on the post-war context, see Unruh, Jon. 2007. Postwar Land Tenure in Liberia: The Intersection of Customary and Statutory Land Laws. (Monrovia. World Bank, n.d., c. 2007).

[14] See Englebert, Pierre. 2006, "Patterns and Theories of Traditional Resurgence in Tropical Africa", *Mondes en Développement*, 2002, 30(118): 51-64.

custom has resisted these efforts to replace it and continues to govern most rural landholding. And some countries that embarked on unification strategies have changed direction.[15] In Kenya, unification through systematic conversion of customary land tenure to private individual ownership appeared until recently to be progressing steadily, though in a troubled fashion. But the 2009 Kenya National Land Policy approved by Parliament halts that progression, calling for a new form of custom-based property called Community Land.[16]

There is a wealth of experience for the Commission and other participants in the reform process to draw upon in this regard.[17] Mozambique is in the process of developing a mixed system of private individual and private group rights in land, the latter based on community customary rights. South Africa is in the midst of a struggle, being played out in part before the Constitutional Court, over the roles of civil and customary land authorities in land management. Botswana, long committed to co-existence of statutory and customary property rights, is using an innovative institutional model, now seasoned by implementation for nearly a half-century: District and Sub-District Land Boards on which originally sat a mix of traditional and civil authorities and which administer both customary and statutory forms of property.

A further factor affecting the shift away from unification strategies and toward harmonization strategies has been a developing consensus that customary land tenure is more flexible than previously believed, and more capable of evolving to meet new needs. Its generally unwritten nature and other characteristics of customary legal systems facilitate such evolution. Today, development institutions such as the World Bank, which are still in some contexts supporters of replacing customary tenure with individual free-hold style property rights, accept that customary tenure can in some circumstances provide adequate security of tenure for smallholders.[18] Change toward more uniformity may still be seen as a long-term objective, and private ownership may still be the preferred tenure of most economists, but the "forced-march toward modern land tenure" school of thought has lost

[15] For comparative work reviewing some pitfalls in formalization, see Bruce, John W., and Shem E. Migot-Adholla (eds.), Searching for Land Tenure Security in Africa (Dubuque, IA: Kendall/Hunt 1994) and Bruce, John W. et al. 2007. Land and Business Formalization for the Legal Empowerment of the Poor. Strategic Overview Paper. (Burlington VT: ARD for USAID). In spite of these experiences, formalization continues to have strong advocates. See De Soto, Hernando. The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else (Basic Books 2002).

[16] For studies of the unexpected impacts of systematic title registration in the Kenyan case, see Coldham, Simon, "The Effect of Registration of Title upon Customary Land Rights in Kenya, Journal of African Law 22(2): 91 (1978), and Shipton, Parker. 1988. "The Kenyan Land Tenure Reform: Misunderstandings in the Public Creation of Private Property", in Land and Society in Contemporary Africa (R. E. Downs & S. P. Reyna, eds., U. New Hampshire Press, 1988).

[17] Three strong comparative reviews of African experiences are: International Institute for Environment and Development. 2006. "Innovation in Securing Land Rights in Africa: Lessons from Experience." An IIED Briefing Paper (London: IIED); Fitzpatrick, Daniel. 2005. "'Best Practice' Options for the Legal Recognition of Customary Tenure", *Development and Change* 36(4): 449-475; and Lavigne Delville, Philippe. 2004. Registering and Administering Customary Land Rights: Current Innovations and Questions in French-Speaking West Africa. Communication to the Expert Meeting Group on Secure Land Tenure: New Legal Frameworks and Tools, organized by FIG Commission 7, Nairobi, 10-12 November 2004. For a more global perspective, see Ubink, J., A. Hoekma, and W. Assies (eds.) 2009. *Legalizing Land Rights. Local Practices, State Responses, and Tenure Security in Africa, Asia and Latin America* (Leiden: Leiden University Press).

[18] See Deininger, Klaus. 2003. Land Policies for Growth and Poverty Reduction. World Bank Policy Research Report (World Bank & Oxford University Press).

considerable ground in recent years. There is an emerging consensus, broad if not universal, toward acceptance of the continued coexistence of dual systems, subject to a gradual reform process, with a strong focus on institutions as well as rules and on security of tenure rather than commoditization of land as the priority objective.

5.2 What Exactly is Harmonization?

What then is meant exactly by harmonization? Harmonization assumes the continuing co-existence of two bodies of rules relating to land, one of statutory and another of customary origin, and focuses on the creation of a harmonious relationship between these bodies of law. This usually requires strengthening customary rights, in the sense of providing in law for their recognition and protection by the state, and for their equivalence with statutory forms of property rights. They are thus "formalized" (legally recognized by the state) but not transformed into imported tenure forms. Some elements of custom may be reformed in the process. The harmonization requires fundamental decisions about what sort of local institutions (traditional or civil, or mixed) should administer and manage land under customary or community tenure.

Harmonization also requires:

1. Obtaining clarity as to which land is covered by rights defined based on custom and which land is covered by rights based in statutory law and including both private and government land but especially government land, which is as poorly defined spatially as customary land. Effective demarcation and documentation of government land on the one hand and community land under custom on the other is both essential and challenging.
2. Coordinating the day-to-day roles of traditional and other community land administrators and national or local government institutions so that in implementing their legal mandates they complement one another, and moreover provide "checks and balances" on one another that limit possibilities for corruption or other malfeasance.
3. Clarifying the interface between the two systems of land law and the extent to which land can move across that interface. For example, under what circumstances and by what process can land held under customary right become fee simple, and vice-versa?
4. Coordinating land dispute resolution by traditional authorities, local government, and the judiciary, including equipping the judiciary to act effectively as an appellate body in cases of appeal involving customary land law.

What are some basic harmonization options?

Tenure Options: All involve recognition of customary rights, but deal with customary rules in quite different ways:

- In the classic common law approach the courts develop through their decisions in disputes a case law that defines customary rights, with an emphasis on family, household and individual rights, and makes them part of the nation's common law. Common law jurisdictions throughout Africa provide examples of a century

of the evolution of these tenure forms through court decisions.[19] While Liberia is a common law jurisdiction, there has been relatively little progress in this regard.[20]

- "Codification" approaches, in which the state recognizes custom by restating the rules of customary land tenure by statute. This approach has been criticized as depriving custom of its dynamism and capacity to evolve, and while there are codification efforts during the colonial period (Eritrea, Madagascar), and in the immediate post-colonial period (the East African Customary Law Codification Project) the approach has not been implemented in recent times.
- Approaches which recognize customary rights as customary rights (not seeking to replace them with western property forms. These may be pitched at family level (Ghana's registration of customary rights) or at community level, recognizing the community right and relying upon community institutions to apply and develop the customary rights of their individual and family members (Mozambique's community land demarcation and certification).

Institutional Options: The question here is the extent of reliance upon traditional or civil institutions.

- Reliance upon traditional institutions to administer custom, as in Liberia and most common law jurisdictions, with a role for the courts in the development of customary rules. The reliance on traditional institutions has an obvious logic, as they are experienced in this role, but there are also a number of serious problems, from the authoritarian nature of governance in some traditional societies, to the distortion by national authorities of traditional authority structures with respect to land, forcing them into neat administrative hierarchies.
- Reliance upon mixed institutions such as the Land Boards of Botswana, which as originally designed included both chiefs and elected members and still handle both statutory and customary rights.[21]

[19] For a particularly lucid discussion of the process by which judicial precedents on customary land tenure become part of the national common law, see Mutafa, Zaki. The Common Law of the Sudan; An Account of the 'Justice, Equity and Good Conscience Provision. (Oxford: Clarendon Press, 1971). For a discussion of the development of customary law in the Ghanaian courts, and a sense of how much more robust this development has been than in Liberia, see Woodman, Gordon. 1996. Customary Land Law in the Ghanaian Courts (Accra: Ghana Universities Press, 1996), and for a broader view of the development of the "family property" institution across national boundaries in West Africa, see Allot, Anthony N. "Family Property in West Africa: Its Juristic Basis, Control and Enjoyment" in J.N.D. Anderson (ed.) Family Law in Asia and Africa (London: Butterworths, 1968: 121-142. The Allot piece makes it clear that the courts were in fact not simply "finding" customary rules but shaping them in light of perceived new needs, a point made in the Central African context by Chanock, Martin. "Paradigms, policies and property: a review of the customary law of land tenure" in K. Mann and R. Roberts (eds.), Law in Colonial Africa (London: Heinemann, 1991).

[20] It would appear that the administrative handling of customary land disputes by the Ministry of Internal Affairs resulted in relatively few of these disputes finding their way into the court system. The most useful source in this regard is McCarthy, Nancy. 2007. Customary Land Use in Liberia: A Review of Supreme Court Decisions. (Monrovia: IFPRI and George Mason University School of Law, 2007).

[21] On Botswana's Land Boards, see Quan, Julian. 2000. "Land Boards as a Mechanism for the Management of Land Rights in Southern Africa" in C. Toulmin and J. Quan (eds.) *Evolving Land Rights: Policy and Tenure in Africa*, pp. 197-205. London: DFID/IIED/NRI.

- Reliance upon local civil authorities to administer custom. This the situation where laws have taken away the authority of traditional authorities and entrusted land administration to civil institutions and these de facto apply local custom.
- There is often some involvement of the courts in all these approaches, as disputes under custom may come before them and they must decide on the customary rule or whether administrative authorities have exercised their authority appropriately.

It would be premature to suggest which of these approaches may make sense for Liberia. This should emerge from studies and public consultations with those most affected.

5.3 Achieving Harmonization

Harmonization is not simply a formal legal position but an objective to be achieved on the ground, in practice, and achieving it will take time. It requires a process which involves studies, public consultation, legal literacy programs, upgrading of survey capabilities, ambitious programs of demarcation of landholdings, and the mobilization of government, private sector and NGO capacities to accomplish these processes. But the process could be initiated through the policy and law reform process now underway by the Commission. Once the basic policy directions are established, the appropriate legal instrument would be a Community Land Law which provides clear legal recognition to customary rights in land, more adequately defines their spatial dimension, and sets out clear institutional arrangements for administration and management of such land.

There are many models of this harmonization process that can profitably be consulted by the Commission, and Commissioners have already made trips to some of the countries with interesting models. Models from overseas, even from other African countries, should be used to stimulate thinking rather than imitated. These models to some extent reflect the physical characteristics of individual countries, such as their person/land ratios and penetration of market forces. But they also reflect the ideological predispositions of those countries (and those of the donors sponsoring reform processes). In some countries, customary land tenure is dealt with as a form of private property, in others as public good administered by local communities.

This report limits itself to making the point that the policy tide in Africa is clearly away from ambitious unification programs and toward harmonization approaches. It has raised briefly some fundamental issues, and suggests how a harmonization policy, if decided upon, could be pursued as a matter of legal reform. A substantial and probably lively public conversation among Liberians on this element in the reform program is needed. The issues are culturally sensitive and have important political dimensions, many of which will only emerge in the course of a serious national dialogue on them. At some level, that discussion is already on-going. But to give it form, the Commission should develop and put forward clear options for change. Such proposals are needed to focus the public discussion. While such a discussion will inevitably have political overtones and sometimes be heated, clear proposals will make that discussion less free-wheeling.

It should be noted that this report's discussion of this topic overlaps with the ongoing discussion concerning decentralization and land dispute resolution, both within and outside the Land Commission. It is especially important that new arrangements for local governance generally, and in particular, the provisions of a new Local Government Law receive input from the Commission regarding the relative role of different civil and traditional institutions

with regard to land. The Land Commission should very actively participate in those discussions in the Governance Commission, or it may find certain options pre-empted.

6. Reforming Land Administration Institutions

Systems of property rights and land tenure consist not only of rules, but of the institutions that administer them. The adequacy of the legal framework for the key institutions involved in land administration and management needs to be considered in any comprehensive discussion of reform in the land sector.

6.1 The Need for Institutional Reform

The implementation of any program of reform of land tenure and administration requires effective land governance institutions. Reform of policies and law concerning these institutions themselves are often needed as part of the reform process. This is in part because the organization and processes of those institutions may be out-of-date and need reform, in part because they often have vested interests in existing ways of doing things and may resist reforms, and in part because they usually play a key role in the implementation of enacted reforms. Without the solid support of their staff, implementation is likely to falter or even fail. Those staffers thus need to be intimately engaged in the reform process, and convinced that the process holds promise for them and their careers. The land reform process in Liberia, going back to the preparation for the creation of the Land Commission, has benefited from strong support from the land administration staff of the Ministry of Lands, Mines and Energy, and the Commission should do everything possible to foster a continuing close cooperation with them.

Before going further, it is necessary to step back and look at the roles of various government institutions with regard to land. The pattern in Liberia's national government is not unusual: one ministry with a general but not very strong authority with regard to land and a variety of sectoral ministries or other agencies dealing with land under specialized uses such as agriculture, mining or forestry. The institutional set-up at the local level is more unique. The statutory basis for the land-related competences and authority of various public sector institutions at both national and local levels are reviewed below, then discussed with reference to some possible reform options.

In Liberia, the key institutions are the ministries and other agencies, including both those with cross-cutting responsibilities with regard to land and the sectoral ministries dealing with land in specialized uses. The major source of the competences of these institutions is the Executive Law, LCR Title 12.[22]

6.2 The Ministry of Lands, Mines and Energy

This is the ministry with "land" in its title, and the one that might logically be expected to have a robust mandate with respect to land. That is not the case. The mandate of the Ministry is set out in Chapter 33.2 of Title 12, the Executive Law. The preamble to 33.2 mentions that

[22] For an earlier discussion of the existing institutional arrangements done for the Governance Commission, see Johnson, Koboi. 2007. Inventory of Ministries, Agencies and Other Institutions with Statutory Responsibilities for Managing and Administering Land and Real Property in Liberia. (Monrovia: Governance Commission).

the Ministry is charged with administration of the Mining and Survey Laws, but the actual listing of competences is focused very heavily on the minerals sector, with a quite specific listing of responsibilities in that regard. Sub-section (2)(a) appears to exclude the Ministry from making mining concessions, but this would seem to have been in effect amended by the Minerals and Mining Law discussed in Section 4 of this report, under which the Ministry is clearly empowered to make concessions.

By contrast, the only references to land come toward the end of a long list of competences, in the sub-sections dealing with the Ministry's responsibility for promulgating regulations and enforcing laws and regulations:

> (m) To promulgate all regulations affecting lands, mines and energy in Liberia;
>
> (n) To monitor compliance with, as well as enforce, all laws and regulations affecting lands, mines and energy;

While degraded by the long period of conflict, this Ministry's Department of Lands, Surveys and Cartography (DLSC) remains the center of competence in surveys and mapping in Liberia. Its surveyors are essential to the operation of the public land sale program, and provide services to government in many other contexts. But its mandate is quite narrow and technical. Unlike many lands departments in other countries, it does not have any specific authority to manage public lands. Nor does it appear from its legal mandate to have a role in land policy or law reform. It does not carry out deed registration, which is the mandate of the CNDRA. The Ministry does however play an important role in the land (title) registration process under the 1974 Law, carrying out the necessary survey and adjudication; an Adjudication Section exists in the Department, created at the time of the pilot systematic land registration in the late 1970s.

The Ministry does under other statutes have nominal authority over key local government officials dealing with land, in particular the County Land Commissioners and the County Land Surveyors, but this appears to be exercised effectively only with regard to the Surveyors. The consultants were told repeatedly that the County Land Commissioners report to the County Superintendent and through him or her to the Ministry of Internal Affairs. This seems to fly in the face of the provision of Section 9.16 of the Decree on Licensing and Control of Land Surveyors, reviewed in Part 4 of this report, that all Land Commissioners "shall become personnel of the Ministry of Lands, Mines and Energy". This anomaly needs further exploration.

The picture that emerges, from this legal review and discussions with Ministry officials, is one of a Ministry with a weak land mandate and one which accords a relatively low priority to land matters, by comparison with mining and energy. The DLSC remains in an inadequate rented facility in Sinkor, away from the main office of the Ministry. The Ministry has in the past budgeted for a new building for DLSC on the headquarters site, but the project has not gone forward, according to ministry officials, because the ministry received less than the budgeted funding. It remains to be seen whether the conditionality relating to this new building under the MCC Threshold Program will make a difference. It seems unlikely that land as a sector will ever receive the attention it deserves unless these institutional arrangements are fundamentally reformed.

The consultants recommend that primary responsibility for land be shifted to a new institution, one with a much strengthened land mandate. Land has long been a resource

considered plentiful and taken for granted. This is no longer a viable approach in today's world of skyrocketing demand for land. Some institutional options that could enable the state to play its role in this area more effectively are discussed in 6.3 below. First, however, it is useful to examine the roles of sectoral ministries and other agencies with land functions.

6.3 Sectoral Ministries and Other Agencies

The role played by sectoral ministries in the land sector is considerable, especially with regard to concessions for activities which fall under the mandate of the concerned ministry. In some cases there is clear legal authority for this role, in other cases it must be implied from general provisions in the Executive Law.

The Ministry of Lands, Mines and Energy's mandate with respect to land for mining derives less from the Executive Law than from the more recent Minerals and Mining Law, reviewed in Part 4 of this report. The Ministry has explicit authority to grant concessions. While the MLME's Department of Lands, Surveys and Cartography indicated that they are not often consulted on land availability by other ministries making concessions, the Department is regularly consulted where mineral concessions are concerned, these being processed within the same ministry.

The Ministry of Internal Affairs under Section 25.2 of the Executive Law makes that Ministry responsible for the management of "tribal affairs," including the development of regulations for that purpose, and administration of the tribal courts. It is also mandated to collect and publish the customs of the tribes, a task it does not appear to have undertaken. There is no specific mention of land or land tenure.

The Ministry of Agriculture's mandate under Section 28.2 of the Executive Law again does not explicitly mention land or land tenure, or concessions. The only relevant item listed would be its broad responsibility for "administering all laws relative to agricultural subjects or rural improvement, including regulatory laws designed to protect the farmer or agricultural means of production or farm commodities."

The Forestry Development Authority, whose authority is set out under the Public Authorities portion of the Executive Law, has clear authority to grant forest concessions (Ss. 4 and 16), and to charge a prescribed land rental fee of .50 cents per acre. The more recent Forestry Reform Law reviewed in Part 4 of this paper contains much more elaborate provisions on forest land.

The Municipality of Monrovia has by the Act constituting the City (1973)[23] the power to take and holder real estate up to a value of 10 million dollars, an authority that may not extend to Liberia's other cities. On the other hand, it does not have legal authority (though it may have a degree of de facto control) over public land within the city. The need to address such matters in the context of local government reform has already been mentioned.
The Center for National Documents and Records/Archives (CNDRA) was created under a 1979 law,[24] now a part of Section 81 of the Executive Law. It is the custodian for both the

[23] An Act to Repeal the Act Creating the Commonwealth District of Monrovia and to Create in Lieu Thereof the City of Monrovia, County of Montserrado, and Grant It a Charter. August 16, 1973, in section 5.

[24] An Act to Amend the new Executive Law to Create an Autonomous Bureau to be Known as a Center for National Documents and Records and to Repeal Other Laws in Relation thereto (February 19, 1979), Title 12 of the Liberian Codes Revised.

Deeds Register and the Land Register under the 1974 Law. (While the Ministry of Foreign Affairs retains control of the older registers, this is without legal basis.[25]) The CNDRA is thus an important government actor in the land sector, with land responsibilities that cut across sectors.

Section 81.10 of the CNDRA law provides that the President, with the advice and consent of the Senate, shall appoint for each County and territory a Registrar of Deeds who shall serve under the immediate direction and supervision of the Director General, and lists several responsibilities and competences of the Registrars. The provisions are reasonable as far as they go, but do not provide a level of detail comparable with most deed registration laws on administration and conservation of the registers. A much fuller treatment of these points is needed. This could best be accomplished through a new law dealing with the full range of land registration options available to government. There are some specific changes that are needed as well. One is provision for the appointment of a Registrar-General, supervising the County Registrars for the Director of CNDRA and acting as Registrar of Lands under the 1974 Registered Land Law. Another needed change is amendment of the definition of "records" in Sections 81.1 (2)(a) and 81.13 to allow for electronic records.

There are many countries where the deed or land registry is within a unit of the Ministry responsible for lands. Sometimes the registers are managed as part of the department dealing with lands and surveys. The World Bank and a number of other donors often support the development of a "single land agency" which includes the land registry function. There are other jurisdictions however, notably Scotland, where the deed registers are part of the national archives, and others where they are a function of the judiciary. There is clearly a trend away from the latter. Courts are tools for careful, deliberate and often slow consideration of complex matters, not efficient delivery of a service to the public. The Scottish deed registry enjoys a very high reputation and this suggests that the archives-based approach can work well. While it is a bit unusual, the consultants consider that it should be retained. When the land registration function is lodged within the same ministry which handles grants of land and implements other land programs, the land registration function can be affected and in some cases compromised by other ministry priorities. Housing the registers within the same organization with other land agendas at play may facilitate fraud. Insulating the registers in the CNDRA, which has a very straightforward document preservation and client use orientation, may best serve those landholders who rely on the system.

This is the case in spite of the fact that at the moment, the CNDRA is itself grappling with some cases of malfeasance by staff; the consultants are convinced that once these problems are corrected – and they have been tackled quite forthrightly – the CNDRA is the best option for both the deeds and land registers. Adequately delivering on that responsibility, however, requires that the CNDRA be able to reclaim the remainder of its purpose-built facility, which is still occupied by the National Investment Commission.

While it is possible to identify some provisions of the CNDRA law which could usefully be amended, this should await the development of the new, general law on land registration

[25] The Act repeals the provisions of the Executive Law that entitled the Ministry of Foreign Affairs to maintain the Deed Registers. In Section 1 of the preamble, the law provides that Sections 20.50 thru 20.59, sub-chapter B of Chapter 20, and Sections 81.1 thru 81.10 constituting Chapter 81 of the Executive Law, are repealed and replaced.

recommended here. Some of its provisions will likely need adjustment to accord with the provisions of that law.

6.4 Institutional Reform Options

Most countries, including most African countries, have a law creating and empowering a public agency to administer and manage land. Typically such an agency has roles in land mapping, land survey, land registration, creation and maintenance of GIS/LIS systems and public land management. No single model predominates. In some countries there is a Ministry of Lands. In others responsibility for land is combined with responsibility for other topics (e.g., the Ministry of Lands and Rural Development in South Africa). In other cases, a semi-autonomous and permanent Land Commission has been created which, unlike the temporary Land Commission in Liberia, has major implementation responsibilities in land administration and management. In Ghana, such a Commission has constitutional status and has recently been reorganized. In yet other countries, a semi-autonomous Land Administration Agency has been created, empowered to retain revenues from services provided and intended to be financially independent (most recently in Lesotho). That Agency is exempted from normal limits on civil service salaries so that technically qualified staff can be retained.

As noted above, the current national arrangements in Liberia for dealing with these issues is weak. It is also fragmented, given the major roles in allocating land to particular uses performed by agencies such as the Ministry of Agriculture and the Forestry Development Authority. Moreover, the current county-level machinery for land administration and management, consisting of the County Land Commissioner, the County Land Surveyor, the Probate Court and the Deeds Registry, all reporting to different national agencies, is also highly fragmented.

The arrangements existing today do not constitute a coherent framework for land administration and management. Greater centralization is not the solution, but rather a system in which the parts connect with one another and function as a system.

While it would be premature for the consultants to recommend an appropriate institutional form it seems that there are three key needs to be addressed:

1) Creation of a new national agency with a strengthened mandate on land, including the land administration roles of the current DLSC but enhanced to include a major role in management of public land;
2) Reassessing the county and sub-county arrangements for land administration and management, in light of both current problems and the current impetus towards decentralization;[26]
3) Ensuring that all county-level staff and others working in local government on land are linked to the new national agency in a supportive fashion, and

[26] For recent work on decentralization of land administration in Africa, see Wiley, Liz Alden. 2003. A Review of Decentralization of Land Administration and Management in Africa. (London: IIED) and Bruce, John W., and Anna Knox, "Structures and Stratagems: Decentralization of Authority over Land in Africa", *World Development* (Special Issue on the Limits of State-Led Land Reform) (2009) 37(8): 1360-1369.

4) Reassessing and, as necessary, amending the mandates of other government institutions with land powers, such as the sectoral ministries and the Concessions Commission, in light of those changes.

Institutional reform policy needs to be a priority focus of the efforts of the Land Commission, leading in time to enactment of new legislation in this area.

7. Structuring the Reform Process

7.1 Organizing for Effective Reform

Liberia's legal framework for land requires a fundamental overhaul. The needs for this arise in part from the changed circumstances resulting from the years of conflict, but that framework, even before the conflict, had long been neglected. It reflects approaches and in some cases values that do not accord with modern standards and international best practices. The magnitude of the task of overhaul, based on the review of statutes, is daunting. Many statutes should be amended or replaced, and there are a number of gaps that need to be filled.

The question is how to structure this work so that it will both be done with due deliberation and consultation and be substantially completed within the statutory five year life of the Commission.

The approach recommended here is:

1. The Commission needs to break down the reform task into manageable pieces. Thinking of it in terms of revising dozens of laws as individual tasks is overwhelming. Those laws must instead be clustered according to policy domains. This is sound not only in terms of proceeding expeditiously but because some laws need to be revised in close coordination with work on other related laws dealing with the same policy domains. Such a clustering is suggested in 7.2 below.
2. The Commission should with respect to each cluster proceed through the policy-to-law progression suggested in Part 2 of this report, and already being used effectively by the Commissions Policy Task Force. The exact content of that progression may differ a bit from cluster to cluster, especially regarding the nature and extent of public consultation on policies, depending on whether the laws in that cluster affect the population generally or some groups of stakeholders much more than others.
3. In order to perform this policy and law reform task, the Commission should, in line with the centrality of this policy and law reform task to its mandate, establish a number of Task Forces working on these clusters. One Policy Task Force, though its work has been exemplary, will not be sufficient. At least three such policy working groups will be needed.

7.2 Clustering Reform Initiatives

As suggested above, the Commission should consider breaking down its policy and law reform work into a number of clusters, with at least three policy and law reform working groups focusing on those domains. An appropriate clustering is proposed below.

Cluster One: Real Property Rights

One potential cluster concerns real property rights: public rights, private rights and community rights.

1. Public land: The Land Commission has already given its urgent attention to public lands sales under the Public Lands Law. The Commission is seeking to address a government program which has been contributing to public concerns about the land sector. In the course of that work, it has become clear that public land issues are among the most urgent facing the Commission, and the Commission has given this area priority in discussions in its Policy Task Force. This reflects a) the identification of grave problems in this area in expert presentations to the task force; b) the demands for fundamental reforms in this area voiced in public consultations; and c) the experience gained by the Commission in connection with its vetting of selected public land sales. A new body of law dealing with public land is needed, and some of the particular needs have been noted in the discussion of that law in Part 4 above. These provisions would replace the current Public Lands Law and would need to be coordinated carefully with the Minerals and Mining Law, the Natural Resources Law, the National Forestry Reform Law, and the Community Rights Law with respect to Forest Lands. Some degree of amendment of those laws may be needed for consistency with the new provisions on public land.
2. Private Land: Private property is, in most common law jurisdiction, left largely to judge-made law (judicial precedents), with limited statutory innovations. Liberia already has such an enactment embodying such limited interventions. It is, however, anachronistic in some regards and generally inadequate to meet today's needs. We have recommended enactment of new, more comprehensive and up-to-date provisions on private land, effectively codifying some basics of private property law. These provisions would replace the Property Law. It would need to be coordinated with the provisions of two other enactments affecting property rights: the Decedents Estates Law and the Equal Rights of the Customary Marriage Law. The Investment Law should also be consulted in this context, as the provision on private land should spell out the extent to which and the ways in which foreign investors can access private lands.
3. Community Land: In addition, we have recommended a third fundamental body of law on real property: a law on community land rights, covering the land currently held and administered by communities under custom. The uncertainty regarding the extent to and nature of such rights and their relationship to public land is fundamental to tensions troubling the country's land sector. The discussions in the Commission's Policy Task Force have pointed toward the need for new law on this matter. Those provisions should provide a legal framework for the so far neglected customary rights to land; give them a formal legal basis in national law; provide for their identification, demarcation, and registration; and give them a legal status and protections comparable to private ownership of land. The Aborigines Law (whatever its present legal status) would be replaced by this law, as would the land provisions in the Hinterland Regulations. Work on this area would need to be coordinated carefully with the provisions of the National Forestry Reform Law and the Community Rights Law with respect to Forest Land.

Those three elements within the property rights domain (public, private and community land) are fundamental pillars of Liberia's land law, and the policy work needed to develop them

deserves priority. Work has already begun on public land issues. Comparable work should begin soon on policy issues related to Private Lands. Studies are underway under the auspices of the Commission on customary land tenure which will inform work on a law on community land. There is currently quite limited knowledge of customary land law and institutions and their interactions with local government. A substantial body of research is planned by the Land Commission in this area, funded by the World Bank and by USAID under the MCC Threshold Program.

It is recommended that the task force working in this area first engage further the issues on public land, then private land, and then community land. It is important that this body of work on property rights fall within the responsibility of one task force, as they are intimately related, and the policy and legal harmonization task discussed in Part 5 above must be part of this work. The ultimate product should be a Real Property Law, covering all three elements mentioned above and including provisions on public acquisition of private land, including exercise of the power of eminent domain, provisions that are in line with the fundamentally sound provisions of the Constitution in this regard but add the critical procedural provisions not covered in the Constitution.

Cluster Two: Urban Land Management

A second cluster recommended is urban land management. The problems associated with rapid urbanization throughout Liberia and the extensive informal occupations of land in and around Monrovia and other urban areas give the urban land policy domain particular urgency. The proceedings of the First National Conference on Urban Land reflect this urgency. The elements in such a cluster would be urban land use planning, urban land use zoning, building standards, municipal management of public land, and land regularization/readjustment for areas of informal settlement. Some specific recommendations regarding possible reforms in this domain have been made in the discussions of particular laws in Part 4 above.

While many of the elements to be dealt with here would involve revision of existing laws, and could draw on a body of experience under them by the institutions which have administered them, there are two that are largely untouched in existing law: urban land use planning and the regularization/readjustment of informal settlements. These will require substantial new thinking. The McAuslan report to the Commission on regularization/readjustment noted earlier in this report is a valuable contribution in that area. The task in dealing with this domain includes not only creation of a coherent system for urban land management but also a rethinking and coordination of the role of the several different institutions involved in that process, notably the municipalities, the Ministry of Internal Affairs and the Ministry of Public Works. The new law would include substantial new material on urban land use planning and regularization/readjustment, as well as integrating and reforming the present Zoning Law and Building Code. The ultimate product here, from a law reform perspective, would be an Urban Land Management Law.

As suggested in Part 4, this work needs to be coordinated carefully with the government's ongoing work on decentralization, and should aim to strengthen the power and role of municipalities in urban land administration and management.

Cluster Three: Land Administration

This cluster covers the provision of public services to the land sector. It includes services provided directly by national government, including land survey in some cases, land registration, management of public land, and government's regulation of services provided by the private sector, as in the case of private land surveyors, valuers and real estate agents. It should also include the organization of central government institutions to deliver those services, the institutional reform element discussed in Part 6 of this report.

Land registration is an important element here. It was suggested in the review of the Property Law earlier in this report that there is a need for a fuller treatment in law of the process of Deed Registration. It was also suggested, in the review of the Registered Land Law, that the law could be substantially simplified, and that certain elements of it need to be reformed, especially those concerning land under customary tenure.

To avoid confusion in discussions, the term used for registration under the 1974 law should be "title registration" and not the term used in that law, "land registration". That would allow "title registration" to be contrasted with "deeds registration" and the term "land registration" to be used for all forms of public recording of rights in land.

There will be a need for laws dealing with both systems for some time. While it is sound to plan for title registration to eventually replace deeds registration, systematic implementation of title registration under the 1974 law has not yet been done successfully even on a pilot basis. Based on the experience of other countries, the replacement process will take at least a generation. Whether special provisions are needed for demarcation and registration of community lands should be considered. The Mozambique legislation provides a useful model for such a process of registering group rights.

The law should provides for all these options and constitute a toolbox upon which government could, based on experience with implementation, draw to meet needs in particular areas of the country. The intention here is not to create perpetually parallel systems, but to recognize that different parts of the country are starting from quite different points and may need to evolve along different paths toward fuller security of tenure.

A Land Administration Law, the ultimate product of work in this domain, might have four chapters. These would deal with 1) a new national land administration agency, 2) its management of public land, 3) its provision and regulation of land survey services, and 4) its role in land registration. The Land Administration Law would replace provisions in the Property Law dealing with deeds registration and the 1974 law on land registration, as well as the Decree on Licensing and Control of Land Surveyors. It would affect the Executive Law provisions on the Ministry of Lands, Mines and Energy. Because public land management is covered, concessions would be covered and this should involve amending the Public Procurement and Concessions Law. This law would also need to structure the relationship between the role of the new agency in implementing land registration and the custodianship of the land registers, which the consultants recommend remain in CNRDA.

Outliers

There are at least two legal needs of the land sector that do not fall neatly or conveniently into the clusters set out above or at least into the statutes proposed:

The Real Property Tax Code

There is a need for a reconsideration of this law. The major problems with implementation may reflect flaws in the law itself. The consultants are not taxation specialists, but recommend that the Commission collaborate with the Ministry of Finance on reconsideration of this law and seek technical assistance from FAO in this matter. FAO might well be able to fund a consultancy in this area. It would be appropriate to contact the Climate, Energy and Tenure Division, NRC, FAO.

A Proposed Condominium Law

There is one other real property concern that should be dealt with by this task force, a concern of relevance to Monrovia and other urban centers. This is the absence in existing law of any provision on condominiums, an important element in most urban property systems. A condominium, or condo, is a form of real property in housing where a specified part of a piece of real estate (usually of an apartment house) is individually owned while use of and access to common facilities such as hallways, heating system, elevators, exterior areas is vested in an association of owners that jointly represent ownership of those parts of the building and the land on which it stands.

The condominium, also sometimes referred to as a "sectional title", is originally a civil law institution, but spread to common law legal systems beginning in the 1960s. It is an alternative to the traditional legal arrangements for apartment buildings. In the typical apartment building, the individual units as well as the rest of the building are owned by an individual or a corporation and those who occupy individual units rent them from the owner. In a condominium, by contrast, the units are individually owned by the holders, while the common facilities and the land on which the building stands are owned by the unit owners as a group, organized as a corporation, association, or some other management entity. Almost all U.S. states now have condominium laws. As for models from other African countries, South Africa and Namibia have recently passed "sectional title" laws, and these are considered well drafted.

The popularity of the condominium title stems from two considerations. First, individuals often prefer to own the premises in which they live but may not be able to afford a single family dwelling. The sectional title arrangement allows them to own the unit they acquire. Second, the arrangement has a housing finance advantage: the developer can, in addition to seeking credit for construction from normal bank sources, require those purchasing the individual units to make down payments which help finance construction.

In the absence of a law on condominiums, they are sometime created by contracts among the developer and the purchasers of the units. This is however not good practice, and gaps or oddities in the agreements have often led to disputes in court. Best practice is to provide a firm and detailed legal framework for the property institution. This cannot be adequately provided for within a general property law. The condominium is a complex and relatively sophisticated property institution, and condominium acts are typically quite long, on the order of 60-100 articles. Such substantial provisions do not fit comfortably within a general law on real property. It may be appropriate to have a separate statute on this topic.

Providing a legal framework for condominiums could have a positive effect on construction of multi-family buildings in Liberian cities, and form a valuable addition to the Liberian legal framework for land. It is generally dangerous to rely on imported models of land statutes, but in this case the risk of proceeding in that manner is small. The condominium law would apply only to multi-family dwellings such as apartment buildings and only in the urban context. The urban users, that is, real estate developers and those seeking to purchase units, tend to want the same thing in cities everywhere. It would thus be appropriate for drafters to work with good law from another common law jurisdiction as a starting point, and make any adjustments that they see as required by Liberian circumstances. In the U.S. there is a Uniform Condominium Act 1980, but as mentioned earlier, the Namibian statute might also be considered as a starting point.

7.3 Coordinating Donor Technical Assistance

Given the magnitude and complexity of the task, it will be important to carefully coordinate donors and their funding to support the reform process. Fortunately a number of donors have provided funds to the Commission for law reform activities. Some of those donors have comparative advantages in certain areas of land law reform, related to the areas in which they will be supporting implementation work.

Some foci of donor support that seem workable to the consultants are:

- UN-HABITAT: urban land management and possibly condominiums.
- MCC: land administration, and community property rights.
- World Bank: property rights.
- FAO: real property taxation.

These are simply some suggestions. It is not meant to suggest a strict compartmentalization, just some comparative advantages. The Commission can and should benefit from the input of all the donors supporting its work across the full range of policy and law reform issues.

Based on the reactions of the Commission to this draft report, the consultants will prepare draft TORs for consultancies for each area in which revised or new laws are needed. In each case, after initial discussions of the policy area by a policy task force, a consultancy should be funded that includes both an international consultant and participation by national experts in the process, either through a national consultant or some other mechanism. The consultants would prepare detailed recommendations on legal reforms which would eventually, by the process along the lines of that set out in Part 2 of this report, result in a draft bill.

8. Conclusion

As suggested at the outset, the objective of this consultancy is to establish a strategy for reforming the laws relating to land. As the report stresses throughout, this begins with a policy process and gradually becomes a law reform process.

The review of Liberia's laws relating to land has led to the conclusion that a very substantial overhaul is required. Some of the particular problems of the laws are noted, but it is beyond the scope of this report to provide solutions for them in any detail, though some general

directions are suggested. It has been noted that the law reform task includes the reform of the laws governing the institutions which perform land administration and management functions, and that the task of harmonizing statutory and customary land law is a critical task facing the Commission.

The crux of the report, however, lies in the recommendations as to how the Commission might organize its policy and law reform work. This is essential if these reforms are to receive the careful consideration and consultation they deserve. It has implications for the way the Commission has organized its work, in particular the need for at least three, rather than one, policy and law reform working groups pursuing this core function of the Commission. Hopefully the clustering of the work suggested will be found helpful by the Commission.

In closing, the consultants wish to stress that this policy and law reform work is the most important single task of the Commission, and the basis on which its work will be judged. While the Commission is confronted with many urgent tasks, this should take priority. The creation of a sound policy and legal framework for land, rather than the shorter-term needs that clamor for attention, is the foundational task for which the Commission is uniquely well suited, and which it alone is capable of delivering.

Sources

Allot, Anthony N. "Family Property in West Africa: Its Juristic Basis, Control and Enjoyment" in J.N.D. Anderson (ed.) Family Law in Asia and Africa (London: Butterworths, 1968: 121-142).

Allot, Anthony N. "A Report on the Feasibility of Research into Liberian Customary Law", Liberian Law Journal 3(2) (December 1967) 83.

Bensti-Enchill, Kwamena, and Gerald H. Zarr, "The Assurance of Land Titles and Transactions in Liberia", Liberian Law Journal 2 (1966): 94-121.

Bruce, John W., "Reform of Land Law in the Context of World Bank Lending", at pp. 11-65 of John W. Bruce and others (eds.) *Land Law Reform: Achieving Development Policy Objectives*. Washington DC: Legal Vice-Presidency, World Bank, 2006.

Bruce, John W., with Anna Knox. "Structures and Stratagems: Decentralization of Authority over Land in Africa", *World Development* (Special Issue on the Limits of State-Led Land Reform) (2009) 37(8): 1360-1369.

Bruce, John W., and Shem E. Migot-Adholla (eds.), Searching for Land Tenure Security in Africa (Dubuque, IA: Kendall/Hunt 1994).

Bruce, John W. et al. 2007. Land and Business Formalization for the Legal Empowerment of the Poor. Strategic Overview Paper. (Burlington VT: ARD for USAID).

Chanock, Martin. "Paradigms, policies and property: a review of the customary law of land tenure" in K. Mann and R. Roberts (eds.), Law in Colonial Africa (London: Heinemann, 1991).

Coldham, Simon, "The Effect of Registration of Title upon Customary Land Rights in Kenya", Journal of African Law 22(2): 91 (1978).

De Soto, Hernando. The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else (Basic Books 2002).

Deininger, Klaus. 2003. Land Policies for Growth and Poverty Reduction. World Bank Policy Research Report (World Bank & Oxford University Press).

Englebert, Pierre. 2002, "Patterns and Theories of Traditional Resurgence in Tropical Africa", *Mondes en Développement*, 2002, 30(118):51-64.

Fitzpatrick, Daniel. 2005. "'Best Practice' Options for the Legal Recognition of Customary Tenure", *Development and Change* 36(4): 449-475.

International Institute for Environment and Development. 2006. "Innovation in Securing Land Rights in Africa: Lessons from Experience." An IIED Briefing Paper (London: IIED).

Johnson, Koboi. 2006. "Property Law of Liberia, Specifically an Act to Amend the Property Law to Provide for a New System for Registration of Land and for Dealing in Land So Registered", paper presented to a Real Estate Registration and Real Property Tax Practicum, Workshop Organized by USAID/LTI and the Ministry of Lands, Mines and Energy, October 20-21, 2006.

Johnson, Koboi. 2007. Inventory of Ministries, Agencies and Other Institutions with Statutory Responsibilities for Managing and Administering Land and Real Property in Liberia. (Monrovia: Governance Commission).

Lavigne Delville, Philippe. 2004. Registering and Administering Customary Land Rights: Current Innovations and Questions in French-Speaking West Africa. Communication to the Expert Meeting Group on Secure Land Tenure: New Legal Frameworks and Tools, organized by FIG Commission 7, Nairobi, 10-12 November 2004.

McCarthy, Nancy. 2007. Customary Land Use in Liberia: A Review of Supreme Court Decisions. (Monrovia: IFPRI and George Mason University School of Law, 2007).

Ministry of Lands, Mines and Energy. 2006. "Memorandum of Understanding for the Conceptual Understanding of the Challenges to Land Title and Registration and Corresponding Resolutions to Said Challenges" (Monrovia, MLME, October 21, 2006).

Mustafa, Zaki. 1971. The Common Law of the Sudan: An Account of the 'Justice, Equity and Good Conscience' Provision. (Oxford: Clarendon Press, 1971).

Quan, Julian. 2000. "Land Boards as a Mechanism for the Management of Land Rights in Southern Africa" in C. Toulmin and J. Quan (eds.) *Evolving Land Rights: Policy and Tenure in Africa*, pp. 197-205. London: DFID/IIED/NRI.

Shipton, Parker. 1988. "The Kenyan Land Tenure Reform: Misunderstandings in the Public Creation of Private Property", in Land and Society in Contemporary Africa (R. E. Downs & S. P. Reyna, eds., U. New Hampshire Press, 1988).

Ubink, Janine, Andre Hoekema, and Willem Assies (eds.) 2009. *Legalizing Land Rights. Local Practices, State Responses, and Tenure Security in Africa, Asia and Latin America* (Leiden: University of Leiden Press, 2009).

Unruh, Jon. Postwar Land Tenure in Liberia: The Intersection of Customary and Statutory Land Laws. (Monrovia. World Bank, n.d., c. 2007).

Wiley, Liz Alden. 2003. A Review of Decentralization of Land Administration and Management in Africa. (London: IIED).

Wiley, Liz Alden. 2007. "*So Who Owns the Forest?" an Investigation into Forest Ownership and Customary Land Rights in Liberia* (Monrovia: Sustainable Development Institute and FERN).

Woodman, Gordon. 1996. Customary Land Law in the Ghanaian Courts (Accra: Ghana Universities Press, 1996)

Annexes

A. Persons Met During the Course of the Consultancy

Dr. Zongmin Li, then MCC Director with responsibility for design of USAID SOW for the land component under MCC's Threshold Program funding.

Ms. Christina P. Tah, Minister of Justice.

Ms. Maria-Guglielma da Passano Sapia, UN-HABITAT resident advisor to the Land Commission.

Ms. Florence Chenoweth, Minister of Agriculture.

Ms. Jariya Hoffman, Senior Economist, World Bank/Liberia

Mr. Oliver Braedt, Country Economist, World Bank/Liberia

Hon. Soko Sarkoh, Deputy Minister for Administration, Ministry of Internal Affairs

Judge Yusuf D. Kabah, Resident Circuit Judge, Civil Law Court, Monrovia, Liberia.

His Honor Kabineh M. Jan'eh, Associate Justice of the Supreme Court

Hon. George Miller, Assistant Minister for Survey and Cartography, Ministry of Lands, Mines & Energy

Hon. John Nylander, Deputy Minister for Administration, Ministry of Lands, Mines & Energy

B. Summaries of Laws Relating to Land

Aborigines Law (Title 1, Vol. 1, 1956)

- Section 75, Duties of Clan Chiefs; Council of Elders
  - Clan Chief is responsible, under the direction of the Paramount Chief, with "enforcement of all laws, customs, and regulations in his clan"
- Section 270, Tribal right to possession
  - Tribes are "entitled" to "use" the "public land" in its "inhabited" area as is required for "farming and other enterprises essential to tribal necessities."
  - Tribes have right to possession against any other "person".
  - Procedure: (1) Tribal Authority applies to the President, (2) President "defines" and "describes" the tribal "territory", (3) "plot or map" of the "survey or description" filed in Department of State archives "within six months after the completion of the survey."
  - If the tribe does not follow this procedure it will not "affect in any way its right to the use of the land."
- Section 271, Conversion of tribal interest
  - Tribes can convert their "interest" in lands into "communal holdings" if apply to the government
  - Area of the communal holding is surveyed
  - Tribe applying for a communal holding pays for the survey.
  - "communal holding" is "vested in the members of the Tribal Authority as trustees for the tribe"
  - Trustees cannot sell the communal holdings as fee simple title to any "person"
- Section 272, Making tribal land fee simple family holdings
  - If tribe becomes "sufficiently advanced in civilization" it can "petition" the government to divide "tribal land" into "family holdings"
  - The Government "may grant deeds in fee simple to each family of the tribe for an area of twenty-five acres."
- Section 273, Strangers
  - A person
  - who enters the territory of a tribe
  - of which he is not a member
  - for the purpose of farming, must:

        - (a) Obtain permission of the Tribal Authority
        - (b) Pay a token "in the nature of rent, such as five or six bunches of rice out of every farm", and
        - (c) Pay taxes to tribal chief for all huts on land occupied
    - "In case of his failure to comply with any of the foregoing requirements, the Tribal Authority may cancel the permission granted and confiscate the crops, subject always to appeal to the District or County Commissioner."

- Section 350, Tribal customs and traditions
    - Government administers “tribal affairs through tribal chiefs who shall govern freely according to tribal customs and traditions” so long as not contrary to statute or regulation

- Section 370, Right to property protection
    - "All aborigines residing in the Republic of Liberia shall have full protection for their . . . property"

An Act Creating the Forestry Development Authority, Public Authorities Law, Title 12, Liberian Codes Revised

- Section 1: Repeals Chapters 1 through 4 of the National Resources Law

- Section 4: Powers of the Authority
    - “In addition to the powers conferred on the Authority by the Public Authorities Law,” the authority has the following powers
        - Take all necessary actions for creation of Community Forestry Reserves, Native Authority Forest Reserves, Communal Forests, and national parks
        - “To prescribe the form of all licenses, permits, agreements, and other instruments dealing with the use of forest resources”
    - Administer these reserve areas

- Section 16: Form and Content of Forest Products Utilization Agreement
    - In negotiations over Forest Product Utilization Agreements the Republic is represented by the Managing Director of the FDA and the Minister of Finance
    - Agreement is only valid if approved by the President and Legislature

- Section 17: Performance Bond and Minimum Expenditure
    - A Forest Concessionaire is required to deposit with the Authority a Performance Bond or Manager’s check for $150,000 “warranting that the Concessionaire shall faithfully and promptly commence survey and other

operations" and all the terms of the Forest Product Utilization Agreement within 2 years

- Within 2 years of the effective date of the Agreement spend $500,000 on processing plant
- Salvage Permit Holder must deposit with Authority a Performance Bond or Property Valuation of $50,000 or Manager's Check of $50,000 and invest at least $200,000 within two years "of the operation"

 Section 18 Protection of Liberian Salvage Permit Holders

- No law or regulation can be passed depriving Liberian citizens of the right to hold Forest Salvage Permits "if such category of forests is available for leasing"

 Section 19 Land Rental Fee

- Concessionaire under Forest Product Utilization Agreement must pay annual land rental fee to the Government of .50 cents per acre
- Forest Salvage Permit Holders must pay annual rental fee of .30 cents per acre

 Section 20: Import Duties

- Concessionaire gets duty free privilege for importation for any machinery or equipment having a "useful life of 5 years" during the first two years "upon coming into force of the Forest Product Utilization Agreement" but only if
  - Similar items of comparable price and quality are not available in Liberia
- Same for Forest Salvage Permit Holders

 Section 22: Wood Processing

- Concessionaires must comply with FDA rules and regulations concerning "the percentage of total production to be sawn or otherwise processed"
- "Beginning 1990, the percentage of processed wood for export shall be a minimum of 5% (five percent) and a maximum of 10% of export logs, it being understood that all Forest Salvage Permit Holders shall process at least 5% (five percent) of their total log production for either local or export market."

An Act Adopting the National Forestry Reform Law of 2006

 Preamble, ". . . Our forests are part of the Nation's heritage, belonging not just to this generation but to our children and to our children's children"

 Section 1.3: Definitions

- Commercial Use: "Any use of Forest Products or Forest Land, other than direct use for personal purposes or infrastructure development. Commercial

Use includes uses involving Trade or any other disposition of Forest Products or Forest Land for direct or indirect financial benefits."

- Communal Forest: "An area set aside by statute or regulation for the sustainable use of Forest Products by local communities or tribes on a non-commercial basis."
- Community Forestry: "The governance and management of Forest Resources in designated areas by communities for commercial and non-commercial purposes to further their livelihoods and development. 'Community' in the sense of community forestry means a group of local residents who share a common interest in the use and management of Forest Resources, with traditional or formal rights to the land and the forests on it."
- Forest Land: "A tract of land, including its flora and fauna, capable of producing Forest Resources, not including land in urban areas, land in permanent settlements, and land that has been in long-term use for non-shifting cultivation of crops or livestock in a manner that precludes producing Forest Resources."
- Forest Management Contract: "A long-term Forest Resources License issued by the Government under Section 5.3 of this Law that allows a Person to manage a tract of Forest Land and harvest or use Forest Products."
- Forest Product: "Any material or item derived from Forest Resources."
- Forest Resources: "Anything of practical, commercial, social, religious, spiritual, recreational, educational, scientific, subsistence, or other potential use to humans that exists in the forest Environment, including but not limited to flora, fauna, and microorganisms."
- Forest Resources License: "Any legal instrument pursuant to which the Authority allows a Person, subject to specified conditions, to extract Forest Resources or make other productive and sustainable use of Forest Land. Includes, without limitation, Forest Management Contracts, Timber Sale Contracts, Forest Use Permits, and Private Use Permits."
- Private Use Permit: "A Forest Resources License issued by the Government under Section 5.6 of this Law to allow Commercial Use of Forest Resources on private land."
- Protected Area: "Any area set aside under Chapter 9 of this Law as a National Forest, Nature Reserve, National Park, Strict Nature Reserve, or other special category for Conservation purposes."
- Timber Sale Contract: "A short-term Forest Resources License issued by the Government under Section 5.4 of this Law that allows a Person to harvest Timber from a specified tract of Forest Land."

- Section 2.1 Ownership of Forest Resources
  - "All Forest Resources in Liberia . . . are held in trust by the Republic for the benefit of the People."

        - Except the following: (i) Forest Resources located in Communal Forests; and (ii) Forest Resources that have been developed on private or deeded land through artificial regeneration.

    - The Prospection, use, transport, processing, Trade, and export of all Forest Resources and Forest Products are subject to this Law.

- Section 3.3 Application of Procurement Laws

    - "In granting Forest Management Contracts and Timber Sale Contracts, the FDA shall follow the requirements of the Public Procurement and Concessions Act and other applicable laws."

- Section 4.4: National Forest Management Strategy

    - FDA must prepare a National Forest Management Strategy which must identify:

        - Areas suitable for Commercial Use under a Forest Management Contract or a Timber Sale Contract

        - Areas to be protected under Chapter 9

        - Areas that should be managed as Communal Forests “or for the purposes of Community Forestry”

- Section 5.1 Basic Prohibitions and Regulatory Powers

    - No Commercial Use of Forest Resources without permission from the FDA

    - FDA's permission can only be through Forest Management Contracts, Timber Sale Contracts, Forest Use Permits, or Private Use Permits

- Section 5.2 Basic Qualifications for commercial forest operations

    - Following Persons cannot conduct commercial forest Operations:

        - (v) Liberian President, Vice President, members of the National Legislature, Supreme Court Justices and other Judges, Cabinet Ministers, Managing Directors of Public Corporations and Agencies, and Superintendents,

        - (vi) Employee of FDA, member of FDA's Board of Directors, or Government official "exercising authority under the Public Procurement and Concessions Act or any other law governing public contracting",

        - (vii) "A Person associated through investment, ownership, effective control, or other similar means with an individual covered under Paragraph (iv), (v), or (vi) of this Subsection.

    - If Person has received permission to conduct commercial forest Operations and later becomes Person prohibited from receiving permission, then that Person must assign permission or transfer ownership

- Government officials who cannot obtain permission for commercial forest Operations and whose salary equals or exceeds the base salary of a Regional Forest Officer must file an annual report with the FDA declaring in the previous year any instance of the "Person or the Person's spouse, parent, sibling, or child having traded, as principal or agent, in commercial quantities of Timber or other Forest Products, or holding any financial interest in any Forest Products, or in any contract for working any forest, whether in or outside the Republic"

- Section 5.3 Forest Management Contracts

  - FDA "may" award Forest Management Contracts "in accordance with the requirements of this Section and those in the Public Procurement and Concessions Act or its successor legislation governing public concessions"

  - Forest Management Contracts must have the following:

    - Land must be identified as potential concession in the National Forest Management Strategy,

    - Land cannot be private land,

    - Land must be between 50,000 and 400,000 hectares,

    - Holder must prepare “all environmental impact assessments required under the laws governing environmental protection.”

    - Holder must “establish a social agreement with local forest-dependent communities, approved by the Authority, that defines the communities’ benefits and access rights.”

  - Forest Management Contract are effective when signed by the President and ratified by the Legislature

  - Only bidders with at least 51% of Liberian ownership are accepted for Forest Management Contracts for 50,000 to 99,999 hectares. For first bidding cycle "qualified Liberian bidders" have priority. If none then FDA "may" open the second bidding cycle "only to qualified bidders that demonstrate 51% ownership by Liberian citizens."

  - Forest Management Contracts of 100,000 to 400,000 hectares are open to all Liberian and international investors

- Section 5.4: Timber Sale Contracts

  - Requirements for Timber Sale Contracts:

    - Must be consistent with National Forest Management Strategy

    - Land must not be private land

    - Contract cannot be for more than 3 years

    - Land cannot be more than 5,000 hectares

- Holder of Timber Sale Contract must prepare annual operations plan, and
- Holder must pay fee bid in concessions process and any other applicable fees and taxes

- Section 5.5: Forest Use Permits
  - FDA may issue regulations governing issuance of Forest Use Permits
  - Forest Use Permits must have "sufficient conditions to ensure the Conservation of Forest Resources"
  - Forest Use Permits may be issued only for the following Commercial Uses:
    - Production of charcoal,
    - Tourism,
    - Research and education,
    - "Harvest of small amounts of Timber for local use within the County or community," and
    - "Harvest or use of non-timber Forest Products"
  - Forest Use Permits are awarded through a concessions process under the Public Procurement and Concessions Act if the value of the Forest Resources under the contract exceeds US$10,000 "during the term of the permit"
  - FDA must restrict Forest Use Permits "to specified classes of Persons, such as subsistence farmers, forest-dependent communities, residents of a particular county or district, academic researchers, artisans, and Persons undertaking tourism, eco-tourism, and similar Conservation-based activities."

- Section 5.6: Private Use Permits and Other Commercial Use on Private Land
  - FDA can issue Private Use Permits only if:
    - Applicant is the land owner or has written permission from the land owner "to undertake the Commercial Use"
    - Commercial Use is consistent with National Forest Management Strategy
    - Applicant is not disqualified from receiving a Forest Resources License under Section 5.2
    - Applicant must have a five-year land management plan that satisfies the FDA
    - Applicant and land owner must "commit in writing to a social agreement that shall be attested to by the Authority and that defines benefits and access rights for local forest-dependent communities"

- Section 8.2:
  - "The Government shall not grant title over Forest Land to private parties without giving public notice, allowing 60 days opportunity for public comment, and obtaining written approval from the Authority."
- Section 9.1: Protected Forest Area Network and Conservation Corridors
  - FDA must create a Protected Forest Area Network and Conservation Corridors, which must include existing National Forests, "to cover at least 30 percent of the existing forested area of Liberia, representing about 1.5 million hectares."
  - "In addition to satisfying the other requirements of this Section, the Authority shall, within one year of the effective date of this Law, present to the Legislature for consideration and passage a comprehensive law governing community rights with respect to Forest Lands."
- Section 9.10:
  - FDA must, "in consultation with local communities, Counties, and other local authorities, issue Regulations governing activities in Protected Forest Areas."
  - "No person shall . . . In Communal Forests, prospect, mine, farm, or extract Timber for Commercial Use."
  - FDA must, "in collaboration with local communities, non-governmental organizations, and interested international organizations, undertake efforts to provide alternative livelihoods for communities adversely affected by the establishment or maintenance of Protected Forest Areas."
- Section 10.1: Community Empowerment
  - "To manage natural resources based on principles of Conversation, Community, and Commercial Forestry, and to ensure that local communities are fully engaged in the sustainable management of the forests of Liberia, the Authority shall by Regulation grant to local communities user and management rights, transfer to them control of forest use, and build their capacity for sustainable forest management."
  - Regulations under this Section must at a minimum:
    - Specify the rights and responsibilities of communities
    - Promote "informed community participation"
    - "allow communities far access to Forest Resources"
    - "Establish social, economic, and technical procedures for capacity building to ensure that communities can equitably participate in and equitably benefit from sustainable management of the forests."
- Section 11.2: Obligation to Observe this Law and Regulations

- "No Land Owner shall undertake any Prospection, logging, or Hunting, except pursuant to this Law and the accompanying Regulations."

 Section 11.3: Government's Power to Permit Use

- "Where the Government has granted permission for use of Forest Resources, no Land Owner or Occupant has a right to bar that use; however, the Land Owner or Occupant shall be entitled to just, prompt, and adequate compensation for any diminution in the value of his property occasioned by the use."

An Act to Amend the New Executive Law To Create an Autonomous Bureau To Be Known as a Center for National Documents and Records and To Repeal Other Laws in Relation Thereto (February 19, 1979), Title12, Liberian Codes Revised

 Section 81.1: Definitions

- Archives: "those official records that have been determined by the Director General of the Bureau of National Documents and Records to have sufficient historical or other value to warrant their indefinite preservation by the Government for purposes of research, historical investigation, or patriotic inspiration, or because of other national significance"

- Records: "books, papers, maps, photographs, or other documentary materials regardless of physical form or characteristics, made or received by any Government agency in pursuance of law or in connection with the transaction of public business and preserved by that agency or its legitimate successor as evidence of the organization, functions, policies, decision, procedures, operations, or other activities of the Government or because of the informational value of data therein contained and shall include library and museum material, made or acquired and preserved for references or exhibition, purposes. Extra copies of documents preserved only for convenience or reference, and stocks of publications and of processed documents are not included within the definition of 'records' as used herein."

 Section 81.2: Center Created

- Center for National Documents and Records is an autonomous bureau under the Executive Branch

 Section 81.10: Registrar of Deeds

- President, with advice and consent of the Senate, appoints a Registrar of Deeds for each county "who shall serve under the immediate direction and supervision of the Director General" of the National Archives

- Duties of the Registrar of Deeds are:

  - In accordance with the Property Law record chattel mortgages and "all instruments, including government grants and patents, relating to the

title of real property situated in the county . . . for which he is appointed."

- Record all other instruments "under seal" and "other documents which the parties concerned may desire to have recorded" or which must be registered pursuant to statute
- "Countersign and endorse in accordance with the Public Lands Law deeds for Public lands in his county . . . which are sold or which are allotted to immigrants"
- Register and file documents "relating to realty" received from the Circuit and probate courts
- "On application of interested persons" provide certified copies of public documents
- Provide "regular quarterly reports" to the Director General "showing all transfer of title of real estate in the county"

- Section 81.13: Legal Status of Reproductions:
  - "Whenever records that are required by Statute to be retained indefinitely have been reproduced by photographic, microphotographic, or other processes, in accordance with standards established by the Director General, the indefinite retention of such reproductions will be deemed to constitute compliance with legal requirements for the indefinite retention of such original records. Such reproductions shall have the same legal status as the originals thereof."

An Act to Establish the Community Rights Law of 2009 with Respect to Forest Lands

- Section 1.3
  - Community: "A self-identified and publicly and widely-recognized coherent social group or groups, who share common customs and traditions, irrespective of administrative and social sub-divisions, residing in a particular area of land over which members exercise jurisdiction, communally by agreement, custom, or law. A community may thus be a single village or town, or a group of villages or towns, or chiefdom."
  - Community-based Forest Management: "Forest Management activities that are carried out by a community with respect to forest resources for which the community has customary tenure or other forms of proprietorship or guardianship."
  - Community Forestry: "The governance and management of community forests by a community for commercial and non-commercial purposes to further the development of the community and enhance the livelihoods of community members."

- Community Forestry Land: "Forested or partially-forested land traditionally owned or used by communities for socio-cultural, economic and development purposes. This term is inter-changeable with the term 'community forest.'"
- Community Forest Resources: "Anything practical, commercial, social, religious, recreational, educational, scientific, subsistence or other potential uses to humans that exists in a community forest, including but not limited to flora, fauna, and microorganisms."
- Community Land Area: "An area over which a community traditionally extends its proprietorship and jurisdiction, and is recognized as such by neighboring communities."
- Customary Land: "Land, including forest land, owned by individuals, groups, families, or communities through longstanding rules recognized by the community. To be recognized as customary land, it is not necessary for the land to have been registered under statutory entitlements."
- Forest Land: "A tract of land, including its flora and fauna, producing or capable of producing forest resources, or land set aside for the purpose of forestry, but not including land in permanent settlements and land that has been in long-term use for non-shifting cultivation of crops or raising livestock."
- Medium-scale commercial use: "Commercial activities of forest resources which may be export or domestic oriented in their market for the sale and delivery of forest products, and which generate total revenue in excess of that specified by regulation as determined by the Authority in consultations with communities,"
- Large-scale commercial use: "Commercial activities of forest resources which are predominately export oriented in their market for the sales and delivery of forest products, and which generate total revenue in excess of that specified by regulation as determined by the Authority in consultations with Community Assembly"
- Small-scale commercial use: "Commercial activities of forest resources which are predominately local in their markets for the sale and delivery of forest products, and which do not generate total revenue and/or occupy a land area greater than that specified by regulation as determined by the Authority in consultation with Community Assembly"

- Section 2.1: Objective
  - "empower communities to fully engage in the sustainable management of the forests of Liberia" in accordance with Chapter 10 of the National Forestry Reform Law of 2006 "by creating a legal framework that defines and supports community rights in the management and use of forest resources."
  - Define the communities rights and responsibilities to "own, manage, use and benefit from forest resources"
  - "promote informed and representative community participation"

- Define the FDA's roles and responsibilities concerning Community Forest Resources

- Section 2.2: Guiding principles are:
  - "All forest resources on community forest lands are owned by local communities,
  - all forest resources regulated by the Authority,
  - anything affecting the "status or use of community forest resources" must have "prior, free, informed consent" of the community,
  - "recognition of community land tenure rights shall apply to tenure systems recognized by the Constitution and laws of Liberia",
  - "matters related to land tenure to be handled by the Land Commission"

- Section 2.3: Community Forest Land
  - Forest land areas between 5,001 and 49,999 hectares "may be" Community Forest Land;
  - Community Forest Land is Aborigines Grant Deeds, Public Land Deeds, Public Land Sale Deeds, Tribal Land Deed Certificate and Warranty Deeds;
  - Deeds mentioned in (b) that have been authenticated as certified are Community Forest Land,
  - forest land and community land "recognized under this law" are Community Forest Land

- Section 3.1: Community rights
  - Right to "control the use, protection, management, and development of community forest resources" under FDA regulation
  - Right to enter into Small-Scale Commercial contracts
  - Right to enter into "social contracts" with concessionaires
  - Communities "will have the rights" to at least 55% of all "revenues/income" from large-scale commercial contracts
  - Right to "full management of forest resources"

- Section 4.1: Community Assembly
  - Community Assembly is the highest decision-making authority of the community regarding community forestry matters
  - Community Assembly includes members of the legislature from the county where the communities are located, Chairman, Vice Chairman, Secretary, and Financial Officer. Community Assembly elects its officers and none can be a sitting government official.

- Community Assembly is charged with, inter alias, ensuring "sustainable management of community forest resources"
- Executive Committee of the Community Assembly is composed of members of the legislature from the county where the communities are located and four elected officials

- Section 4.2: Community Forestry Management Body
  - Manages the "day-to-day activities of community forest resources"
  - The Community Forestry Management Body, inter alias, represents "the community in all matters related to community forest resources"
  - Must “periodically” report to the Community Assembly Executive Committee
- Section 6.1: A community "may" enter into Small-Scale Commercial Use contracts, but not on a competitive basis
- Section 6.2: A community "may" enter into Medium-Scale Commercial Use contracts for Community Forest Land ranging from 5,0001 to 49,999.99 hectares, but not on a competitive basis
- Section 6.3: Community Forest Management Body "in collaboration with the Authority may enter into Large-Scale Commercial use contracts”, on a competitive basis "applying national and international competitive bidding for large scale commercial activities".
- Section 9.1: Conflicts between laws

“Where there are conflicts of law existing between the National Forest Reform Law of 2006 and the Community Rights Law of 2008 with Respect to Forest Lands, the Community Forestry Law takes precedence and becomes binding.”

An Act to Establish the Land Commission 2009
Status: In Force

- Section 1.3: Definitions
  - Public land = "Land which is publicly owned under the Constitution, statutes and common law of Liberia
  - Private Land = "Land which is owned or otherwise held under private rights by persons, communities or other corporate entities under the Constitution, statutes and common law of Liberia."
  - Land Use Planning = "Planning for and regulation by the state, county or local governments of the utilization of land."
  - Land Taxation = "Taxation levied by government upon private land."
- Section 2.2: Nature of Commission

- Commission is an "independent body of the Government," "financially autonomous," "operationally independent and generally free in the pursuit of its mandate," submit quarterly financial statements to the Legislature and President

- Section 3.1: Commission Mandate
  - Mandate = "propose, advocate and coordinate reforms of land policy, laws and programs in Liberia.
  - “It shall have no adjudicatory or implementation role."
  - Objectives are:
    - equitable and productive access to public and private land,
    - security of land tenure and rule of law concerning land,
    - effective land administration and management, and
    - investment and development
  - Mandate of the Commission extends to "all land and land-based natural resources"

- Section 3.2 Commission Duties
  - Commission has the following duties and functions:
    - carry out fact-finding "with a view to identifying inadequacies that deserve remedial action";
    - “recommend remedies for inadequacies, including, but not limited to actions, programs and reforms of land policy, law and institutions”;
    - call together government ministries and agencies and other entitles [sic] or institutions, including creation of task forces;
    - propose to the President actions to deal with urgent problems;
    - propose legislation and supervise its drafting, including amendments to the Constitution;
    - consider and make recommendations concerning
      - rights in real property, "dichotomy between common law and customary land rights" and their reform and "equitable harmonization and/or integration," public land management, sale, and leasing," acquisition of land by the state, land administration, rationalization of government for improved land management, land use planning, education/short term training needs, organization and regulation of professions important to land, land taxation and "other land-based revenue," land markets and rights, investors' access to land, "equitable access to and security of tenure in land" for women,

youth, and other disadvantaged groups, "prompt and fair resolution of disputes over land", and "such other issues as the Commission may see fit and as related to its mandate;"

- carry out ancillary activities;
- in its activities the Commission shall "maintain transparency and accessibility," identify best practices nationally and internationally, foster broad-based public discussion, consult regularly with concerned stakeholders, provide forum for discussion and coordination

- Section 5.1: Commission Powers
  - "The Commission shall have, enjoy and exercise such powers as are necessary for the fulfillment of its mandate, duties and functions"
- Section 5.2: Commission Authority
  - "The Commission shall have, and exercise such authorities as are in the full implementation of all of its duties and functions as are made and provided for in this Act."
- Section 7.1: Funding
  - Funding is from the Government of Liberia and "possibly by development partners" and "such other sources as the government may invite"
- Section 7.2
  - Commission shall adopt "sound financial management principles"
- Section 8.1: Budget
  - Commission has an independent budget and submit annual financial report of its expenditures to the President and copies to donors
- Section 8.2: Annual Report
  - Annual report submitted to the President which includes impact assessment of Government's "initiatives, strategies, and recommendations" concerning land policy, law, and programs
- Section 8.3
  - Commission must report to the President on its activities and performance of its mandate
  - Recommendations for new land policy or draft legislation must be given "directly to the President" for executive action or transmission to Legislature
- Section 8.4
  - Commission must submit other reports as requested by the President or Legislature

An Act to Govern the Devolution of Estates and Establish Rights of Inheritance for Spouses of Both Statutory and Customary Marriages (December 1, 2003)

- Section 1: Definitions
  - Customary marriage: “marriage between a man and a woman performed according to the tribal tradition of their locality”
  - Tradition: “those values, norms and customs which a tribe of a locality has practiced over the ages and is considered their way of life”
  - Dower: “the one-third (1/3 interest of the tribal husband’s property to which his widow is entitled as of right regardless of whether or not the widow and children for her late husband, or whether or not she assisted him in acquiring the property”
  - Tribal or customary spouse: “either the husband or wife who is married according to tribal tradition”
- Section 2.1: Equal right to be Accorded Customary Wife
  - Customary wives have all the “rights, duties and liabilities” accorded a statutory wife
  - Domestic Relations Law is fully incorporated into this law
- Section 2.2: Recovery of Dowry Prohibited
  - Wife’s dowry cannot be taken by her parents or her husband
- Section 2.3: Husband/Wife’s Inchoate Dower
  - Customary wife is entitled to 1/3 of the husband’s property upon his death immediately upon marriage whether or not the wife helped the husband acquire the property
- Section 2.4: Compulsory Wife Labor Prohibited
  - Customary spouses must “work in partnership and adequately maintain and support their household”
- Section 2.5: Wife’s Human Right to be Respected
  - “Every customary husband shall respect his Wife’s Human rights; any violation of this Section shall entitle the wife to seek redress in a court of law”
- Section 2.6: Wife’s Property Exclusively Her Own
  - Customary wife’s property owned or acquired prior to marriage is hers to the exclusion of her husband

- Felony if the customary husband controls or attempts to control his customary wife's property

- Section 3.1: Decedent Estates Law Applicable to Customary Marriage
  - Decedent Estates Law "shall equally apply to all native customary marriages immediately after the passage of this Act"

- Section 3.2: Widow's Dower Right
  - Widow or multiple widows, upon the husband's death, are entitled to 1/3 of the deceased husband's property

- Section 3.6: Right of Tribal Inhabitants to Make Last Will and Testament
  - "Every male and female of legal age under customary or tribal law shall have the right to make his/her Last Will and Testament, describing how his/her property is to be distributed after his/her death."

An Act to Repeal the Act Creating the Commonwealth District of Monrovia and To Create In Lieu Thereof the City of Monrovia, County of Montserrado and To Grant It a Charter, August 16, 1973

- Section 5:
  - "The City of Monrovia shall have full power and authority to make and fulfill contracts, take and hold real and personal estate to the value of ten million dollars. Subject to the approval of the President, it shall pass all necessary municipal laws and ordinances and levy all taxes as may be necessary for City purposes; and shall perform all other necessary acts not incompatible with the general laws of this Republic."

Constitution of the Republic of Liberia, 1986

- Article 11
  - "All persons are born equally free and independent and have certain natural, inherent and inalienable rights, among which are the right of . . . **acquiring, possessing and protecting property, subject to such qualifications as provided for in this Constitution.**"

- Article 20
  - "**No person shall be deprived of life, liberty, security of the person, property, privilege** or any other right except as the outcome of a hearing judgment consistent with the provision laid down in this Constitution and in accordance with due process of law. Justice shall be done without sale, denial or delay; and in all cases not arising in courts not of record, under courts-martial and upon impeachment, the parties shall have the right to trial by jury."

- Article 22

  - "Every person shall have the right to own property alone as well as in association with others; provided that **only Liberian citizens shall have the right to own real property within the Republic.**"

  Note: This invalidated the Interim National Assembly Decree of December 11, 1985, which stated, "That immediately upon the passage of this Decree, non-Liberians, irrespective of colour, except those of whom socio-economic and political ideologies are alien to ours, shall have the right to purchase and own real property in fee simple in the Republic."

  - "Private property rights, however, shall not extend to any mineral resources on or beneath any land or to any lands under the seas and waterways of the Republic. All mineral resources in and under the seas and other waterways shall belong to the Republic and be used by and for the entire Republic."

  - "Non-citizen missionary, educational and other benevolent institutions shall have the right to own property, as long as that property is used for the purposes for which acquired; property no longer so used shall escheat to the Republic."

  - "The Republic may, on the basis of reciprocity, convey to a foreign government property to be used perpetually for its diplomatic activities. This land shall not be transferred or otherwise conveyed to any other party or used for any other purpose, except upon the expressed permission of the Government of Liberia. All property so conveyed may escheat to the Republic in the event of a cessation of diplomatic relations.**"**

- Article 23

  - Prohibits one spouse's property "at the time of marriage or which may afterwards be acquired as a result of one's own labors" from being used to satisfy the debts of the other spouse; "nor shall the property which by law is to be secured to a man or a woman be alienated or be controlled by that person's spouse save by free and voluntary consent"

  - The Legislature shall enact laws to govern the devolution of estates and establish rights of inheritance and descent for spouses of both statutory and customary marriages so as to give adequate protection to surviving spouses and children of such marriages.

  Note: This law has been promulgated (An Act to Govern the Devolution of Estates and Establish Rights or Inheritance for Spouses of Both Statutory and Customary Marriages)

- <u>Article 24</u>

  - "While the inviolability of private property shall be guaranteed by the Republic, expropriation may be authorized for the security of the nation in the event of armed conflict or where the public health and safety are endangered or for any other public purposes, provided:

- that reasons for such expropriation are given;
- that there is prompt payment of just compensation;
- that such expropriation or the compensation offered may be challenged freely by the owner of the property in a court of law with no penalty for having brought such action; and
- that when property taken for public use ceases to be so used, the Republic shall accord the former owner or those entitled to the property through such owner, the right of first refusal to reacquire the property.

- All real property held by a person whose certificate of naturalization has been cancelled shall escheat to the Republic, unless such person shall have a spouse and/or lineal heirs who are Liberian citizens in which case the real property shall be transferred to them in accordance with the intestacy law.
- The power of the Legislature to provide punishment for treason or other crimes shall not include a deprivation or forfeiture of the right of inheritance, although its enjoyment by the convicted person shall be postponed during a term of imprisonment judicially imposed; provided that if the convicted person has minor children and a spouse, the spouse or next of kin in the order of priority shall administer the same. No punishment shall preclude the inheritance, enjoyment or forfeiture by others entitled thereto of any property which the convicted person at the time of conviction or subsequent thereto may have possessed."

- Article 27
  - "only persons who are Negroes or of Negro descent shall qualify by birth or by naturalization to be citizens of Liberia"

- Article 65
  - "The courts shall apply both statutory and customary laws in accordance with the standards enacted by the Legislature."

Decedents Estates Law, 1992
(Chapter 3 of Title 8, Liberian Codes Revised)

- Section 2.1:
  - "Every person eighteen years of age or over, of sound mind and memory, may by will dispose of real and personal property and exercise a power to appoint such property."

- Section 2.28:
  - Good faith purchaser of real property, for "valuable consideration," "from a distribute of a person who died owning such property shall not be affected by a testamentary disposition of such property by such decedent, unless within

two years after the testator's death the will disposing of the property is admitted to probate."

Chapter 3: Descent and Distribution of Intestate Estates

- Section 3.1:
    - Abolishes distinction between "persons who take as heirs at law and next of kin"
- Section 3.2: Succession to property, real and personal, on intestacy
    - If a spouse "and one or more lineal descendants" survive then property "to the value of $5000" and 1/2 of the residue goes to the spouse "for life with the remainder thereof to the children and to the issue of any deceased child" and "one half of the residue outright" to the children "and to the issue of any deceased children
    - If no spouse but "one or more lineal descendents" survive the entire estate goes to the children and "the issue of any deceased child"
    - If a spouse and "one or more brothers and sisters but no lineal descendent or parent" property "to the value of $10,000" and 3/4 of the residue goes to the spouse, and "the balance to the brothers and sisters and to the issue of any deceased brother or sister"
    - If a spouse survives but "no lineal descendent, parent, brother or sister, the entire estate" goes to the spouse
    - If one or both parents and one or more brothers and sisters survive but not the spouse or a lineal descendant property "to the value of $10,000" and 1/2 of the residue to the parent or if both survive then to each equally and "the balance to the brothers and sisters and to the issue of any deceased brother or sister"
    - If one or both parents survive but no spouse or lineal descendent or brother or sister the entire estate goes to the parent or if both survive to them equally
    - If no spouse, lineal descendant or parent, then estate goes to the following persons "living at the death of the decedent" in order of first to last
        - Brothers and sisters and to the issue of any deceased brother or sister, if none then
        - To the grandparents equally, if none then
        - To the uncles and aunts and to the issue of any deceased uncle or aunt, but if none then
        - To the Republic of Liberia

Chapter 3: Devolution of Estates and Rights of Inheritance

- Section 3.1: Widow's Dower Rights

- Upon husband's death the "widow or multiple widows" are entitled to 1/3 of the husband's property

- Section 3.6: Right of Tribal Inhabitants to Make Last Will and Testament
  - "Every male and female of legal age under customary or tribal law shall have the right to make his/her Last Will and Testament, describing how his/her property is to be distributed after his/her death."

Executive Law, Title 12, Liberian Codes Revised

Chapter 25: Ministry of Internal Affairs

- Section 25.2: Duties of the Minister
  - "The successful conduct and improvement of local government through supervision and direction of the activities of the political subdivisions of the central government",
  - "Managing tribal affairs and all maters arising out of tribal relationships",
  - "Overseeing the collection and publication of the laws and customs of the Liberian tribes"
  - "Initiating and organizing programs for the planned growth of urban areas with emphasis on projects to provide for adequate and satisfactory housing accommodation and other facilities

Chapter 28: Ministry of Agriculture

- Section 28.2: Duties of the Minister of Agriculture
  - "To oversee the conservation and judicious use of the soil, the forests, and the fish and wildlife resources of the nation",
  - "To administer all laws relative to agricultural subjects or rural improvement, including regulatory laws designed to protect the farmer or agricultural means of production or farm commodities"

Chapter 33: Ministry of Lands, Mines and Energy

- Section 33.2: Functions of Ministry
  - Charged with "administration of the Mining and Survey Laws of the Republic"
  - Review and grant or deny "applications for prospecting, exploration, and mining rights except concessions"
  - "To promulgate all regulations affecting lands, mines and energy in Liberia"
  - "To monitor compliance with, as well as enforce, all laws and regulations affecting lands, mines and energy"

The Investment Act of 2010

- Section 2.7, "'Enterprise' means any corporation, company, partnership, association, foundation, trust or other organization or entity, for profit or not for profit, organized and subsisting under the laws of any jurisdiction"

- Section 7.1 Expropriation
  - (a) Government cannot expropriate or nationalize enterprises
  - (b) Government cannot compel anyone to "cede his interest in the capital or equity" of an enterprise to another

- Section 7.2 Standard for Lawful Expropriation
  - Expropriation must be
  - In the national interest for a public purpose
  - least burdensome available means to satisfy that overriding public purpose
  - made on a non-discriminatory basis
  - in accordance with due process of law, and
  - under a law which provides for: fair and adequate compensation, and "right of access" to court for determination of "investor's interest or right" and compensation, which is "fair market value"

- Section 7.3 Compensation for Expropriation
  - Compensation must be made "without undue delay"
  - If currency exchange controls then must authorize compensation "in freely convertible currency"

- Section 7.4 Compensation for Expropriation
  - Compensation for expropriation is "fair market value" of the expropriated property "taken as whole"
  - Fair market value determined: without consideration of impact of expropriation, and just before expropriation announced or "generally anticipated in the marketplace, whichever is earlier"

- Section 7.5 Compensation for Expropriation
  - Government and investor "may determine fair market value of the expropriated property by other agreed means"

Local Government Law (Vol. IV, Title 20, Liberian Codes Revised)

- Section 1: County Area and Hinterland

- “The territory of the Republic shall be divided for the purpose of administration into the County Area and Hinterland”
- “The Minister of Internal Affairs shall be the chief officer of the local governments of both the County Area and the Hinterland.”

 Section 10: Division into counties

- “The County Area of the Republic shall be composed of the counties of Grand Gape Mount, Montserrado, Grand Bassa, Sinoe, and Maryland, Bong, Nimba, Lofa, Grand Gedeh, Bomi, Grand Kru, Margibi, and Rivercess”

Minerals and Mining Law (September 20, 2000), Vol. 1, Part 1, Title 23, Liberian Code Revised

 Section 1.3: Definitions

- Ministry: “Ministry of Lands, Mines & Energy of the Republic

 Section 2.1: Property Rights in Minerals

- “Minerals on the surface of the ground or in the soil or subsoil, rivers, streams, watercourses, territorial waters and continental shelf of Liberia are the property of the Republic and anything pertaining to their Exploration, Development, Mining, and export shall be governed by this Law.”

 Section 2.3: Right of Ownership

- “Holders of Mineral Rights shall acquire ownership of and title to the Minerals they extract by Mining pursuant to this Law.”

 Section 3.1: Administration

- “Subject to, and in keeping with the provisions of this Law, the Minister shall be responsible to see that this Law, and the Regulations, shall be so administered as to achieve their purposes and promote the policies set forth herein.”

 Section 10.1: Lands not Subject to Mineral Rights

- “Mineral Rights shall not be granted with respect to any lands located within the boundaries of any cities, commonwealth districts, municipal districts, cemeteries, transportation or communication facilities, aqueducts, military base, port, Poro or Sande grounds, and other grounds reserved for public purposes, except with the consent of the officials-authorized to administer or control the affairs of such entities, and subject to such special terms and reasonable conditions as may be prescribed for the protection of surface users.”

 Section 11.3: Supremacy of Government Right

- “Government’s right as owner of Minerals in the Republic of Liberia are absolute and supersede the rights of any Landowners or Occupants of Land in

respect of the Exploration or Mining of Minerals, provided that such Landowner or Occupants of Land shall be entitled to just, prompt and adequate compensation for any diminution in the value of Land caused by disturbance, disfigurement or other factors occasioned by the Government's exercise of its rights."

- Section 11.5: Procedure on Refusal of Land Owner or Occupant to Grant Access to Land for Exploration of Mining
    - "In the event of the refusal of a Landowner or Occupant of Land to permit the Holder of a Mineral Right to conduct Exploration or Mining, the Holder may petition the Ministry to intervene setting forth all relevant facts and circumstances including any financial offers made to such Landowner or Occupant of Land. The Minister shall, by Regulation, establish appropriate procedures for the hearing and determination of such petitions."

PRC Decree #23 of 1980: Land Surveyors Registration Law, Chapter 9.7 of the Liberian Codes Revised

- Sub-section 9.3: Definitions
    - Board: "the Land Surveyors Licensing and Registration Board"
    - License: "a certificate issued by the Surveyors Licensing and Registration Board in the prescribed manner under this chapter"
    - Licensed Land Surveyor: "any person proficient in survey theory and practice, or survey methods, and holding a certificate of qualification issued under the provisions of this chapter"
- Section 9.4: Administration
    - Ministry of Lands, Mines, and Energy has power to enforce this law
- Section 9.5: Land Surveyors Licensing and Registration Board
    - Ministry of Lands, Mines and Energy has power to appoint, "with the approval of the Head of State," seven land surveyors to serve as the Land Surveyors Licensing and Registration Board
- Section 9.6: Powers of the Land Surveyors Licensing and Registration Board
    - Board must require "all Land Surveyors residing within the Republic of Liberia to register" and must require the maintenance of a register of all licensed land surveyors. Only land surveyors so registered are qualified to survey land in Liberia
    - Board is responsible for determining qualifications for receiving a survey license
    - Board empowered to conduct hearings of all complaints against surveyors
    - Board can "suspend or debar" surveyors

- Section 9.7: Criminal Violations and Remedies
    - Felony for unlicensed surveyors to hold themselves out as surveyors
    - "Criminal violation" for surveyor not appointed as a Survey Officer by the Minister of Lands, Mines, and Energy under the Registered Land Law (1974) to survey land in an adjudication area
    - "Malicious mischief" for anyone to remove "permanent monuments, markers, beacons and other survey reference appurtenances lawfully established", without legal right to do so, and with the "intent to defraud, cheat and maliciously deprive another person of his land in fee simple or the beneficial use and possession thereof in whole or in part"
    - Misdemeanor for anyone or survey land "without first obtaining due cognizance and observation" of existing plans or maps and "as a result . . . there is an encroachment" on another's land
    - "Criminal violation" to survey without first issuing "an adequate notice in writing to the owners of adjoining lands"
    - Misdemeanor to survey land without any authority to do and such survey causes the plot of land to vary from the "official theoretical layout"
- Section 9.9: Qualification for License
    - Must have certificate or bachelors in land surveying and acquired at least one year of land surveying field experience in Liberia, or
    - Acquired five years of land surveying field experience as an apprentice surveyor in Liberia, and
    - Passed both practical and written examinations administered by the Board
    - Pay the professional registration fees
- Section 9.10: Hearing Procedure of the Surveyors Licensing Board
    - Must file written complaint, which must contain: a concise statement of facts, state the name of the place where the complained of act occurred, state "exactly" the injury received, and "state the basis of . . . title"
    - Defendant must file an answer
    - Board hears oral and written evidence
    - There is a written record of the proceedings before the Board
    - Decision requires at least simple majority of the Board members
- Section 9.16: Land Commissioners
    - Land Commissioners are made "personnel" of the Ministry of Lands, Mines, and Energy in the Department of Lands, Surveys and Cartography. The

Minister of Lands, Mines, and Energy recommends to the President people to serve as Land Commissioners

Property Law (Vol. V, Title 29, Liberian Codes Revised, Chapters 1 to 7)

- Section 2: Probate of conveyance or mortgage
    - Must appear before probate court within 3 months of date of execution of instrument (whether deed, mortgage or other instrument relating to real property)
    - Does not apply to interests in land acquired prior to October 1, 1962
- Section 5: Penalty for registration before probate
    - A Registrar of Deeds is guilty of a misdemeanor punishable by a fine not exceeding "one hundred dollars" if he or she registers any deed, mortgage, or other conveyance not endorsed by the probate judge with the words, 'Let this be registered,' over his or her signature.
- Section 6: Failure to probate and register
    - If do not probate within 4 months of execution then title is void "as against any party holding a subsequent instrument affecting or relating to such property, which is duly probated and registered"
- Section 20: Leases to foreigners
    - Leases are limited to 21 year terms, but there may be two optional periods of 21 years each "in addition to the twenty-one year period of a term certain." For each additional term the rent is increased by "not less than ten per cent."
- Section 20A: Leases to foreign businessmen and business concern
    - Foreign businessmen or foreign business concerns may be leased real property for longer than 21 year period if
        - For building and investment "is the extent of $150,000" the lease period may be 25 years with renewal option no longer than 25 years
        - Investment is for more than $150,000 but less than $250,000 the lease term may be 35 years with renewal option no longer than 35 years.
        - Investment is for more than $250,000 but less than $350,000 the lease period may be for 40 years with renewal option no longer than 40 years
        - Investment is for more than $350,000 the lease term may be for a maximum of 50 years with renewal option no longer than 50 years
- Section 31: Loans by aliens secured by mortgage

- Any foreign person may lend money to a Liberian citizen, Liberian corporation, or foreign corporation "engaged in business in Liberia". The borrower or any person can give security to the foreign lender for repayment and loan interest by mortgage on real property
- Loan interest cannot exceed "the legal authorized rate"

 Section 32: Rights and remedies of alien creditor

- Foreign mortgagee has the same rights as Liberian mortgagee except the right to bid on property at foreclosure

 Section 33: Security by Republic of Liberia

- Loans under Section 31 may be secured by the Republic of Liberia by the Ministry of Finance approving the loan in writing by using "substantially the following form"

 Section 34: Payment of deficiency by the Republic

- If net amount realized by "alien mortgagee" from sale of mortgaged property is less than full amount owed (principle plus interest, court costs, and taxes) and within 1 year from the date of the judicial confirmation of the foreclosure proceedings the "mortgagee" has not recovered full amount owed, then the Republic of Liberia shall pay the remaining amount owed. Republic of Liberia then substitutes for the alien mortgagee with respect to all financial claims against the mortgagor.

 Section 35: Suit by alien mortgagee

- Disagreements about amount to be paid by the Republic of Liberia to the alien mortgagee under Section 34 must be settled in court

 Section 36: Alien mortgagee rights extended to certain Liberian corporations

- Corporation formed under Liberian law and more than 50% of voting stock is owned by "alien person" or "alien corporation" treated the same as a foreign corporation
- Any reference to "foreign corporation, foreign lender, foreign mortgagor, alien mortgagee and alien person" means also "foreign owned Liberian corporation"

 Section 60: Mortgages to which this chapter applies

- Mortgage may be foreclosed in "manner provided in this chapter" if mortgage has been registered, default has occurred, and no action in law of any kind is pending against the mortgagor

 Section 61: Notice of foreclosure sale

- Notice must give date and hour of foreclosure sale and
  - Clerk of the circuit court publishes notice "at least once in a newspaper, if any be published in the county"

        - Sheriff must post the notice in front of the courthouse of the Circuit Court in which foreclosure action is brought and in "at least two other conspicuous public places", and on premises to be sold by foreclosure
            - A copy of the notice must be served on the mortgagor or legal representative

- Section 63: Place of sale: purchase by mortgagee
    - Sale by sheriff is by public auction in daytime in the county where mortgaged property is located
    - Mortgagee may purchase the property
- Section 67: Execution of deed
    - The Sheriff's and Clerk's written statements must be presented to the judge of the Circuit Court
    - If he or she "finds such statements sufficient in form and content" he directs the Registrar of Deeds to draw, execute, and register the deed
- Section 80: When partition available
    - If Joint tenants or tenants in common, and
    - One or more of them have estates in inheritance or for life/lives, or "for years"
    - Any one of them may partition their share of the land or sell their share of the land if "it appears that partition cannot be made without great injury to the interests of the owners"
- Section 81: Filing petition for partition
    - Petition for partition shall be filed in Circuit Court of county in which property is situated
    - Clerk shall issue "writ of summons" commanding parties to appear and answer within 10 days after service of the writ
    - Copy of petition must be attached to the writ and served
    - Petition must "clearly describe the lands sought to be partitioned" and "shall set forth the rights of the parties"
- Section 82: Determination of issue; appointment of commissioners
    - Petition "may" be heard and disposed of by the judge
    - If petitioner entitled to have partition then judge must order
        - appointment of three commissioners
        - Commissioners must be "reputable and disinterested freeholders for the purpose of making such partition"

        - Lands to be partitioned
        - Time when commissioners must report to the court

- Section 85: Confirmation or setting aside of report; direction to sell.
    - Judge can confirm the commissioner's report or set it aside and "appoint as often as may be necessary new commissioners"
    - If judge confirms a report by the commissioners that the property cannot be sold without greater injury to the interests of the owners, the court 'may' order the commissioners to sell the land at public auction to the highest bidder
- Section 86: Confirmation of partition sale
    - Partition sale must be confirmed by the court
- Section 90: Filing of petition
    - May be filed by widow in probate court of county in which property is located
    - Petition must be served on heirs of widow's husband "at the time of filing" or if heirs are not owners of the land "subject to dower" then upon the persons claiming a 'freehold estate" over the land or their legal representatives
- Section 91: Determination of issue; appointment of commissioners
    - Petition may be head and disposed of by the judge
    - If judge determines that widow is "entitled to have her dower admeasured" the judge must issue an order appointing three commissioners
- Section 94: Confirmation or setting aside of report
    - Judge may confirm the report or set it aside and may appoint new commissioners "as often as may be necessary"
- Section 95: Determination of rental value in lieu of laying off of property
    - If commissioners report that it is "not practicable, or that it is not in the best interests of all the parties" that 1/3 of the property be admeasured and "laid off"
        - The judge may order that the sum equal to 1/3 of the annual rental value of the land be paid to the widow "upon competent evidence being adduced as the net rental value of such property"
- Section 96: Writ of possession
    - If judge confirms report of commissioners that 1/3 of the land should be laid off for the widow after 30 days from the date of the report's confirmation the widow is entitled to a writ of possession for that 1/3 of the land

Public Lands Law (Vol. V, Title 34, Liberian Codes Revised)

- Section 1: Appointment of Land Commissioners
    - President appoints Land Commissioners with the advice and consent of the Senate for each county
    - "The duties performed in the counties by the Land Commissioners shall be performed in the Hinterland by the District Commissioners."
- Section 2: Duties of Land Commissioners
    - If Land Commissioner is "satisfied" that "land about to be sold is not privately owned and is unencumbered" he/she issues a "certificate to the prospective purchaser to that effect."
    - Also charged with drawing up deeds of sold public land
- Section 10: Appointment of Public Surveyors
    - President appoints Public Surveyors with the advice and consent of the Senate for each county
- Section 11: Duties
    - Upon being ordered by the President the Public Surveyor surveys public land "about to be allotted to immigrants or others" and public land about to be sold
- Section 30: Procedure for the Sale of Public Lands
    - "A citizen desiring to purchase public land located in the Hinterland shall first obtain consent of the Tribal Authority to have the parcel of land deeded to him by the Government. In consideration of such consent; he shall pay a sum of money as token of his good intention to live peacefully with the tribesmen. The Paramount or Clan Chief shall sign the certificate, which the purchaser shall take to the office of the District Commissioner who acts as Land Commissioner for the area. The District Commissioner shall satisfy himself that the parcel of land in question is not a portion of the Tribal Reserve, and that it is not otherwise owned or occupied by another person and that it therefore may be deeded to the applicant. He shall thereupon issue a certificate to that effect."
    - "A citizen desiring to purchase public land in the County Area shall apply to the Land Commissioner of the county in which the land is located, and the Land Commissioner if satisfied that the land in question is not privately owned and is unencumbered shall issue a certificate to that effect."
    - "An applicant for the purchase of public land, having received from the District Commissioner or Land Commissioner a certificate as provided in the foregoing paragraphs, shall pay into the Bureau of Revenues the value of the land he desires at a minimum rate of fifty cents per acre. He shall obtain an official receipt from the Bureau of Revenues which he shall attach to this application to the President for an order directed to the surveyor of that

locality to have the land surveyed. If the President shall approve the application, he shall issue the order to the surveyor to have the land surveyed. The applicant shall then present the order to the named surveyor who shall do the work. The applicant shall pay him all his fees. A deed shall thereafter be drawn up in the office of the Land Commissioner, authenticated by him, and given to the purchaser, who shall submit it with all the accompanying certificates to the President for signature. The deed shall then be probated."

- Section 31: Prices of public lands
  - "Marshy, rocky, or barren land" may be sold to the highest bidder
  - Following types of public land must be sold at the stated prices:
    - "Land lying on the margin of a river": $1 per acre
    - "Land lying in the interior": 50 cents per acre
    - "Town lots": $30 per lot
- Section 50: Drawing of land by immigrants
  - Single immigrants 21 years or older who have "filed a declaration of intention to become a citizen" are entitled to take 1 lot or 10 acres of farmland from the public lands
  - Husband and wife are permitted to take only 1 town lot or 25 acres of farmland for both
- Section 53: Allotments of public lands to aborigines who become civilized
  - "Aborigines of the Republic of Liberia who shall become civilized shall be entitled to draw public lands to the same amount as immigrants and to receive deeds to such lands . . . provided that an aborigine who has drawn or shall draw lands under the provisions of this section shall be entitled to a deed in fee simple for such land only when: (a) He shall have completed a frame dwelling house thereon covered with plank, sheet iron, tiles, or shingles, or a house of stone, brick, logs, or mud, of sufficient size to accommodate himself and family; and (b) If the land is farmland, he shall have brought at least one quarter thereof under cultivation by planting coffee trees, palm trees, rubber, cocoa, or other trees or plants bearing marketable products."
- Section 70: Leases to foreigners
  - President can lease any public land "not appropriated for other purposes" to foreigner persons and business entities "for engaging in agricultural, mercantile, or mining operations"
  - The lease cannot be for more than 50 years with renewal for another 50 years
  - Terms of the lease require ratification by the Legislature
- Section 71: Leases to legations

- President can lease any public land to "foreign governments for their use as legation sites"
- These leases cannot be for more than 99 years

- Section 90: Claims against the Government for escheated lands
  - Person who claims real property that has escheated to the Government may bring a court action or claim to the Ministry of Justice

- Section 110: Correction of deed to public lands
  - If a person holds a deed for public lands which he/she "believes to contain errors" the President investigates "as he may deem advisable," and if an error "does in fact exist," the erroneous deed must be canceled by a court of equity, and the President delivers the corrected deed to the applicant

Public Procurement and Concessions Law (Sept. 18, 2010)

- Section 2: Interpretation
  - Certificate of Concessions: "a certification by the Minister responsible for Economic Planning that a project is qualified to be a subject of a Concession procurement process."
  - Entity: "a ministry, department, agency, or county of the Republic of Liberia"

- Section 5: Functions of the Commission
  - Monitor compliance with this Law,
  - Disseminate information related to this Law,
  - "Develop rules, instructions, regulations and related documentation on public procurement and concessions procedures, including designing formats in furtherance of this Act",
  - "Formulate, promote, support and implement human resource development programs in furtherance of the aims of this Act",
  - "Review procurement and Concessions documents",
  - "Formulate policy and prepare standards for procurement and Concessions",
  - Assess and improve upon the public procurement and concessions process,
  - Provide an annual report to the Legislature,
  - Convene an annual procurement forum,
  - Publish a quarterly magazine on public procurement and concessions,
  - "Advise the Government on issues related to this Act",

- "Investigate and debar business entities and bidders who have seriously neglected their obligations under a public procurement or Concessions contract",
- Maintain and publish a list of debarred business entities, and
- Independently review complaints and appeals "related to the procurement and Concessions process"

- Section 6: Membership and Appointment
  - Composed of 7 Commissioners
  - Commissioners nominated by the President and with the consent of the Senate appointed by the President
  - Commissioners include:
    - A chairperson "who shall be knowledgeable in public procurement and Concessions procedures and practices and financial management"
    - 3 persons "with experience in the public sector, as follows:"
      - Lawyer from the Attorney General's office "other than the Attorney General" but who is nominated "on the advice of the Attorney General", and
      - 2 persons, at least of which must be a woman, "and each of whom shall have prior experience in public procurement and/or Concessions procedures and practices and/or be familiar with governmental operations; and also possess training in management and economics"
    - 3 persons from the private sector

- Section 21: Procuring and Concessions Entities
  - "Every Procuring or Concession Entity shall be responsible for procurement or Concessions carried out by the Entity."

- Section 77: Entity Concession Committee
  - If a Concession Entity wants to grant a concession the "Head of the Entity shall designate an Entity Concession Committee

- Section 80: Concession Structures
  - "There shall be established for each Concession proposed to be awarded under this Act an Inter-Ministerial Concessions Committee" and a "Concessions Bid Evaluation Panel"

- Section 82: Functions of the Inter-Ministerial Concessions Committee
  - Review and approve Concession Procurement Plan prepared by the Entity Concession Committee "prior to any request for expressions of interest;

provided that the Inter-Ministerial Concessions Committee shall not approve a Concession Procurement Plan unless it has concluded that the proposed Concession is in the best interests of Liberia and that the benefits of the proposed Concession cannot be substantially achieved other than through Concession",

- Create a Concessions Bid Evaluation Panel when provided for in the Law
- "Review and approve prior to their issuance all documents to be included in a request for expressions of interest or an invitation to bid",
- "Review the bid evaluation report prepared by the Concession Bid Evaluation Panel . . . to ensure that procedures were in strict conformity with the criteria, the Act and relevant regulations"

- Section 90: Presentation of Concession Option to the Public
  - "A Concession Entity shall undertake public stakeholder consultations with respect to each proposed Concession prior to the finalization of the bid documents to be included in the invitation to bid."
- Section 95: Competitive Bidding
  - Concession bidding proceedings done by "advertised open bidding proceedings, to which equal access shall be provided to all eligible and qualified bidders without discrimination
    - Concession bidding must use prequalification of bidders unless the Inter-Ministerial Concessions Committee determines "that only a small number of bidders will be interested, in which case bidder qualifications shall be evaluated post-bid
- Section 96: National Competitive Bidding
  - Use national competitive bidding for Concessions when
    - International competitive bidding is not required, and
    - "Inter-Ministerial Concessions Committee has reasonably concluded that the project is so limited in scope that it is unlikely to be of interest to foreign investors"
  - Must use national competitive bidding when concession "falls within an area of the economy which is by law restricted to Liberians"
- Section 97: International Competitive Bidding
  - Must use international competitive bidding when:
    - "Project requires international expertise",
    - "Project requires technology not available in Liberia", or
    - "Project requires capital outlay not ordinarily available in Liberia"

- Section 101: Sole Source and Unsolicited Bids
    - "A Concession may be granted on a sole source basis only upon a determination by the Cabinet, after consultation with the Commission, that sole source procurement is the only reasonable way of obtaining the resource controlled by the bidder and one or more of the following conditions is determined to exist:"
        - "Concession requires specialized expertise that is available only to one specific bidder;"
        - "Concession involves an innovation the patent for which is held by one particular bidder",
        - "Concession requires specialized research, or experiment that only one person is prepared to undertake", or
        - "Concession is in respect of strategic national interest or national defense or security and it is not in the national interest to have more than one bidder"
    - Unsolicited bid is a "bid or proposal for a Concession provided by a person at the suggestion of a Ministry or agency of the Government that has not been approved as a sole source bid . . . and that is not submitted in response to a formal invitation to bid"
        - Concession Entities have no obligation to entertain unsolicited bids
        - Concession Entities that want to entertain an unsolicited bid must request the formation of an Inter-Ministerial Concessions Committee which forms a Concession Bid Panel "to conduct an independent assessment of the quality of the unsolicited bid and the qualifications and reputation of the bidder"
        - Concession Entity cannot negotiate with the unsolicited bidder unless the Concession Bid Evaluation Panel concludes that the bidder "has the technical and financial capacity to perform its obligations under such agreement," "there is no reason to believe that the terms offered by the bidder could be improved through submission of the proposal to a competitive bidding process," and "the award of a Concession to that bidder would not lead to a situation in which it would be difficult or impossible for an effective competitive operation to arise"
- Section 117: Form of Contract; Role of Ministry of Justice in Developing Contract
    - "The Concession agreement as executed shall be approved by the Minister of Justice as complying with the requirements of this Act and any other applicable law before submission to the President and Cabinet for approval."
- Section 125: Right to Review
    - Bidders who have suffered or "is at risk of suffering a loss or damage as a result of a violation of this Act or its regulations"

Real Property Tax Code (Ch. 20, Revenue and Finance Law, 2000)

- Section 2000
  - Unless the land is exempt from taxes the following applies:
    - tax on unimproved land at rate depending on geographical location, and
    - tax on improved land" at rate as percentage of "assessed value," which depends on "use classification of building" and "other improvements" on the land
  - Unimproved land tax rates:
    - Unimproved land units in cities, towns, municipal or commonwealth districts taxed at rate of 7% of the unit's value
      - Tax on city or town lot is 7% "of the assessed value thereof"
      - Parcel of land not divided into city or town lots and used as farmland subject to tax of 10% "of the assessed value", with minimum tax of $5 on each parcel
      - Parcel of land not divided into city or town lots and "used for any purpose other than farmland" subject to tax of 5%
    - Unimproved land units outside cities, towns, municipal or commonwealth districts subject to the following:
      - Land used as farmland or "for any purpose other than" farmland: Tax of $5 "on each acre or fraction thereof", but minimum tax is $200 on each parcel
  - Improved land, "no matter where situated"
    - Business or commercial use: 1% tax "of assessed value" for building "and other improvements" used for "business or commercial purposes, in whole or in part" if assessed value is less than US$10 million or Liberian dollars equivalent; .5% if assessed value is over US$10 million
    - Industrial Use: .5% tax of "of assess value" for building "and other improvements" used for "industrial purposes, in whole or in part" if assessed value is less US$10 million or Liberian dollar equivalent; .5% of "one third of the assessed value" if the assessed value is more than US$5 million; tax of L$100 if a hut
    - Residential Use: Tax of .25% "of assessed value" for building "and other improvements" used "exclusively for residential purposes"; L$100 it a hut

        - Farm use in urban areas: Tax of .33% "of assessed value" for building "and other improvements" on parcels of land used as farmland in "corporate limits of any city, town municipal or commonwealth district or village" and "used exclusively for farm purposes"; L$100 if a hut
        - Farm use outside of urban areas: Tax of .25% "of assessed value" for building "and other improvements" on parcels of land used as farmland and outside "corporate limits of any city, town municipal or commonwealth district or village" and used "exclusively for farm purposes"; L$100 if a hut
    - Buildings and other improvements situated on public land
        - For building "and other improvements"
        - On "public land owned by the Government of the Republic of Liberia", and
        - leased by private persons "under license or otherwise", and
        - building used for residence then tax is 1/7%, or
            - building used for "commercial purpose" then tax is 1%, or building is hut then tax is L$100
        - Tax is only against "buildings and other improvements"
        - "solely for the purposes of this subdivision" private persons are "deemed" owners of the real property

- (D) Definitions
    - 'Business or commercial use' means "buildings or improvements used mainly for the purpose of private profit or gain in the buying and selling of goods, the engaging in trade and commerce including retail trading, the provision and setting up of office accommodations for commercial and professional purposes, the letting of houses or apartments and includes motor vehicles service stations, motor vehicle sales rooms and garages together with any workshops associated therewith"
    - 'City lot" or "town lot" means "parcel of land of such dimensions as has been or may be so designated by competent authority or so described and delimited on any official map or plot of the city, town, municipal district or commonwealth district within the corporate limits of which such lot is situated;" a fraction of a lot separately owned is a whole lot
    - 'farmland' means "area of land or lot less than five acres in area which is used primarily for agricultural, horticultural, for the growing of tree crops, grazing, poultry or pig raising, or other farming purposes"
    - 'Improved land' means “land upon which improvements, as defined in this paragraph, have been effected"

- 'Improvements' means “those physical additions and alterations to land buildings and all works carried out for the benefit of land which have the effect of increasing its value"
- 'Industrial use' means “buildings or improvements occupied and used for the purpose of private profit or gain as a factory workshop, brewery or canning plant, or which are engaged in the manufacture and processing of goods for sale, provided that in assessing the value of any such premises such value shall not include the value of any plant, machinery, tools, or other appliances which are not fixed to the building or improvements or which are only so fixed that they may be removed there from without structural damage thereto"
- 'Market value' is the “capital sum which land, building or improvements might be expected to realize as at the date of assessment if offered for sale on such reasonable terms and conditions as a bona fide seller would require"
- ‘Residential use' means “buildings or improvements wholly or principally used, constructed or adapted for human habitation and if wholly used and occupied by the taxpayer as his or their primary place of residence and dose [sic] not include any such building or improvement which are let out either wholly or in part for the private profit or gain of the taxpayer”
- 'Under-improved land' means “where the value of physical additions and alterations thereto or buildings thereon and all works carried out for the benefit of the land are of low [sic] value than of the land itself."
- 'Unimproved land' means “on which no improvement, as define [sic] in this paragraph, have been affected and includes underimproved land as defined in this paragraph."

- Section 2001: Assessed Values and Method of Assessment:
  - Parcels of land assessed based on market value "as at [sic] the date of inspection"
- Section 2010
  - Must show "official tax receipt evidencing that all delinquent real property taxes" have been paid in full before deed, lease agreement, or "other instrument affecting or relating to the passage of title or other interest in real property" can be probated and registered.
    - Purchaser cannot be vested with title or other interest until all delinquent taxes have been paid.
    - The sale of public land is exempt from this requirement.
  - The probate court judge, Registrar of Deeds and "any other person or agency responsible for effectuating the passage of title or any other interest in and to real property or responsible for giving due notice of such passage interest in and to real property" must withhold action until official tax receipt is produced

Registered Land Law (1974), Chapter 8 of the Property Law

- Section 8.2
    - Purpose "is to substitute as expeditiously and as relatively inexpensively as possible, with the highest regard to due process, for the present system of recording rights to and over land [the Deed Registry System] a system of land registration."
- Section 8.3: Definitions
    - Referee = "the judicial officer appointed to adjudicate claims to land and rights and interests in land within an area under Section 8.21"
    - Unregistered land = "land, and every estate, right and interest therein which, though recorded in accordance with the probate procedure contained in Chapter 1 of the Property Law, has not been 'registered' in accordance with the provisions of this chapter"
- Section 8.4: Registered land subject to the same rights and burdens as unregistered land
- Section 8.6: Preserves the special role of probate courts under the Deed Registry System
    - Probate courts have jurisdiction over "all proceedings and matters in connection with the registration of land and any estate, right and interest therein, and with respect to dealings therein, authorized by the provisions of this chapter."
- Section 8.7:
    - The Registrars of Deeds in the several counties are made the Registrars of Land in their respective counties
    - The National Archives and Records Service is charged with being the location of the Registrar of Land as well as for the Registrar of Deeds
- Section 8.11:
    - "Whenever it appears expedient to the Minister of Lands and Mines" that estates, rights and interests in the registration of land in a specified area ('adjudication area') "shall be effected", he or she may file a petition with the probate court for the adjudication and registration of titles in the adjudication area
- Section 8.12
    - When petition for adjudication and land registration is filed under Section 8.11 the Minister of Lands and Mines must also file notice with probate court clerk and with the Circuit Court
- Section 8.21

- A referee to decide conflicting land claims and a Demarcation/Recording Officer are appointed by the Chief Justice, and a Survey Officer by the Minister of Lands, Mines, and Energy
- The referee is an officer of the probate court and "shall be in charge of the adjudication and shall have jurisdiction of all claims made under the provisions of this chapter relating to the land in designated adjudication area"
- Referee has supervisory powers over the Demarcation and Recording Officers and Survey Officers

 Section 8.22

- Chief Justice of Supreme Court "shall appoint" Demarcation and Recording Officers "as may be necessary"

 Section 8.23

- Minister of Lands and Mines "shall appoint" Survey Officers "as may be necessary"

 Section 8.44: Safeguarding of rights of Government in public lands and of persons in default in filing presumably valid claims; appointment of guardians ad litem for minors and incompetents

- Public lands: "As soon as conveniently possible after an adjudication section has been designated" the Demarcation and Recording Office must consult with the Land Commissioner and examine records relevant for locating public lands in the adjudication section
  - Schedule of public lands must be made by the Demarcating and Recording Officer for inclusion in the Demarcation plan
  - "any person aggrieved by the designation of any parcel of land as public land may challenge such determination by way of the appeal procedure provided in this chapter."

 Section 8.45: Duties of Demarcation and Recording Officer

- Must demarcate each parcel of land "which is the subject of the claim'
- Indicate boundaries of public lands and public rights of way

 Section 8.47: Duties of Survey Officers

- Conduct a precise survey
- Prepare survey plan

 Section 8.51

- Where there are disputes which cannot be negotiated by the Demarcation and Recording Officer, these are referred to the Referee for decision, except that inheritance disputes go to the Circuit Court.

- Appeals may be taken from both to the Supreme Court

- Section 8.52: Principles binding on the referee in deciding on claims:
  - If there is a good documentary title which would prevail if challenged, he records that person tentatively as the owner of the parcel
  - If there is open, peaceful and interrupted possession for twenty years or more, the possessor should be recorded tentatively as owner (the possessor must not have acknowledged the title of any other and must have used the land to the exclusion of others)
  - If there is a possessor who is unable to provide sufficient proof to be registered as an owner, he can be tentatively recorded as owner subject to substantiation within six months.
    - If no private rights are established, the land should be recorded as public land.
  - (d) registration of a tribal reserve or communal holding
    - "If such land is part of a Tribal Reserve or communal holding, he shall further record the fact that such public land is subject thereto and, if feasible, shall describe the boundaries of the reserve or communal holding and the name or names of the tribe or tribes entitled to Tribal Reserve rights or holdings therein."

- Section 8.53: Additional adjudication guidelines
  - "Except as otherwise provided in section 8.44, all unclaimed land shall be deemed to be public land until the contrary is proved."

- Section 8.58
  - A registered title can be set aside if fraud proved in action filed within 10 years from final order for registration filed in the court where registration proceedings were held.
  - Where the right has been transferred to an innocent purchaser for value without notice of the fraud, he will be protected.

- Section 8.121: Rights of owners of registered private land
  - "the registration of a person as the registered owner of parcel of land shall vest in that person the absolute ownership of that parcel . . . and he shall hold the same free from all encumbrances . . . except those shown on the register" and following: liens, claims, or rights under Liberian law which are not required "to appear on record"; tax that becomes a lien on the land after initial registration and for which there have not been foreclosure proceedings; and a lease agreement not exceeding 3 years where there is "actual occupation of the land under the lease"
  - Encumbrances on registered land do not take effect until the encumbrances are also registered except those shown on the register and the following: liens,

claims or rights under Liberian law which are not required "to appear on record"; tax that becomes a lien on the land after initial registration and for which there have not been foreclosure proceedings; and a lease agreement not exceeding 3 years where there is "actual occupation of the land under the lease"

- Section 8.123 Effect of registration of land as public land
    - "The registration of land as public land, subject to any registered encumbrances, which shall include without limitation, interests in and rights over such land granted in concession and other agreements made under authority of law, and by way of delineation of Tribal Reserve areas and communal holdings, shall enable such land to be disposed of in accordance with the provisions relating thereto contained in the Public Lands Law and in any other law providing for dispositions of public lands, by a disposition registerable under the provisions of this chapter."
- Section 8.124: Registered land not affected by prescription or adverse possession
    - No interest in registered land can be acquired by prescription or adverse possession
- Section 8.193: Right of indemnity
    - Anyone who suffers damage because of "rectification of the register" provided that required notice was inadvertently not given, "any mistake or omission in the register" which cannot be corrected except for "a mistake or omission on an initial registration," or "any error in a certificate of official search by the Registrar" or other certified document, map or plan
    - No indemnity to any person who "caused or substantially contributed to the damage by his fraud or negligence" or whose "interest" "derives" from a person "who caused or substantially contributed to the damage"
- Section 8.194: Amount of indemnity
    - Indemnity shall not exceed the following amounts:
        - If register is not rectified, "the value of the interest at the time when the mistake or omission which caused the damage was made", or
        - If register is rectified, "the value of the interest immediately before the time of rectification"
- Section 8.195: Procedure for claiming indemnity
    - Claims for indemnity are brought to the Permanent Claims Commission

Note: The Permanent Claims Commission has never been created

Revised Rules and Regulations Governing the Hinterland of Liberia, Ministry of Internal Affairs (January 7, 2001)

- Article 66
  - "Title to the territory of the Republic of Liberia vests in the Soverign [sic] State.
  - "Interest" [sic?] in the tribe is the "right" and "title" to "lands of an adequate area for farming and other enterprises essential to the necessities of the tribe"
  - Even if a tribe has not been granted a deed from the Government "delimitating . . . such reserves" the tribes "rights and interests in and to such areas, are a perfect reserve" giving them "title to the land against any person"
  - If the tribes apply to the Government this land interest can be converted into "communal holdings" upon application to the Government; the communal holdings must be surveyed at tribe's expense
  - "communal holding" "vested in the Paramount Chief and Tribal Authority as Trustees for the tribe".
  - Trustees cannot transfer the communal holding as fee simple title to any "person".
  - If tribe becomes "sufficiently advanced in the arts of civilization" it can "petition" the government to divide "land" into "family holdings"
  - The Government "will grant deeds in fee simple to each family for an area of 25 acres in keeping with provision of Act of 1905."
- Article 67, Strangers
  - If an individual
  - enters the territory of a tribe
  - of which he is not a member (the stranger)
  - for the purpose of farming
  - he shall observe the following procedure:
    - (a) Obtain permission of the Tribal Authority
    - (b) Pay a token "in the nature of rent, such as five or six bunches of rice out of every farm", and
    - (c) Pay taxes to tribal Chief on "all huts" "erected or occupied"
  - Tribal Authority "may cancel the authority granted and confiscate the crops" if the stranger does not follow the above procedures
  - Stranger can appeal to District Commissioner
- Article 71
  - tribe owns "proceeds of each communal farm"

- Proceeds used for the "general benefit of the tribe as a whole"
- (b) proceeds from "all communal farms" deposited by "proper tribal authority into the Tribal Treasury and is disbursed as provided in Article 26 hereof."

- Article 83, Delimitation of Tribal Reserve
  - Before any "Territory of the Chiefdom" can be used for "private purposes" or granted must delimit the Tribal Reserve "in adequate area for farming purposes of tribesmen"

The Rules and Regulations Governing Local Government Officials of the Political Sub-Divisions of Liberia, Ministry of Internal Affairs (February 24, 2005)

- Provides for the "job description and channel of operation of rural administration of the Ministry of Internal Affairs' officials, Ministry of Internal Affairs, Monrovia":
  - County Superintendent: "executive head of the county"
  - County/District Commissioner: Represents superintendent at the district level
  - Land Commissioner
    - "responsible for all land matters within the county"
    - Responsible to the superintendent's office and "shall conduct all land investigations between any opposing parties"
    - Endorses all "land certificates issued by tribal and municipal authorities"
  - Township Commissioner
    - Municipal authority within townships and responsible to County Commissioner
  - Paramount Chief
    - Head of the "chiefdom, clan, zones, elders and indigenous Administrators within the chiefdom"
    - Acts as "middle man between the central government and the indigenous people within the chiefdom"
    - "He shall adjudicate all domestic and cultural matters, including relevant matters from the chiefdom and to the clan chief's office"
  - Clan Chief
    - Head of the clan and represents the paramount chief within his clan

        - Investigates “all indigenous matters from his clan and report same to the Paramount chief of the chiefdom, for his perusal and consideration”
        - Issues “all tribal land certificates in coordination with the general town Chief in the clan and in collaboration with the elders”
    - General Town Chief
        - “head of that zone whose have 250 huts within the clan” and responsible to the clan chief
        - First hearing officer for all cases and reports to the clan chief
    - Tribal Governor
        - Representative of tribal people within given area
        - Investigates “all tribal matters between his tribal men and settle all disputes As the case may be from time to time”
        - Responsible to the superintendent through the city mayor, township or district commissioner

Zoning Act for the City of Monrovia/Zoning Law (Vol. VI, Title 38, Liberian Codes Revised)

- Section 1.2: Law regulates "location and use of buildings and structures, the nature and extent of the uses of land, and the density of population" “within the City of Monrovia”, and "may" be applied to other municipalities and "shall" serve as a model for other zoning regulations
- Section 2.1: Zoning Districts
    - Monrovia divided into 8 classes of districts: (1) Residence R1 Districts, (2) Residence R2 Districts, (3) Residence R3 Districts, (4) Residence R4 Districts, (5) Business B1 Districts, (6) Business B2 Districts, (7) Business B3 Districts, and (8) Industrial M1 Districts
- Section 2.3: R1 Districts
    - Include: single-family dwelling, church, public school, public library, public park, or playground, agriculture or horticulture (except farm stock or poultry, commercial greenhouses)
- Section 2.4 R2 Districts
    - Uses: "any use permitted in residence R1 districts"
- Section 2.5 R3 Districts
    - Uses: (1) any use permitted under R1 and R2 districts, (2) Two-family dwellings and "customary accessory uses and buildings"

- Section 2.6 R4 Districts
    - Uses: (1) any use permitted by R1 and R2 districts, (2) Two-family dwellings and customary accessory uses and buildings, (3) apartment dwellings and customary accessory uses and buildings
- Section 2.7 Business B1 Districts
    - Uses: "primarily for the conduct of commerce, general business, and the retail sale of commodities."
        - Joint occupancy dwellings and boarding houses are also permitted
    - Prohibited Uses
        - Manufacture, assembly or treatment, except for retail goods sold on the premises; any process where more than 20% of floor area of building is used or 10% of the lot area is used; any process that is "an unusual fire risk or explosion hazard" or is a "nuisance by reason of odor, dust, noise, vibration, smoke, or glaring lights."
        - bakeries with more than 5 employees.
        - Laundries or dying and cleaning works with more than 3 employees.
        - Milk bottling or processing plants, or any other bottling plants.
        - Lumber and building materials storage yards, coal yards, places for handling of fuels or storage warehouses.
        - Repair or machine shops.
        - Storage of crude oil or "any of its volatile products" or "other highly inflammable liquids".
        - bulk storage of fireworks, explosives, or inflammable or poisonous gas.
        - Junk yards, used car lots, and automobile wrecking yards or disassembling plants.
        - Public garages and gasoline filling stations.
        - Any process or use prohibited in B2 or B3 districts and in industrial districts
- Section 2.8: B2 Districts
    - Uses: Same as for B1 districts, but gasoline filing stations are permitted when approved by the Zoning Council
- Section 2.9 B3 Districts
    - Uses: "primarily for the conduct of commerce and light manufacturing processes.

        - Details further permitted uses, such as wholesale businesses, cold-storage plants, laundries and dry-cleaning plants, and automobile repair shops. Prohibited uses are, for example, slaughtering and processing of animals, junk yards, hog farms, motor courts, storage of volatile and highly inflammable liquids, manufacture of heavy chemicals

- Section 2.10: M1 Districts
    - Uses: "primarily for the conduct of light manufacturing processes."
        - Permitted Uses: slaughtering and processing of animals, junk yards, garages, automobile repair shops.
        - Prohibited uses: dwelling or living quarters, hog farms, manufacture of heavy chemicals

- Section 5.1 Zoning Officers, Ministry of Public Works
    - Zoning Act administered under authority of Ministry of Public Works
    - Details appointment and duties of zoning officer
    - Zoning officer must prepare the building codes and subdivision regulations

- Section 5.3 Zoning Permits
    - Zoning permits must be obtained from the Zoning Officer

- Section 5.7 Powers of the Zoning Council; voting system
    - Zoning Council powers are:
        - (1) to hear and decide appeals of error by the Zoning Officer,
        - (2) Decide on special exceptions,
        - (3) authorize variance of strict application of Zoning Act when strict application would "result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner"
    - Must have vote of 3 members to change decision of Zoning Officer

- Section 5.8 Appeals to the Zoning Council
    - "Any person aggrieved" or any office, department, or board of Monrovia affected by a decision of the Zoning Officer can appeal

C. Materials Assembled in the Course of the Consultancy

TENTATIVE SOURCES OF LIBERIAN LAWS RELATING TO LAND

- Constitution of Liberia (1986)
- Opinions of the Supreme Court

STATUTES/REGULATIONS

- Aborigines Law (Title 1, Vol. 1, 1956)
- Revised Laws and Administrative Regulations for Governing the Hinterland (1947)
- Revised Rules and Regulations Governing the Hinterland of Liberia (January 7, 2001)
- Departmental Regulations: Supplementary and Revising Existing Regulations Governing the Administration of the Interior of the Republic of Liberia Including General Circulars Number one and two
- Local Government Law (Vol. IV, Title 20, Liberian Codes Revised)
- Decedents Estates Law (Vol. II , Title 8, Liberian Codes Revised)
- An Act to Govern the Devolution of Estates and Establish Rights of Inheritance for Spouses of both Statutory and Customary Marriages (December 1, 2003)
- General Construction Law (Vol. III, Title 15, Liberian Codes Revised)
- Maritime Law (Vol. IV, Title 21, Liberian Codes Revised)
- Natural Resources Law (Vol. IV, Title 23, Liberian Codes Revised)
- Property Law (with Registered Land Law) (Vol. V, Title 29, Liberian Codes Revised)
- An Act to Amend the Property Law to Provide a new System for Registration of Land and for Dealings in Land so Registered (May 20, 1974)
- An Act to Amend the new Executive Law to Create an Autonomous Bureau to be Known as a Center for National Documents and Records and to Repeal Other Laws in Relation thereto (February 19, 1979)
- An Act to Establish the Land Commission (August 11, 2009)
- Public Authority Law
- Public Contract Law
- Public Lands Law (Vol. V, Title 34, Liberian Codes Revised)

- Public Safety Law
- Transportation and Communication Law
- Zoning Law (Vol. VI, Title 38, Liberian Codes Revised)
- Zoning Act for the City of Monrovia
- Public Procurement & Concession Act of 2005
- Investment Act of 2010
- An Act Adopting a New Minerals and Mining Law
- An Act to Revise the Boundaries of Montserrado, Grand Bassa, Sinoe, Maryland and Grand Cape Mount Counties. To Repeal all Prior Laws Fixing their Boundaries and to define the Boundaries of the new Counties of Grand Gedeh, Nimba, Bong and Lofa. (1962-1963)
- An Act to Establish the Community Rights Law of 2009 with Respect to Forest Lands (October 20, 2009)
- PRC Decree # 13: Decree by the Interim National Assembly of the Republic of Liberia Granting to Foreigners the Right to own Real Properties within the Republic.
- PRC Decree # 23 providing for the Licensing and Registration of Land Surveyors and for the Control and Regulation of Surveys and Survey Methods and for the Protection of Survey Monuments, Markers, Beacons and other Reference Appurtenances Within the Republic of Liberia
- PRC Decree # 61: Decree by the People's Redemption Council of the Armed Forces of the Republic of Liberia Empowering the Monrovia City Corporation to Collect all Real Property Taxes Within the City Corporation of Monrovia
- PRC Decree No. 56 Amending Chapter 33, Section 33.2 of the Executive Law of Liberia and Providing Sub-section K through O.
- PRC Decree # 83: Decree by the People's Redemption Council of the Armed Forces of the Republic of Liberia Declaring and Proclaiming that the Heirs of the late G. Koffa Nagbe are the Legitimate and Rightful Owners of the 42.5 and 54 Acres of Land Situated Between the Southwestern Bank of the St. Paul River and Stockton Creek Bushrod Island, Montserrado County, and Restoring to the said Heirs all the Rights and Privileges Thereto in Perpetuity.
- Surveying and Land Sale Regulations (No date)
- Real Property Tax Code (Chapter 20, Revenue and Finance Law, 2000)

AVAILABLE LITERATURE ON THE ENVIRONMENTAL PROTECTION AGENCY OF THE REPUBLIC OF LIBERIA (EPA)

- An Act Creating the Environmental Protection Agency of the Republic of Liberia (November 26, 2002)
- An Act Adopting the Environmental Protection and Management Law of the Republic of Liberia (November 26, 2002)
- The National Environmental Policy of the Republic of Liberia (April 30, 2003)
- Environmental Protection Agency: Environmental Impact Assessment Procedural Guideline (2006)

AVAILABLE LITERATURE ON THE FORESTRY DEVELOPMENT AUTHORITY (FDA)

- An Act Adopting the National Forestry Reform Law of 2006 (September, 2006)
- Guidelines for Forest Management Planning (June, 2007)
- Forestry Development Authority Ten Core Regulations (2007)
- Forestry Development Authority: Implementing the Community Forestry Rights Law (April 16, 2009)

OTHER PAPERS/WORKS

- Liberia: Insecurity of Lands Tenure, Land Law and Land Registration in Liberia (October 22, 2008)
- Policy Brief: Debating Land Reform, Natural Resources and Poverty by: Cousins, Hornby, Kingwill, Royston and Smit (October, 2005)
- Excerpts from Bruce 2008 and Wily 2007 Concerning Development of Liberian Law on Public Land in Relation to Customary Land Tenure.
- ABA Journal- In the Cross-Heirs (posted May 1, 2009)
- Republic of Namibia National Assembly Sectional Titles Bill (2008)
- Regional Consultative Meetings on Land (Governance Commission of Liberia- May, 2008)
- Comments on Liberia's Statute of Intestate Succession
- The Assurance of Land Titles and Transactions in Liberia by: Kwamena Bentsi-Enchill and Gerald H. Zarr

- The 1973 Sale of Public Lands Law from an Economic Perspective vis-à-vis the Poverty Reduction Strategy (PRS) by: Dr. Byron Tarr (August 3, 2010)

- The Relevance of Pricing of Public Land as Enshrined in the 1973 Sale of Public Lands Law on the Operation of Sectoral Activities: e.g. Agriculture, Mining Concession by: Prof. Wilson K. Tarpeh

- Transaction and Concessions in the Land Sector: A Presentation to the Land Commission by: J. Chris Toe (August 5, 2010)

- Registering and Administering Customary Land Rights: Current Innovations and questions in French-Speaking West Africa by: Philippe LAVIGNE

- Statutory Recognition of Customary Land Rights: A Preliminary Investigation into Best Practices for Lawmaking and Implementation

- Special Presidential Nimba Land Dispute Commission: Findings and Recommendation (June 30, 2010)