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PUBLIC INFORMATION CAMPAIGN: LAND RIGHTS POLICY

LIBERIA LAND CONFLICT RESOLUTION PROJECT

DECEMBER 2013
This publication was produced for review by the United States Agency for International Development.
It was prepared by Tetra Tech ARD.

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1.0 INTRODUCTION

The Liberia Land Conflict Resolution Project (LCRP) contract Scope of Work (SOW) and Modification #1 describe an activity titled "Provide technical input and written content for a land dispute resolution information campaign and coordinate public awareness campaign." The SOW further requires LCRP to "develop appropriate messages to increase citizens' understanding of property acquisition and laws, with particular focus on alternative dispute resolution as a method for resolving disputes." In fulfillment of this objective, LCRP collaborated with the Land Commission to develop a series of messages and materials to communicate the major messages of the new Land Rights Policy. The following was adapted from the final report on this exercise, prepared by Dr. Adarkwah Antwi, LCRP Land Tenure Specialist.

Following the approval of a draft Land Rights Policy Statement (the Policy) by the Cabinet of Liberia, the Land Commission planned a massive consultation exercise to seek feedback and obtain consensus and buy-in from main stakeholders. The Land Conflict Resolution Project (LCRP) provided support to this exercise in two folds: (a) supported Land Commission in the planning, strategizing and focusing of the key messages from the policy on which views were to be sought; and (b) funded and organized the outreach aspects of the exercise that included production of scarfs with catchphrase "Know your Land Rights," T-shirts, radio airtime, and printing of the Policy document and other accompanying documentation. Beside project personnel time dedicated to planning and strategizing noted in (a) above, LCRP's financial support for the outreach and provision of supporting documents in (b) amounted to US$170,070. The entire consultation exercise, from the commencement of regional consultations in Tubmanburg, Bomi County, to a national validation in Monrovia, was organized within a period of six months (from December 2012 to May 2013). This report aims to provide an account of the consultation exercise to place on record the efforts committed to ensuring that the Land Rights Policy of Liberia received the appropriate buy in of all stakeholders in the country. The report is based on observations from LCRP staff that were embedded in the consultation implementation team of the Land Commission. It is organized as follows: to provide an appropriate context, a summary of the main thrust of the Policy is first outlined. This is followed by a discussion of the strategy employed to undertake the consultation at page 2; after which an outline of the consultation process is provided (at page 4). A synthesis of feedback received and the extent to which The Policy has been revised to deal with them begins at page 7. The report concludes with some reflections on the consultation exercise at page 9.

1.1 BRIEF ON THE LAND RIGHTS POLICY

The land tenure regime that currently prevails in Liberia is characterized (by the Policy), as a tenure regime where, "The Government of Liberia has treated all land that is not deeded as public. This practice dates from around 1824 when all land acquired by the American Colonization Society from indigenous peoples became public land and was allotted to citizens as private deeded land. However, there has never been a clear definition of public land nor a clear relationship to pre-existing customary land rights." The core policy innovation enshrined in the Land Rights Policy is therefore an attempt to lay out, clarify, and make provisions for four main categories via which real property can be owned in Liberia. These four categories are provided for and defined by the Policy as follows.

1.1.1 Customary Land

This category aims to grant legal recognition to lands owned and possessed by various communities across the country but for which they have no legally recognized documentary proof. It is defined in the Policy as

"land owned by a community and used or managed in accordance with customary practices and norms, and may include, but is not limited to: wetlands, communal forestlands, and fallow lands. Customary Land rights, including the rights of ownership, use or management, are equally protected as Private Land rights." Furthermore, "[o]wnership of Customary Land is equally protected as private ownership, such that the community and its members, groups, families, and individuals within the community are entitled to the full bundle of land rights. These rights include, but are not limited to, the right to: exclude all others, use and possession, own natural resources on the land (e.g., forests), and to transfer all or some of the rights through sale, lease, concession, gift, donation, will, or any other lawful means consistent with this Policy and the community's customary norms and practices." The granting of legal recognition to this category of land holding in its own rights rather than through a need to convert into a form of statutory rights is an innovation of this Policy and a first in the history of Liberia.

1.1.2 Private Land

The private land category reaffirms an existing and recognized mode of real estate ownership derived from statutes and proof of which is via title deeds. The Policy defines this category in the following terms: "Private Land is land owned by an individual or private entity, in which management and use decisions are based solely on formal law (i.e., statutes, regulations, executive orders, and court decisions), where the owner enjoys the full bundle of land rights, which include, but are not limited to, the right to: exclude all others, use and possession, own natural resources on the land (e.g., forest), and to transfer all or some of the rights through sale, lease, concession, gift, donation, will, or any other lawful means."

1.1.3 Government Land

The Policy introduces this category to clarify the right of government as an entity to own land and distinguishes lands so owned from lands reserved and designated as public land (as defined below). Again this clear distinction is an innovation of the Land Rights Policy. It defines government land "as land owned by the Government and used for the buildings, projects, or activities of the Government, including, but not limited to, lands on which are located: the offices of ministries, agencies, and parastatal bodies; military bases; roads; public schools and public universities; public hospitals and public clinics; public libraries and public museums; public utilities; and airports."

1.1.4 Public Land

Public land is defined as land "designated for future use, managed in the public interest, and which is not Government Land, owned by a community and used or managed in accordance with customary practices and norms, or owned as Private Land."

Beyond clarification of land rights, the Policy makes provisions for the acquisition, transfer, and allocation of land under the various categories. It provides for the strengthening of transparency and accountability regarding the power and mechanisms (like the use of eminent domain powers), to acquire and/or change land rights from one category to the other. There are further provisions to strengthen or establish land governance institutions, particularly, with regards to the customary land rights category. For details of these provisions, see the Land Rights Policy. The consultation exercise, on which this document reports, was to seek views and concerns of stakeholders across the country and revise the Policy accordingly, in order to secure the support and buy in of the Liberian people.

1.2 STRATEGY ADOPTED

Originally the planned strategy was to conduct the consultation at four levels but in the event the county-level consultations (explained below at page 4) were abandoned. The consultations were therefore organized at three levels as described below.

1.2.1. Interest Groups Consultative Meetings

This level of consultations was planned to seek feedback and address the concerns of key stakeholders that included the Liberia Bar Association, the Liberia Chambers of Commerce, the Liberia Business Association, civil society organizations, the Association of Female Lawyers of Liberia, the National Women Commission, the National Rural Women Association, and youth and women groups particularly those having rural constituents. Table 1 below presents a schedule and venue of entities actually consulted at this level.

TABLE 1: SCHEDULE OF INTEREST GROUP CONSULTATIVE MEETINGS

	Organization	Date of Consultation	Venue
1	Media	March 20, 2013	Land Commission Conference Room
2	Civil Society	March 21, 2013	Land Commission Conference Room
3	Rubber Planter's Association, Liberia Timber Association, Cooperative Development Authority	March 26, 2013	Land Commission Conference Room
4	Senate and House Committees on Land, Mines, Energy, Natural Resources	March 27, 2013	Wulki's Farm, Carysburg
5	Business Community	April 2, 2013	Land Commission Conference Room
6	Liberia Marketing Association, Liberia Motorcycle Transport Union, Road Transport Union of Liberia.	April 3, 2013	Land Commission Conference Room
7	National Student Union, Federation of Liberian Youth, Other student groups	April 4, 2013	Land Commission Conference Room
8	Liberian National Bar Association, Association of Female Lawyers of Liberia	April 11, 2013	Land Commission Conference Room
9	Women's Land Rights Task Force	April 25, 2013	Land Commission Conference Room

1.2.2. Sub-Regional Consultative Meetings

At this level of consultation, each of the 15 counties of Liberia were grouped into one of six sub-regions based on geographical proximity. Representatives from each county in a given group were provided transportation expenses to congregate at the selected consultation location. Table 2 provides details on county groupings, locations, and dates when the consultation was held for each sub-regional group.

TABLE 2: SCHEDULE OF REGIONAL CONSULTATIONS

	County Groupings	Date of Consultation	Location of Consultation
1	Grand Cape Mount, Bomi, and Gbarpolu Counties	5-7 December 2011	Tubmanburg
2	Urban Montserrado County	22-24 January 2013	Monrovia
3	Margibi, Rivercess, Grand Bassa, and Rural Montserrado Counties	12-14 February 2013	Buchanan
4	Grand Kru, River Gee, Maryland Counties	20-22 February 2013	Harper
5	Sinoe and Grand Gedeh Counties	25-27 February 2013	Zweduru

	County Groupings	Date of Consultation	Location of Consultation
6	Lofa, Bong, and Nimba Counties	5-7 March 2013	Gbanga

1.2.3. County Consultative Meetings

This level of consultations was originally planned to enable wider participation and was primarily aimed at getting "deeper" to the people through district, chiefdom, and clan level representations. The meetings were to be guided by the Commission but organized and conducted by civil society organizations that had been identified as facilitators during the planned sub-regional meetings. In the event, however, this level of consultations was quietly shelved due, reportedly, to financial, personnel, and time constraints.

1.2.4. National Validation Conference

The national validation event constituted the culmination stage of the consultative meetings and was geared at ensuring the following: (a) the accuracy and authenticity of the policy statement; (b) the consolidation of political will and political consensus; (c) public approval; and (d) mobilization for public action. This event took place on 20-21 May 2013 at the Centennial Pavilion, Monrovia. A cross-section of participants, including national political leaders, national and local government leaders, traditional authorities, civil society organizations, youth and women groups, international partners, and the media, were invited and represented. The conference brought together over 500 participants and stakeholders as reported by the Land Commission.

1.3 THE CONSULTATION PROCESS

Given the unfortunate history of land expropriation in Liberia, there was a strong possibility that if adequate measures were not taken to manage and focus the discussions, the consultation would spin out of control. On the other hand, attempts to focus the discussion on specific points of the policy risked alienating participants whose buy in and approval were the main objectives of the consultation exercise. A balance needed to be struck. This was partially achieved by focusing each level of consultation on the main areas that are expected to be of keen concern to the particular group but at the same time allowing discussants to "pour their hearts out," as it were, on other issues pertinent to land rights but not directly related to the Policy.

The key areas of the Policy that warranted deepest consultation related to the recognition of customary land rights. Therefore, participants were invited to discuss and provide feedback on a series of questions regarding the recognition, definition, management, and legal representation of communities as far as customary land rights ownership is concerned. These questions centered around:

- Customary land definitional issues;
- Community legal entities/representational issues; and
- Land administration and land management issues.

Furthermore, the approaches adopted differed slightly at each level of consultation. In part, this was planned. However, a great deal of "learning by doing" was incorporated, particularly regarding the sub-regional consultations. A flexible methodology that incorporated the originally planned process with some deviations to accommodate participants' preferences was eventually adopted in course of the sub-regional consultations. More on this in 1.4.2, The Sub-Regional Consultation Process, below.

1.3.1 The Interest Group Consultation Process

As the membership of the group demonstrates (see Table 1), the interest group consultative meetings were comprised of groups highly informed of land rights issues. The consultation process adopted at this level therefore restricted the Land Commission and its partners' involvement to the scheduling of meetings for each interest group and the provision of logistical support, including the use of the Commission's conference facilities. The groups were then left independently to deliberate and submit a feedback report. These reports have been consolidated into a Land Commission program report.

1.3.2 The Sub-Regional Consultation Process

In contrast, the approach adopted at the sub-regional level consultations required a higher level of involvement by the Land Commission and its partners. As explained above, these meetings brought together representatives of three relevant counties to one location where the meeting was held. Table 2 details the locations and scheduling of these meetings. Participants comprised of community leaders (chiefs and elders), youths, women groups, and county level government representatives.

The main part of the consultation exercise commenced with an introduction of the Policy by the Chairman of Land Commission. Participants were then divided into five groups, as will be outlined shortly, to commence a series of consultations. Among other assorted papers, the pack for every participant contained the full content of the (then draft) Policy, printed in color and in a newspaper format (funded by LCRP), and background briefing papers and questions relating to aspects of the Policy where consultation was to be focused. The consultation was led by facilitators drawn from civil society organizations and given brief training on the Policy.

In all five groups were formed at each sub-regional consultative meeting as follows:

- Each of the three counties represented formed a group. This accounted for three groups.
- Cross-county special interest groups that comprised participants from all three counties. These were:
  - Youth group
  - Women's group.

Picture 1 provides a snapshot of a typical group discussing the Policy at a sub-regional consultative meeting.

Picture 1: A Typical Consultation Group at Work in Gbarnga, Bong County

1.3.3 The National Validation Process

The national validation that culminated the consultation exercise adopted yet a different approach. The main objective here was not to solicit feedback in order to revise the document to address stakeholder concerns. That (by this stage) had been achieved in the sub-regional and interest group consultations. Rather the objective of the national validation conference was to achieve the consolidation of political consensus and seek public approval to the Policy. To this end, the meeting brought together key political leaders of Liberia, including the President, H.E. President Ellen Johnson Sirleaf, and a select number of participants from all 15 counties who had already been consulted during the sub-regional consultations. In addition, representatives from the international community as well as nongovernmental organizations, civil society, and development partners were invited. The process followed this order. The Chairman of the Land Commission made a presentation that detailed the main tenets of the Policy, a matrix of issues raised during the preceding interest group and sub-regional consultations, and how the Policy has been revised to deal with those issues. After this, representatives from all the 15 counties signed a resolution to affirm acceptance and agreement of the contents of the policy. A presentation of the Policy was then made to the President of the Republic of Liberia (see Picture 2 below) on the second day. The President then made a speech that signified the importance of the Land Rights Policy to the reform process in Liberia. The President's speech also spelled out some difficult questions that the Land Policy is expected to enable the land reform process to address, including, "tackling the long-standing issue of large acres of land being held by a few people. For more on how this area of the speech echoes some feedback from stakeholders see subsection 1.4.3, The Question of Big Land Owners.

Picture 2: The Chairman of Land Commission, Dr. Cecil Brandy, presenting the Policy to H.E. President Ellen Johnson Sirleaf at the National Validation Conference

1.4 SYNTHESIS OF FEEDBACK

As a result of the somewhat fluid approach adopted (outlined above), wide ranging feedback was obtained from the consultations. A snapshot of these is captured by a Land Commission report entitled Reference Matrix of Issues Raised During Land Rights Policy Consultations.

On the whole feedback obtained overwhelmingly supported the Policy in its attempt to clarify tenure categories in the country. The recognition of customary lands in the Policy, in particular, received very positive feedback. The synthesis below therefore only focuses on areas where feedback suggested the need for revision, clarification or the use of language that explain and instruct the development of legislation to deal with details requested. In each case, how the Policy was revised (or not) to address the concerns is indicated.

1.4.1 Recognition of Customary Land Rights

Feedback from consultations raised lingering questions that required clarification in the policy and/or statements to indicate an intention to deal with them in legislation that will emanate from the policy. Areas nagging participants' minds included;

a. What constitutes a customary community for purposes of customary land recognition?

b. The concept of community self-identification for customary land owning purposes. Participants were unclear on the extent to which any community identifications under the Ministry of Internal Affairs were to be reconciled with this concept, for example?

c. At what level and detail are boundaries of customary lands for communities to be determined? Feedbacks made wide suggestions ranging from; at town level, through clan level, to chiefdom level.

d. Legal entity. This expression raised concerns that appeared to derive from the lack of full appreciation of the concept in a lot of participants' minds.

The Policy revision team considered these questions to be mainly questions to which there are no direct answers and need to be addressed through legislation and/or implementation directives and guidelines. Indeed LCRP has recognized this need and through the Land Tenure Expert, is spearheading a Land Commission Task Force to work around some of these questions in order to design a customary land implementation approach.

1.4.2 Clarity of Land Rights Classifications

Feedback from all sub-regional consultations were almost universal on a conclusion that there is some confusion regarding the two tenure categories of Public Land and Government Land. Participants viewed these categories as, in fact, one category—lands owned by government. The suggestion appeared to indicate that the two categories be merged along the following lines;

Create three tenure categories.

- Private land;
- Customary land; and
- Government land, defined to comprise two sub-categories:
  - All lands occupied and used for government purposes, etc. (as under government land in draft policy); and
  - Any lands left after taking out private lands, customary lands and lands occupied by government under (a) above (as under public land in draft policy).

The feedback has some merits: adopting the suggested reclassification would align land rights categories more forcefully with entities capable of land ownership. However, the revision team considered the suggested confusion to be only perceived not real. Accordingly, the Policy was revised by expanding the definitional differences between the two categories and also by clarifying that both public lands and government lands are owned by the Government of Liberia.

1.4.3 The Question of Big Land Owners

This feedback relates to stakeholders' views on the equity and/or fairness of large areas of land reported to be held as privately deeded land by some families. The Policy presented at the consultations was silent on this issue in specific terms. Yet it became one of the major issues deliberated upon during the consultations in all regions, sometimes with strong emotions. Indeed this particular issue is echoed in the part of the President's speech that spells out some important areas of implementation of land reform in Liberia. The Policy in its final form still does not confront this question directly. The argument (which is moot) is that the Policy is meant to carve a future tenure pathway for Liberia rather than to look into the past.

1.4.4 Women's Rights under Customary Land Tenure

Feedback suggested the need for explicit expression in the statements regarding the rights of women under customary land rights in the Policy. Critical statements in the Policy regarding the management of customary lands, *viz*, "to manage according to the customary norms and practices," are viewed as potentially inimical to women and vulnerable groups and a possible route through which women would be disenfranchised when customary rights are recognized. As expected, the Women's Land Rights Task Force made detailed

recommendations that called for the use of explicit expression and stronger language to re-affirm women's land rights. The revision of the Policy adopted this stance and strengthened and/or incorporated explicit language, where appropriate, to emphasize the non-discriminatory principle behind the Policy and women and vulnerable groups' rights to own land.

1.4.5 Protected Lands Under Private and Customary Land Categories

The Policy allows for the government to direct lands under all four categories to be protected if such lands are deemed to possess special environmental and other associated benefits. Feedback received pointed out that the Policy required clarifications regarding protected lands when they fall under the private or customary land categories. To address the concerns, language that indicate the development and/or harmonization of legislation guiding the processes of declaring lands to be protected lands, and implied eminent domain and compensation issues that may be triggered, have been inserted at the outset in the revised version of the Policy.

1.5 REFLECTIONS ON APPROACH

The Land Commission deserves commendation for the efforts taken to ensure that real consultations with stakeholders on the Land Rights Policy were held. In particular, its preparedness to adopt a flexible approach that allowed participants to share their views on all aspects of land tenure in the country but at the same time managing to focus the meetings on critical issues in the Policy proved effective and one that is recommended for replication in similar settings. Credit also needs to be apportioned to the commitment of all the Commissioners and Program Officers in personally attending at all locations and directly participating in the consultation proceedings. Their contributions to clarifying issues during proceedings were invaluable and ensured success.

Some things could have been done better though. Start with the time allocated to the consultation exercise. With the benefit of hindsight it would appear the time constraints imposed on the exercise (six months) was unnecessarily too tight for the level and extent of consultations that was required. Admittedly there is real urgency in getting policies in place to achieve a reform of the land sector of Liberia. But for a document of such importance as a first attempt of writing a Land Policy for the Country, the need for the deepest consultation of all sections of the Society cannot be overemphasized. As alluded to earlier, the limited time allowed for consultations is cited as one reason why it was not possible to undertake deeper level consultations at the district and clan levels. This inability to engage all those "little people" that actually till the land may come back to haunt implementation of the Policy.

There is also a question of scheduling and sequencing of consultation events that could have been better optimized. While attending these events, one could not help but observe some redundancy in the number of commissioners and program staff that attended each and every sub-regional consultation. With such numbers of informed interlocutors available, it could have been possible to split the team and organize more than one sub-regional consultation concurrently and by so doing minimize the time it took to complete that level of consultations across the country. This could have freed time and resources to be utilized, for example, to organize some deeper level consultations at district and clan levels even within the six month time constraint. As it turned out, those deeper level consultations had to be shelved for want of time.

On the whole, however, the consultation exercise was executed professionally and (with some tweaking suggested above) can be viewed as a template for engaging and seeking buy in for future policies.

2.0 LCRP MATERIALS PRODUCED BETWEEN APRIL 2012 AND NOVEMBER 2013

2.1 LAND RIGHTS POLICY POSTER, BANNER, AND INSERT

In October 2012, the Liberia Land Commission submitted a draft policy on land rights to the President and Cabinet of Liberia. The draft policy includes, for the first time in Liberia, national recognition of the rights of customary landholders as equivalent to those of private landowners. President Ellen Johnson-Sirleaf approved the draft policy for distribution and consultations in November 2012. Given the importance of this document in increasing Liberians' awareness of their land rights, and the connection between awareness, understanding of land policy and laws, and the promotion of peaceful dispute resolution, LCRP, in cooperation with the Land Commission, provided the attached materials to support the consultation process. The LCRP Chief of Party (COP) worked with the Outreach and Education team to design the layout of the posters and flyers, and to create attractive messages to encourage participation by local communities. The posters and banner announce the locations for a series of regional meetings, which were held between December 2012 and March 2013. The newspaper-style presentation of the policy provided a handy reference for consultation participants.

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LAND COMMISSION

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LET'S TALK ABOUT OUR LAND RIGHTS POLICY

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AND GBARPOLU

REGION 4 VENUE: **ZWEDRU CITY**
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REGION 5 VENUE: **HARPER CITY**
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LAND COMMISSION

REGIONAL CONSULTATIVE MEETING

ON THE

DRAFT LAND RIGHTS POLICY

Date: December 5 – 7, 2012
Place: Tubmanburg, Bomi County

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REPUBLIC OF LIBERIA
LAND COMMISSION

This publication contains the Draft Land Rights Policy of Liberia, approved by the Land Commission and authorized for release to the public to provide comments on the policy and the recommendations contained therein.

Kindly forward your comments to landcommissionpolicy@gmail.com and indicate your name or that of the organization you represent.

Beginning December 2012 to February, 2013, the Land Commission will conduct series of consultative meetings to discuss the Draft Land Rights Policy with Interest Groups, and Participants at six(6) sub-regional consultative meetings covering the 15 countries of Liberia. The consultation process will culminate in a National Validation Conference

DRAFT LAND RIGHTS POLICY

1.0. INTRODUCTION

This document provides the Land Commission's policy recommendations for land rights in Liberia, centered on four basic types of rights: Public Land, Government Land, Customary Land, and Private Land. In addition, a Protected Area is land which may fall under the Government Land, Customary Land, or Private Land categories but which must be conserved for the benefit of all Liberians. The policy recommendations in this document will form the basis of a new land rights law and are the foundation for reforming Liberia's land sector. The formulation process was guided by the below overriding principles.

It is important to note that the Land Commission must further study the complex and cross-cutting issue of concessions through a separate Concession Land Use and Tenure Task Force. Consequently, in general this Policy Statement is not going to address existing or future land concessions.

2.0. *Secure Land Rights.* The most important principle guiding the Land Commission's policy recommendations is ensuring that all communities, families, individuals, and legal entities enjoy secure land rights free of fear that their land will be taken from them, except in accordance with legal due process. By creating secure land rights people expect those rights to be stable and secure in the future, which promotes long-term decision making.

2.1. *Economic Growth.* Tenure security is a means for Liberia to enjoy sustained economic growth by contributing to a stable investment environment and food security. It encourages investment because the investor knows there will be enough time to recover the benefit of their investment. The principles of economic growth and tenure security are not in conflict with one another but are complementary. Exploiting weak land rights to acquire commercial use of land is damaging to both tenure security and economic growth.

2.2. *Equitable Benefits.* The Land Commission's policy recommendations aim to ensure that the benefits of economic growth are equitably distributed by creating wealth for all Liberians. This too is complementary to economic growth, for growth will be stable and long-lasting only by ensuring that its benefits are spread to all parts of Liberian society.

2.3. *Equal Access.* The Constitution gives all Liberians "the right to own property alone as well as in association with others," which means land ownership is permitted for all Liberians regardless of their identity, whether based on custom, ethnicity, tribe, language, gender, or otherwise. This is a fundamental constitutional principle that has informed every part of the Land Commission's policy recommendations.

2.4. *Equal Protection.* Since the founding of Liberia the lands of customary communities have been less secure than private lands. This policy must end such that lands under customary practice and norms are given protection equal to thatof private lands. Moreover, women's land rights are often less protected than those of men. This policy aims to give equal protection to the land rights of men and women.

2.5. *Environmental Protection.* Land is a precious resource that must be used, managed, and administered in a sustainable manner in order to ensure environmental protection and long-term economic growth.

2.6. *Clarity.* Every effort was made to ensure that the recommendations and the future laws and policies for which they advocate will be publicly available and clearly understood by all Liberians regardless of background. Policies and laws can be successfully implemented only when they are clearly understood and publicly available.

2.7. *Participation.* The recommendations were created with extensive participation by the Government, civil society, and communities to ensure that there was broad consensus regarding policy and legal reform. Policy and legal reform must be brought into the open and subject to debate and criticism.

2.8. *Evidence-Based.* Sound policy must respond to the realities of the Liberian context and draw upon the experiences of other countries. Therefore, the policy recommendations are based on numerous country-specific and comparative studies, reports, study tours, interviews, and workshops and are, consequently, firmly rooted in the challenges facing Liberians today.

3.0. BACKGROUND: THE NEED FOR REFORM

Never in its history has Liberia had a clearly defined land rights policy. Every Liberian feels on a daily basis its absence. The experiences and difficulties vary, whether it is a government official unable to secure land for government programs, a customary community fearful that a company will use their land without getting their approval or justly compensating them, an urban resident caught up in a bitter and expensive land dispute or evicted without notice, or an entrepreneur uncertain that their investment is reasonably protected. The goal of this policy statement is to improve the daily lives of all Liberians—to eliminate the anxiety and uncertainty they feel over land rights.

Since its creation in 2009 the Land Commission has undertaken projects reviewing and analyzing: Liberia's land laws; Liberian legal history; comparative best practices; customary tenure; women's land rights; public land sale deeds, aboriginal land grant deeds, public land grant deeds, and tribal certificates; and land use rights, including commercial use rights. In March 2011 the Land Commission adopted of the World Bank-funded report *Reform of Liberia's Civil Law Concerning Land* ("Land Law Report"), which lays out a process for transforming the information gleaned from these projects into policy recommendations and draft laws.

In accordance with the Land Law Report, the Land Commission has proceeded with policy and legal reform in clusters, with each cluster covering one of the following areas: Land Rights, Land Administration, and Land Use/Management. After adopting the Report the Land Commission decided to include a fourth cluster, Land Dispute Resolution. These clusters were charged with moving from a policy statement to proposed draft laws in each of their areas. The Land Rights Cluster includes the following land rights categories: Public Land, Government Land, Customary Land, and Private Land. The end product of the Land Rights Cluster will be a proposed Land Rights Law, addressing Public Land, Government Land, Customary Land, Private Land, and Protected Areas. Later, the Land Administration and Land Use/Management Clusters will provide detailed policy recommendations and draft laws addressing how these land rights categories should be used, managed, and administered.

The Land Rights Cluster was organized into a Policy Task Force and Legal Drafting Team. The Policy Task Force, made up of officials from the Land Commission and key government ministries and agencies, debated the various policy issues surrounding a new land rights law and presented its policy recommendations to the Land Commission for approval. Once approved, the policy statement was handed over to the Land Rights Legal Drafting Team, which is charged with transforming the policy decisions in this policy statement into draft laws for presentation to the Executive and Legislature. The Legal Drafting Team includes members of the Liberian Bar as well as other key government ministries and agencies. Representatives from the Executive and Legislature have been consulted at each stage of the process.

4.0. LAND RIGHTS PRINCIPLES

The Government of Liberia has treated all land that is not deeded as public. This practice dates from around 1824 when all land acquired by the American Colonization Society from indigenous peoples became public land and was allotted to citizens as private deeded land. However, there has never been a clear definition of public land nor a clear relationship to preexisting customary land rights. The practice has become the law and policy, rather than the law and policy guiding the practice. The result has weakened the Government of Liberia's ability to effectively manage and use land as well as creating insecurity for customary and private land rights. Therefore, the recommendations that follow are in accordance with these

4.1. The Government is responsible for protecting land within the territory of Liberia and regulating its use in the public interest.

4.2. The Government recognizes and protects the land rights of communities, groups, families, and individuals who own, use, and manage their land in accordance with customary practices and norms, as equal to private land rights.

4.3. The Government recognizes and protects private land rights.

4.4. The Government recognizes and protects the right of the Government to own land.

5.0. GOVERNMENT LAND AND PUBLIC LAND

This section discusses the following issues surrounding Public Land and Government Land and makes policy recommendations for each:

- Definitions
- Transfers
- Government Acquisition

These recommendations that follow are the product of an intensive two year process, which began with the identification of numerous problems in the public land sale process and the imposition of a moratorium on public land sales to give the Land Commission sufficient time to address them. The result was the Interim Guidelines and Procedures for the Sale of Public Land (2011) which sought to remedy the problems in the public land sale process but within the existing statutory framework of the 1973 Public Lands Law.

During internal policy discussions and after the issuance of the Land Law Report, it became clear that that law had to be replaced by a new policy on public land. Also informing this conclusion and the following policy recommendations were studies of past Liberian laws and policies regarding public land as well as comparative best practices drawn from various African countries. These studies revealed three startling facts: (1) there has never been a clear policy governing public land, (2) the laws governing public land have not been significantly changed for 150 years, and (3) the public land laws of Liberia are inconsistent with comparative best practices.

5.1. Definitions

Historically, all land under Government control was treated as public land without any distinction based on how the land should be managed, used, and transferred. This has contributed to mismanagement of land under Government control and ineffective land administration. By establishing the categories of Government Land and Public Land, including Government Protected Areas, the below recommendations will strengthen land management and administration.

Policy Recommendations:

5.1.1. All Government Land and Public Land is owned by the Republic of Liberia.

5.1.2. Government Land is defined as land used for the buildings, projects, or activities of the Government.

5.1.3. Government Land may be sold or leased to the Government, an individual, or a private entity, including a community, only if the transfer process follows the strict protections designed to prevent fraud and abuse set forth in the Land Rights Policy Statement. Government Land may not be granted as a concession.

5.1.4. Government Land includes Government Protected Areas which are owned by the Republic of Liberia and must be conserved and managed for the benefit of all Liberians. Government Protected Areas shall not be sold, leased, or granted as a concession. A Government Protected Area shall only be converted to Private Land, Customary Land, or Public Land in accordance with a law passed by the Legislature.

5.1.5. Limited use rights may be granted over Government Protected Areas to individuals, private entities, or government entities only if the use is consistent with the land's conservation and management for the benefit of all Liberians.

5.1.6. Public Land is defined as land which is not Private Land, Customary Land, or Government Land.

5.1.7. Public Land may be sold, leased, granted as a concession, or otherwise transferred to the Government, an individual, or a private entity, including a community. Public Land may be converted to Private Land, Customary Land, or Government Land.

5.2. Transfers

In the past the Public Land sale process has been a source of weak land governance, corruption, political patronage, and discriminatory treatment. In addition, there is no existing legal framework governing the process by which the Government of Liberia leases Public Land. The submit to public, competitive bidding. Automatic renewal of short-term leases shall be prohibited.

5.2.1.4. Before the sale or long-term lease of Public Land or Government Land is final the following must be advertised to the public in their entirety for at least ninety (90) days, especially in the area where the land to be leased or sold is located: the sale or lease agreement, including the individual or legal entity acquiring the land, as well as any subsidiaries or parent companies; the exact size and location of the land along with a survey plan; and any payments to be made to the Government and the payment schedule. There shall be no exceptions to this rule.

5.2.1.5. Before the short-term lease of Public Land or Government Land is final, the following must be made publicly available in their entirety for at least ninety (90) days: the sale or lease agreement, including the individual or legal entity acquiring the land, as well as any subsidiaries or parent companies; the exact size and location of the land along with a survey plan; and any payments to be made to the Government and the payment schedule. There shall be no exceptions to this rule.

5.2.1.6. Before the sale or lease, whether long-term or short-term, of Public Land or Government Land is complete, the sale must be reviewed by the government entity responsible for coordinating the management of Public Land and Government Land, which must provide a public report detailing any irregularities, misconduct, or violations of any law regarding the sale or lease. In reviewing the sale or lease, the government entity may consult such other relevant government entities as it deems necessary and appropriate.

5.2.1.7. Reports regarding sales and long-term leases prepared by the government entity responsible for coordinating Public Land and Government Land must be advertised to the public in its entirety for at least ninety (90) days before the sale or lease is final, especially in the area where the land to be leased or sold is located. Reports regarding short-term leases prepared by the government entity responsible for coordinating Public Land and Government Land must be publicly available in its entirety for at least ninety (90) days before the lease is final.

5.2.1.9. Any Liberian citizen or legal entity, including any government entity, may seek to cancel, prevent, or challenge the sale or lease, whether long-term or short-term, of Public Land or Government Land.

5.2.2. Transfers of Government Protected Areas

Policy Recommendations:

5.2.2.1. Transfers of Government Protected Areas are only permitted in the form of a limited use right consistent with the land's conservation for the benefit of all Liberians.

5.2.2.2. Transfers of Government Protected Areas for commercial use must be through a public, competitive bidding process overseen by the government entity which owns or manages the land.

5.2.2.3. An individual or legal entity seeking limited use of a Government Protected Area must provide to the government entity which owns or manages the land a plan describing, at a minimum, the following: the individual or legal entity acquiring the land; the purpose of the use; the proposed methods for achieving the purpose of the use; the exact size and location of the area over which use is sought, with supporting maps; the length of time of the use; and the benefits to be received by the Government and the Liberian public, including any payments and a payment schedule. Before the transfer is final, the plan must be advertised to the public in its entirety for at least ninety (90) days, especially in the area where the Government Protected Area is located.

5.2.2.4. The proposed methods for achieving the purpose of the use, the area over which use is sought, and the length of time of the use must be absolutely necessary for achieving the purpose of the use.

5.2.2.5. Before the transfer is final, it must be reviewed by the government entity responsible for coordinating the management of Public Land and Government Land, which must provide a public report detailing any irregularities, misconduct, or violations of any law regarding the transfer. The report must be advertised to the public in its entirety for at least ninety (90) days before the transfer is complete, especially in the area where the Government Protected Area is located, before the transfer is final.

5.2.2.6. Any Liberian citizen or legal entity, including any government entity, may seek

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following policy recommendations are designed to correct these flaws and, in addition, address how the Government of Liberia's land rights in the newly created category of Government Land, including Government Protected Areas, are transferred.

5.2.1. Sales and Leases of Public Land and Government Land

Policy Recommendations:

5.2.1.1. The Government may sell or lease Government Land or Public Land.

5.2.1.2. Sales and long-term leases of Public Land and Government Land must be done through a public, competitive bidding process overseen by the government entity which owns or manages the land. Automatic renewal of long-term leases shall be prohibited.

5.2.1.3. Short-term leases of Public Land and Government Land are not required to to cancel, prevent, or change the transfer of a Government Protected Area.

5.3. Government Acquisition

This section addresses the four ways in which the Government may acquire land. The Government may acquire Private Land and Customary Land through mutual agreement, eminent domain, or donation. In addition, the Government may acquire Private Land, but not Customary Land, through reversion.

5.3.1 Mutual Agreement and Eminent Domain

The current law on eminent domain in Liberia is inadequate. The Constitution allows for the use of the eminent domain power for "public purposes" and imposes certain requirements, but landowners require additional protections.

Principles:

5.3.1.1. Owners of Private Land and Customary Land should be provided just compensation such that, as much as possible, they are put in the same position they were in before the decision to expropriate.

5.3.1.2. Just compensation shall be calculated based on the land's fair market value assuming a willing buyer and a willing seller. Any change in fair market value as a result of the decision to expropriate shall not be considered.

Policy Recommendations:

5.3.1.3. The State may expropriate Private Land and Customary Land only for the security of the nation in the event of armed conflict, where the public health and safety are endangered, or for another public purpose.

5.3.1.4. In the context of the State's exercise of its eminent domain power, 'public purpose' means a purpose beneficial to the public but for which no private entity is willing to use its resources.

5.3.1.5. Before exercising its eminent domain power the Government must make a reasonable effort to acquire Private Land or Customary Land through mutual agreement that provides just compensation in accordance with fair market value and the principles and recommendations set forth in this section.

5.3.1.6. The Government must state in writing and advertise to the public for at least ninety (90) days, especially in the area where the land to be expropriated is located, a notice indicating its intention to acquire the land through eminent domain. The notice must include at a minimum: the State's reasons for expropriating; the exact location of the land including a survey plan; the landowner's right to negotiate the Government's access to the land for the purpose of evaluating fair market value; and the landowner's right to be present at all times when the Government enters the land. If the Government changes its reasons for expropriating then a new notice indicating the change must be advertised to the public for an additional ninety (90) days. Under no circumstances shall the above notice transfer ownership of the land or be used by any government employee or their agents to claim ownership of the land.

5.3.1.7. During the notice period the Government must make a good faith effort to locate the landowner and reach an agreement regarding access to the land for the purpose of evaluating its fair market value. If at the conclusion of the notice period the landowner refuses to grant access, the Government may enter onto the land for the sole purpose of evaluating its fair market value without the landowner's consent. The landowner shall have the right to be present at all times when the Government enters the land.

5.3.1.8. At a minimum the valuation of just compensation must be based on the land's fair market value assuming a willing buyer and a willing seller and excluding any changes in value as a result of the decision to expropriate. In addition, just compensation must include temporary costs reasonably incurred by the landowner as a direct result of the expropriation, including, but not limited to, transportation to the new land, real estate agent fees, and legal fees.

5.3.1.9. If only a portion of the land is expropriated and as a result the landowner's remaining land loses value, the Government must either compensate the landowner for the loss in value or expropriate the remaining land, whichever the landowner prefers.

5.3.1.10. If relocation of those living on Customary Land to be expropriated is deemed necessary after all other options have been thoroughly explored and rejected, then, in addition to just compensation, the Government must pay for the costs of relocation. The relocation costs must include: transportation to the land to which they are to be relocated, compensation and projects to restore the natural resources and economic base of those relocated, and the costs of the land and buildings to which they are relocated.

5.3.1.11. The lands and buildings to which those living on expropriated Customary Land are to be relocated must be at least as valuable as their previous lands. The calculation of land and building value depends on the circumstances of a given case but must at a minimum include: (1) the nature, quantity, and quality of harvests; (2) the location of the land in relation to markets, roads, freshwater, and other sources of agricultural and infrastructural support; (3) the value of forest and other natural resources; and (4) the value of structures and improvements on the land, including the value of materials used.

5.3.1.12. Owners of Private Land or Customary Land must be given a minimum of six (6) months notice before they are required to relocate.

5.3.1.13. The Government must provide payment of just compensation to the owner of Private Land or Customary Land before they are required to surrender their land to the Government.

5.3.1.14. If Private Land or Customary Land acquired through the exercise of eminent domain after a certain date ceases to be used for a public purpose then the Government must reaffirm the need to retain the land for a public purpose or the previous owner or their heir(s) shall have the right of first refusal. If the Government does not reaffirm the need to retain the land, it must make a good faith effort to locate the previous owner or their heir(s). The right of first refusal shall last for ten (10) years after the date the Government acquired ownership of the land through eminent domain. The reaffirmation must be made in writing and publicly available in its entirety before the right of first refusal expires.

5.3.1.15. If after a certain date the buildings, projects, or activities of the Government are located on Private Land or Customary Land, the Government must either continue to lease the land or purchase the land through mutual agreement or eminent domain.

5.3.1.16. Any Liberian citizen or legal entity, including any government entity, may seek to cancel, prevent, or challenge the expropriation of Private Land or Customary Land.

5.3.2. Donation

Policy Recommendations:

5.3.2.1. Private Land and Customary Land may be donated to the Government as Government Land for a specific public purpose, including, but not limited to: housing, schools, hospitals or clinics, and roads.

5.3.2.2. If the land ceases to be used for the specific public purpose for which it was donated, the Government must either reaffirm the need to retain the land for the specific public purpose for which it was donated or the previous owner or their heir(s) shall have the right of reacquire the land without payment of compensation to the Government. If the Government does not reaffirm the need to retain the land, it must make a good faith effort to locate the previous owner or their heir(s).

5.3.2.3. The right to reacquire donated land shall last for ten (10) years after the date the Government acquired ownership. The reaffirmation must be made in writing and publicly available in its entirety before the right to reacquire donated land expires.

5.3.3. Reversion

Policy Recommendations:

5.3.3.1. Land owned by a non-citizen missionary, educational, or other benevolent

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institution shall revert to the Government if the land was acquired from the Government after a certain date and it ceases to be used for the purpose for which it was acquired. This rule of reversion shall last for ten (10) years from the date the land was acquired from the Government.

5.3.3.2. Land used by a foreign government for its diplomatic activities shall revert to the Government "in the event of a cessation of diplomatic relations" only if the land is owned by the Government.

5.3.3.3. Private Land owned by a person whose certificate of naturalization has been cancelled and who does not have a Liberian spouse or heir shall revert to the Government. Before the Private Land reverts to the Government, the Government must fully investigate the rights and interests in the land and make a good faith effort to find a Liberian spouse or heir of the previous owner.

5.3.3.4. If the previous owner has no Liberian spouse or heir, within a reasonable time after the Private Land reverts to the Government the government entity responsible for coordinating the management of Public Land and Government Land must sell the land through a public, competitive bidding process to satisfy any unpaid taxes or debts owed by the previous owner. Any remaining revenues from the sale shall be used by the Government for a public purpose.

5.3.3.5. Private Land owned by a person who dies without Liberian heirs shall revert to the Government. Before the Private Land reverts to the Government, the Government must fully investigate the rights and interests in the land and make a good faith effort to find a Liberian heir of the deceased owner.

5.3.3.6. Any Liberian citizen or legal entity, including any government entity, may seek to cancel, prevent, or challenge the Government's acquisition and sale of Private Land due to loss of citizenship or failure of Liberian heirs.

5.3.3.7. If the owner of Private Land repeatedly fails to pay applicable land taxes, the Government may begin proceedings in court or an appropriate administrative body to acquire the land, unless the failure is due to an armed conflict or genuine fear of severe injury or loss of life. This rule shall not apply to Condominiums.

5.3.3.8. Prior to acquisition by the Government for repeatedly failing to pay applicable land taxes on Private Land, the owner must be given at least six (6) months notice of any alleged failure, given a reasonable opportunity to correct any unpaid taxes, and challenge the Government's allegations in accordance with due process.

5.3.3.9. Within a reasonable time after Private Land reverts to the Government for repeatedly failing to pay applicable land taxes, the government entity responsible for coordinating the management of Public Land and Government Land must sell the land through a public, competitive bidding process to satisfy any unpaid taxes or debts owed by the previous owner. Any remaining revenues from the sale shall be used by the Government for a public purpose.

5.3.3.10. Any Liberian citizen or legal entity, including any government entity, may seek to cancel, prevent, or challenge the Government's acquisition or sale of Private Land due to repeatedly failing to play applicable land taxes.

6.0. CUSTOMARY LAND

This section discusses the following issues surrounding Customary Land and makes policy recommendations for each:

- Definitions
- Nature of the Land Right
- Management
- Boundaries

Rights to Customary Land, including ownership rights, must be secured by ensuring that these rights are as protected as private land rights. Rights to Customary Land include rights of the community as a collective land owner and rights of groups, families, and individuals within the community. Secure rights to Customary Land will promote long-term decision making and thereby strengthen Liberia's economic growth. However, the nature of communities varies greatly throughout Liberia. The below policy recommendations recognize this diversity such that communities may define themselves and determine how their land is managed, used, and allocated but within a framework of transparency, accountability, inclusiveness, and shared responsibility with the Government of Liberia.

6.1. Principles:

6.1.1. Equal Protection: Customary Land rights must be as protected as Private Land rights.

6.1.2. Local Control: Decisions about Customary Land shall be made at the most local level consistent with sound policy and shared responsibilities between the Government, communities and their members.

6.1.3. Minimal Impact: National policy and laws shall have as minimal an impact on the customary practices and norms of communities as is consistent with sound policy, shared responsibilities between the Government and communities, and international best practices.

6.1.4. Incorporation: Customary practices and norms not in conflict with national land laws, the Constitution, and international legal obligations shall be considered incorporated into the national formal legal framework.

6.1.5. Institutionalization: Communities shall establish legal entities consisting of transparent procedures and institutions accountable to their communities as a whole to interact with external actors and to govern internal interactions regarding land.

6.2. Definitions

In the past, Liberia adopted an ad-hoc approach to land used and managed in accordance with customary practices and norms. Various legal arrangements applied to such land, which were often vaguely set out in statutory law or regulations: Aboriginal Land Grant Deeds, Public Land Grant Deeds, Public Land Sale Deeds, Tribal Reserves, and Communal Holdings. The below recommendations create a single land rights category for all land used and managed in accordance with customary practices and norms. This creates a single national policy that recognizes the diversity of customary communities and thereby promotes secure land rights and accountable, transparent, and inclusive land use, management, and administration.

Policy Recommendations:

6.2.1. Customary Land, whether deeded or not, is defined as land owned by a community and its members and used and managed in accordance with customary practices and norms. Ownership of Customary Land, including the right of use and management, shall be recognized as equal to Private Land rights, whether or not the community or its members have received a deed in accordance with the below recommendations.

6.2.2. Ownership of Customary Land means private ownership, such that the community and its members have the unrestricted and perpetual right to use and manage the land in accordance with customary practices and norms, to exclude all others from use and possession, and to sell, lease, or otherwise transfer all or some of the rights associated with the land to any individual, private entity, or the Government.

6.2.3. A community is a self-identifying group that uses and manages its land in accordance with customary practices and norms.

6.2.4. Each community shall be responsible for identifying its own membership in accordance with a transparent, accountable, and inclusive process.

6.2.5. Customary Land includes Customary Protected Areas which are owned by a community and must be conserved and managed for the benefit of the community and all Liberians. Customary Protected Areas may be established either by the community or by the Government in consultation with the community.

6.2.6. Customary Protected Areas shall not be sold, leased, or granted as a concession. Limited use rights may be granted over Customary Protected Areas to individuals, private entities, or the Government only if the use is consistent with the land's conservation and management for the benefit of the community and all Liberians.

6.3. Nature of the Land Right

Historically, customary land ownership rights either have not been recognized or have been treated as less than private deeded land. The below recommendations aim to end this practice such that Customary Land is as protected as Private Land.

Policy Recommendations:

6.3.1. Community ownership of Customary Land shall be formalized by the issuance of a deed to a legal entity, bearing the name of the community. The legal entity shall have legal personality and may therefore enter into contracts, own land, and participate in court actions or proceedings before alternative dispute resolution bodies. The deed shall provide for private ownership by the community, so long as any decisions regarding management, use, and transfer are made in accordance with Customary Land Principle 6.1.5.

6.3.2. Ownership of Customary Land includes ownership of natural resources on the land, such as forests, including carbon credits, and water. In accordance with the Constitution, the Government has exclusive ownership rights of

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with Customary Land Principle 6.1.5.

6.5. Boundaries of Customary Land

The uncertainty of many Customary Land boundaries has been a major contributor to land disputes in Liberia. By investing the time and resources necessary to work with communities to establish Customary Land boundaries, such land disputes will decrease significantly.

Policy Recommendation:

6.5.1. The boundaries of a community's Customary Land shall be determined through active participation by the community and neighboring communities, including: elders, chiefs, youth, women, and local authorities.

7.0. PRIVATE LAND

This section discusses the following issues surrounding Private Land and makes policy recommendations for each:

- Definition
- Private Owners
- Obligations of Private Owners
- Acquisition
- Loss of Ownership
- Joint Ownership
- Leases
- Easements
- Mortgages
- Adverse Possession

Much of the current law on Private Land does not address basic rights and obligations. The below policy recommendations are the foundation for addressing these gaps in the current law.

7.1. Definition

There has never been a clear definition of Private Land in Liberia. Almost all Liberians regard private land as equal to deeded land and deeded land as equal to land held in fee simple, an archaic term from the Anglo-American legal tradition. It is therefore important to provide a clear statement on the definition of Private Land.

Policy Recommendations:

7.1.1. Private Land is defined as land owned by an individual or private entity, other than land used and managed in accordance with customary practices and norms, such that the owner has the unrestricted and perpetual right to exclude all others from use and possession, to pass ownership through inheritance, and to sell, lease, or otherwise transfer all or some of the rights associated with the land to any individual, private entity, or the Government.

7.1.2. Private Land includes Private Protected Areas, which are owned by an individual or legal entity but which must be conserved for the benefit of all Liberians. Private Protected Areas may be sold, leased, or otherwise transferred to individuals, private entities, or the Government only if the transfer is consistent with the land's conservation for the benefit of all Liberians. Concessions shall not be granted over Private Protected Areas.

7.2. Private Owners

As with the definition, it is important to clarify who may own Private Land in a way that does not unduly restrict future economic activity in Liberia's emerging private land market and clearly distinguishes between ownership of Private Land and ownership of Customary Land.

Policy Recommendations:

7.2.1. Any Liberian citizen may own Private Land.

7.2.2. Non-profit organizations, religious organizations, businesses, or any other private entity established in accordance with Liberian law may own Private Land only if they are majority owned by Liberian citizens.

7.3. Obligations of Private Owners

Ownership of Private Land is a right and an obligation. The above sections addressed the rights. This section will address the obligations, which relate to the issue of loss of ownership rights.

Policy Recommendations:

7.3.1. Private owners must comply with all applicable laws regarding land administration and use.

7.3.2. Private owners must pay all applicable land taxes.

7.4. Acquisition

It is important to specify how Private Land may be acquired. Additionally, it is important to note the relationship between acquisition of Private Land and the privatization of Customary Land. Finally, special provision must be made for the acquisition of Private Land by married men and women.

Policy Recommendations:

7.4.1. Ownership of Private Land may be acquired: through purchase from the Government, an individual, or a private entity; donation; gift; or through inheritance.

7.4.2. Ownership of Private Land may be acquired through the sale of Customary Land to an individual or private entity.

7.4.3. If a spouse dies without a will, the surviving spouse shall inherit, as owner, all Private Land owned by the deceased spouse upon their death, whether married under customary law, formal law, or by presumption. If there is more than one surviving spouse they shall inherit, as unrestricted private ownership, equal shares of the deceased spouse's Private Land.

7.4.4. A spouse shall not become the owner of his or her spouse's Private Land, whether married under customary law, formal law, or by presumption, without their clear and voluntary written consent witnessed by at least one other person.

7.5. Loss of Ownership

In the past Liberian policy and law stipulated that failure to comply with building requirements and agricultural development resulted in reversion of land to the Government. Future policy and law must be more comprehensive, flexible, and specific with regard to loss of land ownership rights.

Policy Recommendations:

7.5.1. An owner of Private Land shall lose their ownership right in favor of the Government if the Government exercises eminent domain.

7.5.2. A non-citizen missionary, educational, or other benevolent institution that owns Private Land shall lose their ownership right in favor of the Government if the land was acquired from the Government after a certain date and it ceases to be used for the purpose for which it was acquired. This rule of reversion shall last for ten (10) years from the date the land was acquired from the Government.

7.5.3. An owner of Private Land whose certificate of naturalization has been cancelled shall lose their ownership right in favor of the Government if they do not have a Liberian spouse or heir.

7.5.4. An owner of Private Land shall lose their ownership right in favor of the Government by repeatedly failing to pay applicable land taxes, unless the failure is due to an armed conflict or genuine fear of severe injury or loss of life.

7.6. Joint Ownership

Joint ownership of Private Land must be addressed in order to maximize the ability of individuals and private entities to provide for their ownership arrangements.

Policy Recommendations:

7.6.1. Any two or more individuals or private entities may jointly own Private Land as a tenancy in common, joint tenancy, or, if married, tenancy by the entirety, provided the joint ownership arrangement is created by a legal document, such as a deed, a will, or a written agreement.

7.6.2. Only Liberian citizens, or private entities majority owned by Liberian citizens, may jointly own Private Land.

7.6.3. A tenancy in common occurs when two or more individuals or private entities own an undivided, equal or unequal share in land, which may be transferred through inheritance.

7.6.4. A tenancy in common is ended in one of the following ways: (1) one tenant in common physically marks off and separates their share of the land; or (2) one tenant in common sells their share of the land.

7.6.5. A joint tenancy occurs when two or more individuals or private entities: (1) obtain at the same time an undivided, equal share in land as a whole, (2) hold their share in the land under the same title, and (3) enjoy the right to use

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and possess all of the land.

7.6.6. A joint tenancy is ended in one of the following ways: (1) all the joint tenants but one dies, in which case the remaining joint tenant owns the land as a private owner, allowing the unrestricted transfer of the land by sale, gift, inheritance, or otherwise; (2) one joint tenant physically marks off and separates their share of the land; (3) one of the joint tenants sells their share of the land; or (4) the joint tenants mutually agree to end the joint tenancy.

7.6.7. A tenancy by the entirety occurs when two or more spouses own an undivided, equal share in the land which may not be sold or physically marked off and separated. If there is only one surviving spouse, he or she is the private owner of the land, allowing the unrestricted transfer of the land by sale, gift, inheritance, or otherwise.

7.6.8. A tenancy by the entirety is ended by: divorce; selling, gifting, or transferring through a will the land to another married couple; or when one spouse sells, gifts, or transfers through a will the land to the other spouse(s).

7.7. Leases

Leases are an integral part of Liberia's private land sector, and have been since the country's founding, but the policies governing leases should be clearly laid out to ensure uniform understanding and application of the law.

Policy Recommendations:

7.7.1. Owners of Private Land may freely lease their land by transferring use and possession rights for all or part of their land to the Government, an individual or a private entity for a definite period of time and in exchange for rental payments.

7.7.2. All leases must be made in writing, signed by all parties, and to be valid must include at a minimum a clear and prominent statement of the following: the names and contact information of the parties; a full description of the land to be leased; a copy of the legal title for the leased Private Land; the benefit to be exchanged for lease of the land; the rights and obligations of the Private Land owner and the party acquiring the lease; and the date the lease will end.

7.7.3. Foreign citizens may obtain leases for a reasonable length of time.

7.7.4. Parties must have a good faith belief that they are legally able to enter into the lease.

7.7.5. If either party fails to comply with the lease agreement a claim may be brought in any court or alternative dispute resolution body with jurisdiction over the dispute.

7.8. Easements

Easements are a basic feature of any private property system and should be provided for in a future Land Rights Law.

Policy Recommendations:

7.8.1 Private Land may be subject to only two types of easements: Necessity Easements and Permissive Easements.

7.8.2. Public Land, Government Land, and Customary Land shall not be subject to Necessity Easements or Permissive Easements.

7.8.3. Necessity Easements occur when two Private Lands, which were at one time joined as one or were owned by the same owner, are so situated that an easement over one of the Private Lands is necessary to the use and enjoyment of the other. Prior use of the easement is not required.

7.8.4. Permissive Easements are permission to use part of Private Land. They must be subject either to written agreement or a sign must be posted indicating that the land is privately owned and use of it is by permission only. The owner of the Private Land which is subject to a permissive easement may terminate another's use right at any time and without notice.

7.8.5. Parties must have a good faith belief that they are legally able to obtain or provide a Necessity Easement or Permissive Easement.

7.8.6. Foreign citizens may obtain Necessity Easements and Permissive Easements but are prohibited from claiming land ownership rights arising out of an easement.

7.9 Mortgages

Mortgages are a means by which a Private Land owner can obtain money for investment and other growth-oriented activities. They can also be a trap for poorly informed borrowers. As Liberia's land market develops it is therefore important that a clear policy on mortgages exist which ensures its use as an instrument for obtaining access to credit but which also informs borrowers of its limitations and consequences.

Policy Recommendations:

7.9.1. Any individual or private entity may obtain a mortgage attached to any combination of the following: Private Land, crops grown on the Private Land, buildings or other improvements on the Private Land.

7.9.2. A mortgage must be in accordance with a written agreement, signed by all parties, that includes at a minimum a clear and prominent statement of the following: the names and contact information of the parties; a full description of the land and other assets which are mortgaged; a copy of the legal title for any mortgaged land; the interest rate to be paid; the amount and timing of payments for the life of the mortgage; the date the mortgage is to be repaid; the amount of any penalties, including but not limited to penalties for late payment or early repayment; the consequences of default; and the authorized use(s) of mortgage funds.

7.9.3. Individuals or private entities seeking a mortgage must be given a reasonable opportunity to review all relevant documents and their terms as well as obtain legal and financial advice.

7.9.4. Parties must have a good faith belief that they are legally able to enter into the mortgage.

7.9.5. Only financial institutions may loan mortgage funds, whether Liberian or majority foreign-owned. A financial institution that is majority owned by foreign citizens is prohibited from owning land.

7.9.6. If either party fails to comply with the mortgage agreement a claim may be brought in any court or alternative dispute resolution body with jurisdiction over the dispute.

7.10 Adverse Possession

Addressing adverse possession from a policy perspective is critical given the frequency of adverse possessors on Private Land and resulting land disputes. Policy and law reform must state the law of adverse possession in terms accessible to citizens, judges, and lawyers.

Policy Recommendations:

7.10.1 Adverse possession is a legal basis for asserting ownership over Private Land when an individual has been openly in possession of the land for at least twenty years without any competing claim of ownership and without acknowledging ownership of another individual or private entity.

7.10.2 Adverse possession does not provide a valid legal basis for asserting ownership over Private Land if, during the twenty year period, another individual or private entity claiming ownership of the land was unable to assert their ownership rights because of an armed conflict or genuine fear of severe injury or loss of life.FINITIONS

1.0. *Adverse Possession*: A legal basis for asserting ownership over Private Land when an individual has been openly in possession of the land for at least twenty years without any competing claim of ownership and without acknowledging ownership of another individual or private entity.

1.1. *Alternative Dispute Resolution Body*: Any entity, whether a private or government entity, the purpose of which is to resolve, or facilitate the resolution of, disputes outside of court.

1.2. *Community/Customary Community*: A self-identifying group which owns land used and managed in accordance with customary practices and norms.

1.3. *Concession*: A commercial use right granted by the Government to an individual or private entity and managed in collaboration between the individual or private entity and the Government in accordance with a written agreement.

1.4. *Customary Land*: Land owned by a community and used and managed in accordance with customary practices and norms.

1.5. *Customary Protected Area*: A Protected Area on Customary Land that must be conserved and managed for the benefit of the community and all Liberians.

1.6. *Donation*: A transfer of land to an individual, private entity, or the Government without receiving compensation in exchange. If the donation is to the Government it must be for a specific public purpose. If the donation is to an individual or private entity it may be subject to conditions or free of any

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conditions.

1.7. *Easement*: The right to use part of land by permission or necessity.

1.8. *Eminent Domain*: The forced acquisition of Private Land or Customary Land by the State.

1.9. *Expropriation*: The State's use of its eminent domain power.

1.10. *Financial Institution*: A legal entity, whether a government entity or private entity, that collects funds from public or private sources, whether individuals or legal entities, and invests those funds in assets.

1.11. *Foreign Citizen*: An individual who is not a Liberian citizen or a private entity majority owned by foreign citizens.

1.12. *Good Faith*: A sincere intention to deal honestly with others.

1.13. *Government*: The State as the sovereign Republic of Liberia or government entities acting as the representative or agent of the State.

1.14. *Government Entities*: A legal entity that is owned, managed, or controlled by the State, including all branches of Government, or by persons in their capacity as government employees, including parastatal bodies. A government entity is the representative or agent of the State or Republic of Liberia.

1.15. *Government Land*: Land used for the buildings, projects, or activities of the Government.

1.16. *Government Protected Area*: A Protected Area on Government Land.

1.17. *Joint Tenants*: A joint ownership arrangement by which two or more individuals or private entities: (1) obtain at the same time an undivided, equal share in land as a whole, (2) hold their share in the land under the same title, and (3) enjoy the right to use and possess all of the land.

1.18. *Lease*: The right of an individual, private entity, or the Government to the use and enjoyment of land for a limited period of time and in accordance with a written agreement in exchange for rental payments.

1.19. *Legal Entity*: A private entity or government entity. Legal entities have legal personality and may therefore enter into contracts, own land, and participate in court actions or proceedings before alternative dispute resolution bodies.

1.20. *Mineral Resources*: All nonliving, natural nonrenewable resources, including, but not limited to: fossil fuels such as coal, petroleum, and natural gas; diamonds; gold; iron ore; cobalt; lead; manganese; nickel; tin; dolerite; granite; ilmenite; kyanite; phosphate rock; rutile; sulfur, and sand.

1.21. *Mortgage*: A loan which is secured by Private Land, crops grown on the land, or buildings or other improvements on the land.

1.22. *Natural Resources*: All living or nonliving natural renewable resources, including, but not limited to: water, soil, trees, plants, animals, and microorganisms.

1.23. *Parastatal Body*: A legal entity owned, managed, or controlled by the Government and created to undertake commercial activities on behalf of the Government.

1.24. *Private Entity*: A legal entity that is not owned, managed, or controlled by the Government although it may receive assistance from the Government (e.g. loans or grants). Examples of private entities include, but are not limited to: corporations, partnerships, sole proprietorships, non-profit organizations, churches, and a community which has formed a legal entity.

1.25 *Private Land*: Land owned by an individual or private entity, other than land used and managed in accordance with customary practices and norms, such that the owner has the unrestricted and perpetual right to exclude all others from use and possession, to pass ownership through inheritance, and to sell, lease, or otherwise transfer all or some of the rights associated with the land to any individual, private entity, or the Government.

1.26. *Private Owner*: An individual or private entity that owns Private Land.

1.27. *Private Protected Area*: A Protected Area on Private Land.

1.28. *Protected Area*: Land that is part of the Government Land, Customary Land, or Private Land categories that must be conserved and managed for the benefit of all Liberians.

1.29. *Public Interest*: The welfare of the general public.

1.30. *Public Land*: Land which is not Government Land, Customary Land, or Private Land.

1.31. *Public Purpose*: A purpose beneficial to the public but for which no private entity is willing to use its resources.

1.32. *Public Use*: The possession, occupation, ownership, and enjoyment of the land by the general public or by the Government.

1.33. *Shall/Must*: 'Shall' and 'must' are used interchangeably and are to be read as synonyms. Both indicate that the Commission recommends that the Government must follow the recommendation or principle.

1.34. *State*: A political institution in the form of the sovereign Republic of Liberia. Liberian government entities are the representatives or agents of the State.

1.35. *Tenancy in Common*: Joint ownership arrangement whereby two or more individuals or private entities own an undivided, equal or unequal share in land, which may be transferred through inheritance.

1.36. *Tribal Certificate*: Legal document issued by the County Land Commissioner under the 1956 and 1973 Public Lands Laws certifying that the local customary community grants permission for the land to be sold as public land and that the land is free of encumbrances.

APPENDIX B: COMMENTARY TO GOVERNMENT LAND AND PUBLIC LAND SECTION

Definitions:

1.0. The policy recommendations distinguish between Public Land and Government Land based on how the land is managed, used, and transferred. Ownership is not the basis for distinguishing between these three categories. The Republic of Liberia owns the land and it is managed by a government entity on behalf of the Republic. These land categories are a framework which will be followed by more detailed policies covering the management and administration of Public Land and Government Land.

1.1. Government Land is a specific category that includes only the lands used for the buildings, projects, or activities of the Government. These include, for example, lands on which are located: the offices of ministries, agencies, and parastatal bodies; military bases; roads; public schools and public universities; public hospitals and public clinics; public libraries and public museums; public utilities; and airports.

1.2. Government Land may be sold or leased to the Government, an individual, or a private entity. During discussion of this recommendation there were concerns that allowing decentralized ownership of Government Land and the transfer of that land to private entities and individuals would lead to fraud and abuse. To address these concerns the transfer cannot be in the form of a concession and must follow strict protections, which this Policy Statement will set forth in the proceeding section on transferring Public Land and Government Land.

1.3. Even if Government Land is leased to an individual or private entity for a private use, the land remains Government Land. This is so even though, strictly speaking, a lease for private use means the land is not being used for the buildings, projects, or activities of the Government during the lease term.

1.4. Government Land also includes Government Protected Areas. These shall not be sold, leased, or granted as a concession and are conserved and managed for the benefit of all Liberians. Government Protected Areas may include: national parks; environmentally sensitive areas; lands on which are located monuments or memorials; and beaches from the low watermark to the high watermark.

1.5. However, Government Protected Areas may be subject to limited beneficial private use, such as, for example, the operations of eco-tourism companies in national parks or scientific research in environmentally sensitive areas. The use must be consistent with conserving the land for the benefit of all Liberians. Some examples of the use violating this requirement are: commercial logging on national parks; or the harming of an environmentally sensitive area by the unauthorized collection of endangered plants and animals for scientific research.

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1.6. It is important to note that additional restrictions on the private use of Government Protected Areas will likely be added depending on the nature of the land. For example, wetlands are an environmentally sensitive area and so affected by this Policy Statement. The Environmental Protection Agency is drafting a National Wetlands Policy likely to include additional, more detailed private use restrictions.

1.7. Public Land is a residual category. It is all land that is not Private Land, Customary Land, or Government Land and, therefore, truly available to be used or transferred by the Government as it deems necessary and appropriate. Public Land may be transferred to individuals or private entities for commercial use as well as to the Government. Land which falls under this category will be available for concessions.

Sales and Leases of Public Land and Government Land:

2.0. Sales and long-term leases are treated equally because long-term leases may be granted for such a long period of time that for all practical purposes they amount to ownership. If the long-term leasing process is less burdensome than the sale process, then there is a real risk that long-term leases will be granted to bypass restrictions on sales.

2.1. Short-term leases of Government Land and Public Land are subject to a less burdensome process because they are unlikely to amount to ownership and could cover much smaller transfers for which public, competitive bidding will be too time-consuming and costly given the amount of money and land at issue. However, to prevent fraud and abuse short-term leases must be reviewed by the government entity responsible for coordinating Public Land and Government Land. The reviewing government entity's report and the lease agreement itself must be "publicly available" rather than "advertised to the public," as is required for sales and long-term leases. Advertisement requires the Government to take all reasonable steps to inform the public of the sale or long-term lease, especially in the area where the land is located. The requirement that the short-term lease and report be made "publicly available" means they must be made public in accordance with the Freedom of Information Act (FOIA). There are widespread concerns that documents which should be publicly available under FOIA, in fact, are not. Thus, until FOIA is complied with for a short-term lease it is not "publicly available" and the lease cannot be finalized.

2.2. Sales and long-term leases of Government Land and Public Land must be done through public, competitive bidding. In response to concerns that the exception in the Public Procurement and Concession Law for sole source, unsolicited bids undermines the protections of that law, the recommendation clearly states that no exceptions are allowed. The argument for allowing exceptions to public, competitive bidding is that in some cases there may be only one individual or private entity interested in acquiring the land. This is not a sound policy argument. In such cases there is no harm in going through the competitive bidding process to be sure only one individual or private entity is interested in acquiring the land. Whereas, allowing an exception creates a real risk of significant harm in the form of corruption and abuse of Public Land and Government Land transfers.

2.3. Because any government entity may own or manage Public Land and Government Land and make decisions as to its transfer, to ensure proper coordination and checks on this authority all Government Land and Public Land sales and leases, whether long-term or short-term, must be reviewed by a single government entity charged with coordinating the management of Public Land and Government Land. At this time the Land Commission is not recommending which government entity should have this responsibility.

2.4. The government entity charged with reviewing the sale or lease may consult other government entities. The consultation is not required and the government entity charged with reviewing the sale or lease is not required to follow the advice of those government entities which it consults. This recommendation is intended to make clear that the government entity charged with reviewing the sale or lease has discretion to consult other government entities but possesses the sole authority to determine whether the sale or lease complies with applicable law and is free of misconduct or irregularities. For example, if the lease is for a long period of time over a significant area of land to a partially foreign owned entity, the government entity charged with reviewing the lease may deem it necessary and appropriate to consult the Ministry of Justice. For much smaller transfers such a consultation will likely be deemed unnecessary.

2.5. A further check against fraud and abuse is that any Liberian citizen, whether an individual or a legal entity, as well as another government entity may challenge the leasing or selling of Government Land and Public Land. This challenge may take many forms, ranging from a legal action in court to informal administrative action.

Transfers of Government Protected Areas:

3.0. The above recommendations are similar to those for the sale and leasing of Public Land and other types of Government Land. To prevent fraud and abuse they require: advertising to the public the most significant documents in their entirety for an extended period of time; review of the transfer by the government entity responsible for coordinating the management of Public Land and Government Land; and granting all Liberians the right to challenge the transfer. These protections will delay transfers, and for good reason. Experience has shown that transfers that happen quickly are often unwise or fraught with fraud and abuse.

3.1. If the use is for a commercial purpose, for example ecotourism, the transfer must be subject to public, competitive bidding. This is consistent with the commercial nature of the use, for the Government must ensure that only the best positioned individuals or companies are granted the use right.

3.2. The transfer must be for a "limited" use, which means the proposed methods for achieving the purpose of the use, the area over which use is sought, and the length of time of the use must be absolutely necessary for achieving the purpose of the use.

3.3. It is important to reemphasize that the above protections are a framework and additional, more specific policy recommendations will follow for each type of land which falls under a Government Protected Area, such as policies for national parks, wetlands, and national monuments. The purpose is therefore to set minimum protections for the transfer to individuals or legal entities for limited use consistent with the land's conservation for the benefit of all Liberians.

Mutual Agreement and Eminent Domain:

4.0. The above incorporates constitutional requirements for the exercise of eminent domain: the expropriation may be for "any other public purpose," the reasons for the expropriation must be given, just compensation must be provided, the right of first refusal granted, and the expropriation may be freely challenged in court.

4.1. The policy recommendations provide detail to the Constitution's broad minimum requirements and add significant protections in accordance with international best practices. These are: reasonable effort to acquire land through negotiation before expropriating; just compensation in accordance with fair market value; payment before surrendering the land to the Government; and strict protections in the case of relocation, including six (6) months notice before relocating the landowner.

4.2. The above recommendations clarify that a public purpose means a purpose beneficial to the public but for which no private entity is willing to use its resources. In other words, if a private entity cannot reach agreement with an owner of Private Land or Customary Land the Government cannot use its eminent domain power to force the owners to give up their land in favor of the private entity.

4.3. Just compensation in accordance with prescribed valuation standards must be part of any acquisition by mutual agreement. To recommend otherwise presents a real risk that power imbalances will result in the landowner agreeing to far less than the just compensation required by the Constitution. Mutual agreement cannot be cheaper than eminent domain. Even so, the landowner and Government may not reach agreement on the acquisition because of irreconcilable differences regarding how the valuation standards should be applied in a given case. Moreover, the landowner may refuse to sell no matter how much compensation is offered. In such cases the Government may proceed to acquire the land through its eminent domain power.

4.4. Relocation is to occur only after "all other options have been thoroughly explored and rejected." This means relocation is a last resort. If the land can be acquired in a way that does not necessitate relocation, then the Government is obligated to exercise that option. If the Government's declared reason for expropriating may be served by acquiring other land which does not require relocation, then the Government is obligated to do so.

4.5. Relocation costs must include "compensation and projects to restore the natural resources and economic base of those relocated." What this will require depends on the circumstances of a given case. For example, if those to be relocated harvested rubber trees on their land, the relocation costs will include the planting of rubber trees on the new land. The provision may also require, for example, providing seeds for farming the new land in the same way as the land which was expropriated. In the case of expropriation of Customary Land to prevent double compensation, one-time costs shall not include relocation costs. Relocation costs, such as transportation to the new land, must be treated separately from temporary costs.

4.6. In accordance with the Constitution and comparative best practices, future exercises of eminent domain are subject to the right of first refusal if the land ceases to be used for a public purpose and the Government does not reaffirm its

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need to retain the land. The right of first refusal means the previous owner or their heir(s) shall have the right to buy the land back from the Government. The Constitution does not impose a time limit on this right, but in order to balance the interests of certainty in the land sector with the interests of the previous owner, the right of first refusal shall last for ten (10) years. After that time the previous owner or their heir(s) shall have no right to buy the land back from the Government.

4.7. The above policy recommendations do not change current lease agreements between the Government and owners of Private Land or Customary Land. If the Government wishes to make these lands Government Land it must purchase them through mutual agreement or eminent domain.

4.8. Finally, any Liberian legal entity or individual, including the owners of the Private Land or Customary Land, may challenge the expropriation. The challenge may relate to any aspect of the expropriation, including, but not limited to: the decision to expropriate, the just compensation to be paid, or relocation costs. A challenge may take many forms, including legal action in court, administrative action, or through an alternative dispute resolution body.

Donation:

5.0. There may be instances in which a Private or Customary Land owner wants to give land to the Government without receiving cash payment (i.e. donate). The donation must be for a specific public purpose and will usually be something that will benefit the owner, such as a hospital, school, or road. However, it is not a requirement that the donation benefit the owner. The donation cannot leave open the purpose for which the land will be used. In other words, a general public purpose is not allowed.

5.1. The previous owner enjoys the right to reacquire any land donated to the Government if the land is no longer used for the specific public purpose for which it was donated or the Government fails to reaffirm its need to retain the land. As with the right of first refusal, the right to reacquire donated land lasts for ten (10) years.

Reversion:

6.0. The first three recommendations are in accordance with the Constitution's rules of reversion to the Government. Additional requirements are included about which the Constitution is silent. For land owned by a non-citizen missionary, educational, or other benevolent institution the land must have been purchased from the Government. The rule of reversion lasts for ten (10) years. For land used by a foreign government for its diplomatic activities the land must be owned by the Government. This has been added because a foreign government may want to lease Private Land, for example, to temporarily house its diplomatic staff. This is a common occurrence in many other countries.

6.1. The Constitution requires that if a Liberian loses their citizenship the land reverts to the Government only if he or she has no Liberian spouse or heirs. The above recommendations add the following requirements: the Government must make a good faith effort to locate a Liberian spouse or heirs; if none can be located, the Government must sell the land to satisfy unpaid taxes or debts of the previous owner. Reversion to the Government due to loss of citizenship should not add to the total stock of land under Government control.

6.2. To these constitutionally required instances of reversion have been added: failure of heirs and repeatedly failing to pay applicable land taxes. In both cases: only Private Land may so revert; the Government must vet the land to ensure that all land rights are uncovered; anyone may challenge the acquisition; and the land must be sold soon after being acquired to satisfy any unpaid taxes or debts of the previous owner.

6.3. There are additional procedural protections afforded landowners who are at risk of losing their land because of repeatedly failing to pay applicable land taxes. The failure must occur repeatedly. It cannot be a one-time lapse. The landowners must be given at least six (6) months notice and an opportunity to correct the failure. These protections are designed to prevent abuse of the procedure.

APPENDIX C: COMMENTARY TO CUSTOMARY LAND SECTION

Definitions:

1.0. The above approach creates a tenure shell around communities, while at the same time recognizing various customary land rights within the shell. The land within the shell is owned by the community and its members. Within the shell the community decides how its land is managed, used, and allocated in accordance with its customary practices and norms in accordance with Customary Land Principle 6.1.5.

1.1. To remove any doubt as to a community's ownership right between the time this Policy Statement is approved by the Government and the time a community is issued a deed in accordance with the below recommendations, the above clearly states that a community's use and possession shall be recognized as equal to Private Land ownership rights. In other words, the customary land ownership rights of communities and their members are recognized whether deeded or not.

1.2. There is a risk that if communities are allowed to self-identify small, artificial group associations may be formed for the sole purpose of gaining some economic, social, or legal advantage. The support process for communities self-identifying will minimize this risk.

1.3. Examples of Customary Protected Areas are forest set aside by a community for eco-tourism and land upon which is located a sacred plant or other object.

Nature of the Land Right:

2.0. The Land Commission does not recommend all communities create the same legal form, only that the form they create is accountable, transparent, and inclusive, in accordance with Customary Land Principle 6.1.5, and legal entity must have legal personality. Legal personality means the name of the community can go on a deed, the community can enter into contracts, and bring court challenges if necessary.

2.1. Because ownership of Customary Land means unrestricted private ownership, communities may grant commercial use rights to a concessionaire if the decision-making process is accountable, transparent, and inclusive.

2.2. Part of a community's Customary Land may also be sold to an individual or private entity thereby transforming it into Private Land. However, the transfer must be done through an accountable, transparent, and inclusive process, in accordance with Customary Land Principle 6.1.5, so that as much as possible the entire community has a say over the transfer and how the money is dispersed and used for the benefit of the community. The Land Commission and its partners will work with communities who have self-identified to establish these processes and ensure they remain strong.

Management:

3.0. Although communities have a lot of flexibility in managing their Customary Land, it is not enough that traditional chiefs make land management, use, and allocation decisions; the entire community, through its legal entity, must be involved as much as possible. The decision-making process must be accountable, transparent, and inclusive, in accordance with Customary Land Principle 6.1.5.

Boundaries:

4.0. Demarcating Customary Land boundaries will be an intensive process requiring the Government to work with communities over a period of time. Future policies and laws will provide more detailed regarding this process.

4.1. The process must include not only the community whose boundaries are being demarcated but neighboring communities whose boundaries will be affected. It is critical that neighboring communities be engaged in the process to ensure that boundary disputes are resolved and do not reemerge.

APPENDIX D: COMMENTARY TO PRIVATE LAND SECTION

Definition:

1.0. Private Land is different from Customary Land in that ownership of Customary Land is vested in a self-identifying community. In addition, the management and use decisions over Customary Land are made in accordance with customary practices and norms, whereas those decisions for Private Land are based solely on formal law. Finally, Customary Land may be freely transferred as with Private Land if done in accordance with an accountable, transparent, and inclusive process. There are no such requirements for Private Land. The ownership rights of Customary Land and Private Land are the same, but the way in which the rights are exercised is very different.

1.1. Because Private Land is unrestricted ownership, an owner may grant commercial use rights to a concessionaire.

1.2. The best example of a Private Protected Area is a building of significant historical or cultural value. Some specific examples of current buildings which may be designated a Private Protected Area are the Providence Baptist Church in downtown Monrovia and the Nineteenth Century buildings in Harper, Maryland. Limited private use rights may be granted over a Private Protected Area, such as for academic research.

Private Owners:

2.0. In accordance with the Constitution and statutory law, the above recommendations make it clear only Liberian citizens, and legal entities majority owned by Liberian citizens, may own Private Land.

Obligations of Private Owners:

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3.0. Although Private Land ownership is unrestricted it is still subject to laws regarding land administration and use. These include, for example, the registration of the landowner's legal title in the central registry and compliance with local zoning laws and building codes.

3.1. In addition, Private Land owners must pay all applicable land taxes. The details of a future land tax policy are beyond the scope of this Policy Statement. However, that policy should be designed such that significant costs are imposed upon those who buy land without putting that land into productive use. In the past, Liberian law imposed specific building and agricultural requirements in order to discourage speculation and encourage productive use. If the building and agricultural requirements were not complied with, the private landowners lost their ownership rights. Future policy should be more flexible and therefore more effective by achieving the same result but through land tax policy rather than rigid building and use requirements.

3.2. Finally, it is important that future land tax policy not link the above two recommendations to an excessive degree such that complying with land administration and use laws requires payment of an amount in taxes that will discourage owners of Private Land from complying. For example, a modest fee may be charged owners of Private Land for registering their ownership rights, but a burdensome tax on the registration of land should be avoided.

Acquisition:

4.0. The above does not change most current practices in Liberia regarding Private Land acquisition. Private Land may still be acquired through sale, donation, gift, or inheritance from an individual or private entity, whether a non-profit, religious organization, business, or otherwise.

4.1. There are two important changes. First, Private Land may be acquired as a result of a sale of Customary Land to an individual or private entity. This is so because through individual privatization, Customary Land becomes Private Land. However, the sale process as with all other decisions regarding Customary Land management, use, and transfer must be done in accordance with accountable, transparent, and inclusive process.

4.2. Second, the recommendations regarding married men and women seek to clarify and equalize the acquisition of Private Land through marriage. Married men and women as well as marriages under customary and formal law and by presumption are treated equally. The inclusion of marriage by presumption is intended to capture those couples that in every way act as if they are married but for whom the marriage has not been completed under customary or formal law. Additionally, accommodation must be made for marriage to more than one woman, which is the customary practice for some.

4.3. The recommendations are designed to protect women's land rights given that women are much more likely to be disadvantaged than men. To this end, the recommendation on written consent for transfer of Private Land ownership to a spouse is consistent with the Liberian Constitution's protections in this area and applies to a spouse's Private Land whether acquired before or during the marriage. It is important to emphasize that these recommendations only concern Private Land, that is land managed, used and transferred in accordance with formal law, and do not touch upon Customary Land, which by its nature is owned by a community and used and managed in accordance with customary practices and norms.

Loss of Ownership:

5.0. The above recommendations mirror those for reversion of Private Land to the Government. In all cases, ownership rights may not be lost until all relevant policy recommendations regarding reversion or complied with.

Joint Ownership:

6.0. Joint ownership of Private Land may occur for personal, business, or any other reason. The purpose of the joint ownership arrangement is not a limiting factor. However, joint ownership must be in the form of one of the following common law arrangements: tenancy in common, joint tenancy, or tenancy by the entirety.

6.1. The Land Rights Law should clearly state the rules regarding the three joint ownership arrangements to ensure uniform understanding and application of the law. The above recommendations also make clear that only Liberian citizens may jointly own Private Land, which is consistent with current Liberian constitutional and statutory law.

Leases:

7.0. Leases may be to anyone for any lawful purpose. They are subject to certain minimum requirements designed to minimize disputes and to ensure parties are fully aware of the terms of the lease. As with mortgages, special mention is made of good faith. Given the fairly chaotic state of the land sector, with reports of illegal transactions regarding land, the good faith standard protects those who have a reasonable basis for thinking they have land rights but in fact do not. Claims of non-compliance with the lease agreement may also be brought against the Government. When the Government enters into a lease with an individual or private entity they should be treated the same as a private actor.

Easements:

8.0. The above outlines the two basic types of easements. An example of a Necessity Easement is when a landowner is unable to obtain access to any roads without crossing another person's land. Permissive Easements are essentially licenses to use part of another's land. A written agreement or sign indicating that use is by permission is important to ensure that, after a long period of use, ownership rights are not claimed over the easement. Finally, a good faith belief in ownership and use rights is sufficient.

Mortgages

9.0. The ability to obtain a mortgage depends on the value not just of the land itself but of other valuable aspects of the land, such as its agricultural potential or buildings. The assets which support the mortgage and their valuation should generally be left to the borrower and the financial institution lending the mortgage funds. However, the Land Commission does recommend detailed regulatory protections covering the mortgage market such that when the demand for mortgages increases Liberia's legal system is able to support that demand in a way that fully informs borrowers and provides certainty to businesses. The above policy recommendations track the mortgage provisions in the current Uniform Commercial Code and provide a broad outline for future regulations.

9.1. It also makes clear that majority foreign-owned financial institutions may lend Liberian citizens mortgage funds with Liberian land as the asset supporting the loan. However, if the mortgage must be foreclosed upon in the case of default a majority foreign-owned financial institution may not claim ownership over the land, but must sell it to a Liberian citizen, a private entity majority-owned by Liberian citizens, or, possibly, the Government.

Adverse Possession:

10.0. Allowing adverse possession to be a basis for asserting legal title over Private Land does away with the current doctrine of adverse possession as a defense against ejectment only. It will allow an adverse possessor to go to court and obtain a ruling that he or she owns the land that they adversely possess. This will in many ways recognize the reality on the ground, but those who claim to own the land on which the adverse possessor resides will be able to challenge the adverse possessor's ownership claim.

10.1. The policy leaves in place the twenty year period required before an individual can claim adverse possession, but includes a significant exception. During the twenty year period another individual or private entity could not have been prevented from claiming their ownership rights because of an armed conflict or a genuine fear of severe injury or loss of life.

DRAFT

REPUBLIC OF LIBERIA
LAND COMMISSION

PRESS RELEASE

Following the development of a comprehensive Land Rights Policy , the Land Commission has launched series of education and outreach activities which will culminate with the hosting of public consultative meetings, aimed at gathering the views and opinions of cross-section of the Liberian population on key issues and recommendations advanced in the draft Land Rights Policy .

These Consultative meetings will target stakeholders and Interest Groups, during six sub-regional consultations covering the counties and National Validation Conference.

The purpose of holding theses public consultative meetings and a national validation conference, is to gather opinion from Liberians on the content of the Draft Land Rights Policy and to obtain approval and support from the public before the policy document is finalized.

The Interest Groups Consultative Meetings address concerns of key stakeholders including members of the Liberia Bar Association, the Liberia Chambers of Commerce, the Liberia Business Association, Civil Society Organizations, the Association of Female Lawyers of Liberia, the National Women Commission and most especially rural youth and women groups, amongst others.

The Sub-Regional Consultative meetings, which will target the fifteen counties will ensure wilder participation of the Liberia people and is primarily aimed at getting closer to the people through district, chiefdom and clan levels representation.

The meetings at this level will foster a sense of "ownership" of the process and enable ordinary citizens to serve as champions in advocating for the policy.

The Land Commission will guide the process while the activities will be organized and conducted by civil society organizations that will serve as facilitators during the planned sub-regional meetings.
The National Validation Conference, which will culminate the consultative meetings, is geared toward ensuring the accuracy and authenticity of the policy statement, the consolidation of political will and political consensus and public approval.

The first Regional Consultation will take place in Tubmanburg, Bomi county from December 5 to 7, 2012. Delegates attending the consultation will come from Bomi, Cape Mount and Gbarpuluu Counties.

Speaking during the maiden edition of the Land Commission's monthly press conference, the Chairman of the Land Commission, Dr. Cecil Othello Brandy unveiled the draft Land Rights Policy and recounted that the draft Land Rights Policy covered Private, Customary, Government and Public land.

He called on journalists to assist the Land Commission in providing the necessary outlets for the general public to discuss, and debate all of the provisions in the draft Land Rights Policy Statement in both the electronic and print media
Earlier, Dr. Brandy provided an update on activities being undertaking by the Land Commission since its establishment and identified areas for future assistance, during the Information Ministry's regular weekly press briefing on Capitol Hill.

He indicated that since its establishment, there has been no set of Land Policy in Liberia and the general feelings and acceptance of the public is that all land belongs to government.

Prior to unveiling the draft Land Rights Policy Statement, Dr. Brandy made a presentation on the draft Land Rights Policy to the President of Liberia and Cabinet.

2.2 REPRESENTATIONAL MATERIALS

LCRP provided bumper stickers to be affixed to folders for the consultations. Motorbike drivers were hired in all regions to paste small flyers on all available wall surfaces. The LCRP COP provided the four-word simple, effective slogan and theme of the consultations: "Know Your Land Rights." This slogan was printed on baseball caps, T-shirts, and scarves. Consultation meeting registrars issued the representational materials to participants, who wore them during the three days of each consultation.

LAND COMMISSION

REGIONAL CONSULTATIVE MEETING

ON THE

LAND RIGHTS POLICY

Sponsored by: USAID FROM THE AMERICAN PEOPLE /LCRP/LPIS THE WORLD BANK Working for a World Free of Poverty

2.3 EVENT PROGRAMS

LCRP provided event programs for each consultation. These were distributed along with the representational materials.

Land Commission

Souvenir Program

For the

Regional Consultation

On the

Draft Land

Rights Policy Statement

Held on January 22 – 24, 2013

Monrovia City Hall

Montserrado County

USAID /LCRP/LPIS

FROM THE AMERICAN PEOPLE

THE WORLD BANK

Working for a World Free of Poverty

Her Excellency Madam Ellen Johnson Sirleaf
President of Liberia

Dr. Cecil T. O. Brandy
Chairman
Oversight County - Montserrado

Hon. Suzana G. Vaye
Commissioner
Oversight: Outreach & Education
Counties: Nimba & Grand Gedeh

Hon. Estelle K. Liberty
Commissioner
Oversight: Land Policy & Program
Counties: Bong & Grand Bassa

Hon. Walter Y. Wisner
Vice-Chairman
Oversight: Land Administration
Counties: Maryland & River Gee

Hon. Lwopu G. Kandakai
Commissioner
Oversight: Land Dispute Resolution
Counties: Lofa & Margibi

Hon. Victor E. Helb
Commissioner
Oversight: Land Use & Management
Counties Bomi, Grand Cape Mount &

His Excellency Joseph N. Boakai
Vice President of Liberia

Time	Program
8:00 – 9:30	Registration, Breakfast
9:30 – 10:15	Opening Prayer
	Welcome Remarks – Hon. Mary Broh, Acting Monrovia City Mayor
	Statement by Dr. Cecil T. O. Brandy, Chairman, Land Commission
	Remarks:
	Ministry of Internal Affairs Hon. Grace Kpaan-Superintendent, Montserrado County
	Representative, Legislative Caucus
10:15 –10:45	Objective, Framework– Hon. Estelle Liberty, Commissioner, Land policy & Programs
10:45 –11:00	Guidelines for 1st Breakout Groups, Establish Groups Stanley N. Toe, Program Officer, Land Policy & Program
11:00 –12:30	Breakout Groups
12:30—1:30	LUNCH BREAK
1:30 – 300	2nd Breakout
3:00 – 5:00	Plenary – Summary of breakouts discussions
5:00 – 5:30	Identification of discussion topics for day 2
	DAY TWO— JANUARY 23, 2013
8:00 – 9:00	Registration and Breakfast
9:00 – 9:30	Summary of 1st Day's Discussions — Stanley N. Toe, Program Officer, Land Policy & Program
9:30 – 10:00	Guidelines of Day's Discussions—Stanley N. Toe, Program Officer, Land Policy & Program
10:00 –11:30	Breakout Groups
11:30 – 1:00	Plenary
1:00 – 2:00	LUNCH BREAK
2:00 – 2:15	Guidelines
2:15 – 3:45	Breakout Groups
3:45 – 5:30	Plenary
	DAY THREE—JANUARY 24, 2013
8:00 – 9:00	Registration and Breakfast
9:00 – 11:00	Plenary – Summary & Closing
11:00- 12:30	Lunch, Payment of Allowance
12:30	Departure

MEMBERS OF THE
LAND RIGHTS Policy Task Force

1. Land Commission, Chair
2. Ministry of Lands, Mines & Energy
3. Law Reform Commission
4. Center for National Documents and Records Agency
5. Ministry of Justice
6. National Investment Commission
7. Ministry of Internal Affairs
8. Forestry Development Authority
9. Transitional Justice Working Group (Civil Society Representative)
10. Ministry of Agriculture
11. Ministry of Public Works
12. Ministry of Planning & Economic Affairs
13. Ministry of Finance (Real Estate Division)
14. Ministry of State for Presidential Affairs
15. Liberia Institute of Statistics & Geo-Information Services
16. Environmental Protection Agency
17. Liberia National Bar Association
18. Probate Court (Court Administrator)
19. Louis Arthur Grimes School of Law

Interview given by her excellency, President Ellen Johnson Sirleaf to **AllAfrica.com**- 22nd June 2012 (reprinted in the New Democrat, 26 June 2012).

" We have to solve the Land issue. That is another major problem for us– the land tenure system. Illegal land sales over many years, squatters, and what not—that may require major dispossession of those who have held lands and left them undeveloped or unused. Large concessions that we granted, acres of land beyond their needs, we will have to have them relinquish it.

Community rights to land, community rights to the natural resources that are in their area. We are going to have major departure from the way things were done in the past. I hope that will strengthen the feeling of ownership, the feeling of people and communities having a stake in the future, because we will be recognizing the rights of people much more than we have in our traditional and historical past."

2.4 LAND RIGHTS POLICY, SECOND DRAFT

Following the consultations, LCRP printed a second draft of the land rights policy, as well as a promotional program. The Land Commission distributed the materials at the May 20–21 National Validation Conference in Monrovia. President Johnson-Sirleaf formally accepted the final draft of the policy following the public acclaim of Liberia's 15 county superintendents. Photos and video footage of the conference clearly show the banners and all participants wearing representational items.

DRAFT 9.5.12

Policy Brief on Land Rights: Government Land, Public Land, Customary Land, and Private Land

1.0 INTRODUCTION

This document provides the Land Commission's draft policy recommendations for four basic categories of land rights: Government Land, Public Land, Customary Land, and Private Land. As its name suggests, it is a preview of a longer, more detailed draft Land Rights Policy Statement covering: transfers of land under Government control; Government acquisition of Private Land and Customary Land, including eminent domain and reversion; and several issues related to Private Land, including acquisition, loss of ownership, leases, easements, mortgages, and adverse possession. This Policy Brief thus captures the Land Commission's proposed basic framework for reforming land rights in Liberia. The formulation process was guided by the following overriding principles:

1.1. *Secure Land Rights.* The most important principle guiding the Land Commission's policy recommendations is ensuring that all communities, families, individuals, and legal entities enjoy secure land rights free of fear that their land will be taken from them, except in accordance with legal due process. By creating secure land rights people expect those rights to be stable and secure in the future, which promotes long-term decision making.

1.2. *Economic Growth*. Tenure security is a means for Liberia to enjoy sustained economic growth by contributing to a stable investment environment and food security. It encourages investment because the investor knows there will be enough time to recover the benefit of their investment. The principles of economic growth and tenure security are not in conflict with one another but are complementary. Exploiting weak land rights to acquire commercial use of land is damaging to both tenure security and economic growth.

1.3. *Equitable Benefits*. The Land Commission's policy recommendations aim to ensure that the benefits of economic growth are equitably distributed by creating wealth for all Liberians. This too is complementary to economic growth, for growth will be stable and long-lasting only by ensuring that its benefits are spread to all parts of Liberian society.

1.4. *Equal Access*. The Constitution gives all Liberians "the right to own property alone as well as in association with others," which means land ownership is permitted for all Liberians regardless of their identity, whether based on custom, ethnicity, tribe, language, gender, or otherwise. This is a fundamental constitutional principle that has informed every part of the Land Commission's policy recommendations.

1.5. *Equal Protection*. Since the founding of Liberia the lands of customary communities have been less secure than private lands. This policy must end such that lands under customary practice and norms are given protection equal to that of private lands. Moreover, women's land rights are often less protected than

those of men. This policy aims to give equal protection to the land rights of men and women.

1.6. *Environmental Protection*. Land is a precious resource that must be used, managed, and administered in a sustainable manner in order to ensure environmental protection and long-term economic growth.

1.7. *Clarity*. Every effort was made to ensure that the recommendations and the future laws and policies for which they advocate will be publicly available and clearly understood by all Liberians regardless of background. Policies and laws can be successfully implemented only when they are clearly understood and publicly available.

1.8. *Participation*. The recommendations were created with extensive participation by the Government, civil society, and communities to ensure that there was broad consensus regarding policy and legal reform. Policy and legal reform must be brought into the open and subject to debate and criticism.

1.9. *Evidence-Based*. Sound policy must respond to the realities of the Liberian context and draw upon the experiences of other countries. Therefore, the policy recommendations are based on numerous country-specific and comparative studies, reports, study tours, interviews, and workshops and are, consequently, firmly rooted in the challenges facing Liberians today.

2.0. LAND RIGHTS PRINCIPLES

The Government of Liberia has treated all land that is not deeded as public. This practice dates from around 1824 when all land acquired by the American Colonization Society from indigenous peoples became public land and was allotted to citizens as private deeded land. However, there has never been a clear definition of public land nor a clear relationship to preexisting customary land rights. The practice has become the law and policy, rather than the law and policy guiding the practice. The result has weakened the Government of Liberia's ability to effectively manage and use land as well as creating insecurity for customary and private land rights. Therefore, the recommendations that follow are in accordance with these basic land rights principles:

2.1. The Government is responsible for protecting land within the territory of Liberia and regulating its use in the public interest.

2.2. The Government recognizes and protects the land rights of communities, groups, families, and individuals who own, use, and manage their land in accordance with customary practices and norms, as equal to private land rights.

2.3. The Government recognizes and protects private land rights.

2.4. The Government recognizes and protects the right of the Government to own land.

3.0 GOVERNMENT LAND AND PUBLIC LAND

Historically, all land under Government control was treated as public land without any distinction based on how the land should be managed, used, and transferred. This has contributed to mismanagement of land under Government control and ineffective land administration. By

establishing the categories of Government Land and Public Land, including Government Protected Areas, the below recommendations will strengthen land management and administration.

Policy Recommendations:

3.1. All Government Land and Public Land is owned by the Republic of Liberia.

3.2. Government Land is defined as land used for the buildings, projects, or activities of the Government.

3.3. Government Land may be sold or leased to the Government, an individual, or a private entity, including a community, only if the transfer process follows the strict protections designed to prevent fraud and abuse set forth in the Land Rights Policy Statement. Government Land may not be granted as a concession.

3.4. Government Land includes Government Protected Areas which are owned by the Republic of Liberia and must be conserved and managed for the benefit of all Liberians. Government Protected Areas shall not be sold, leased, or granted as a concession. A Government Protected Area shall only be converted to Private Land, Customary Land, or Public Land in accordance with a law passed by the Legislature.

3.5. Limited use rights may be granted over Government Protected Areas to individuals, private entities, or government entities only if the use is consistent with the land's conservation and management for the benefit of all Liberians.

3.6. Public Land is defined as land which is not Private Land, Customary Land, or Government Land.

3.7. Public Land may be sold, leased, granted as a concession, or otherwise transferred to the Government, an individual, or a private entity, including a community. Public Land may be converted to Private Land, Customary Land, or Government Land.

4.0 CUSTOMARY LAND

Rights to Customary Land, including ownership rights, must be secured by ensuring that these rights are as protected as private land rights. Rights to Customary Land include rights of the community as a collective land owner and rights of groups, families, and individuals within the community. Secure rights to Customary Land will promote long-term decision making and thereby strengthen Liberia's economic growth. However, the nature of communities varies greatly throughout Liberia. The below policy recommendations recognize this diversity such that communities may define themselves and determine how their land is managed, used, and allocated but within a framework of transparency, accountability, inclusiveness, and shared responsibility with the Government of Liberia.

Principles:

4.1. Equal Protection: Customary Land rights must be as protected as Private Land rights.

4.2. Local Control: Decisions about Customary Land shall be made at the most local level consistent with sound policy and shared responsibilities between the Government, communities and their members.

4.3. Minimal Impact: National policy and laws shall have as minimal an impact on the customary practices and norms of communities as is consistent with sound policy, shared responsibilities between the Government and communities, and international best practices.

4.4. Incorporation: Customary practices and norms not in conflict with national land laws, the Constitution, and international legal obligations shall be considered incorporated into the national formal legal framework.

4.5. Institutionalization: Communities shall establish legal entities consisting of transparent procedures and institutions accountable to their communities as a whole to interact with external actors and to govern internal interactions regarding land.

Policy Recommendations:

4.6. Customary Land, whether deeded or not, is defined as land owned by a community and its members and used and managed in accordance with customary practices and norms. Ownership of Customary Land, including the right of use and management, shall be recognized as equal to Private Land rights, whether or not the community or its members have received a deed in accordance with the below recommendations.

4.7. Ownership of Customary Land means private ownership, such that the community and its members have the unrestricted and perpetual right to use and manage the land in accordance with customary practices and norms, to exclude all others from use and possession, and to sell, lease, or otherwise transfer all or some of the rights associated with the land to any individual, private entity, or the Government.

4.8. A community is a self-identifying group that uses and manages its land in accordance with customary practices and norms.

4.9. Each community shall be responsible for identifying its own membership in accordance with a transparent, accountable, and inclusive process.

4.10. Community ownership of Customary Land shall be formalized by the issuance of a deed to a legal entity, bearing the name of the community. The legal entity shall have legal personality and may therefore enter into contracts, own land, and participate in court actions or proceedings before alternative dispute resolution bodies. The deed shall provide for private ownership by the community, so long as any decisions regarding management, use, and transfer are made in accordance with Principle 4.5.

4.11. Ownership of Customary Land includes ownership of natural resources on the land, such as forests, including carbon credits, and water. In accordance with the Constitution, the Government has exclusive ownership rights of "any mineral

resources on or beneath any land or . . . any lands under the seas and waterways." The Government shall have authority to regulate natural resource use and access.

4.12. Communities shall have land management decision-making authority regarding their Customary Land, including, but not limited to, authority over: formal transfer of customary land rights to individuals, families, or groups within the community or outside the community; allocation of customary land rights to members of the community and non-members in accordance with customary practices and norms; and use of land and natural resources. Land management decision-making authority must be exercised in accordance with Principle 4.5.

4.13. Customary Land includes Customary Protected Areas which are owned by a community and must be conserved and managed for the benefit of the community and all Liberians. Customary Protected Areas may be established either by the community or by the Government in consultation with the community.

4.14. Customary Protected Areas shall not be sold, leased, or granted as a concession. Limited use rights may be granted over Customary Protected Areas to individuals, private entities, or the Government only if the use is consistent with the land's conservation and management for the benefit of the community and all Liberians.

4.15. The boundaries of Customary Land shall be determined through active participation by the community, neighboring communities, and their members, including: elders, chiefs, youth, women, and local authorities.

5.0 PRIVATE LAND

Much of the current law on Private Land does not address basic rights and obligations. The below policy recommendations are the foundation for addressing these gaps in the current law.

Policy Recommendations:

5.1. Private Land is defined as land owned by an individual or private entity, other than land used and managed in accordance with customary practices and norms, such that the owner has the unrestricted and perpetual right to exclude all others from use and possession, to pass ownership through inheritance, and to sell, lease, or otherwise transfer all or some of the rights associated with the land to any individual, private entity, or the Government. Ownership of Private Land includes ownership of the natural resources on the land.

5.2. Private Land includes Private Protected Areas which are owned by an individual or legal entity and must be conserved and managed for the benefit of all Liberians. Private Protected Areas may be sold, leased, or otherwise transferred to individuals, private entities, or the Government only if the transfer is consistent with the land's conservation and management for the benefit of all Liberians. Concessions shall not be granted over Private Protected Areas.

Appendix A

DEFINITIONS

1.0. *Alternative Dispute Resolution Body*: Any entity, whether a private or government entity, the purpose of which is to resolve, or facilitate the resolution of, disputes outside of court.

1.1. *Community/Customary Community*: A self-identifying group which owns land used and managed in accordance with customary practices and norms.

1.2. *Concession*: A commercial use right granted by the Government to an individual or private entity and managed in collaboration between the individual or private entity and the Government in accordance with a written agreement.

1.3. *Customary Land*: Land owned by a community and used and managed in accordance with customary practices and norms.

1.4. *Customary Protected Area*: A Protected Area on Customary Land that must be conserved and managed for the benefit of the community and all Liberians.

1.5. *Government*: The State as the sovereign Republic of Liberia or government entities acting as the representative or agent of the State.

1.6. *Government Entities*: A legal entity that is owned, managed, or controlled by the State, including all branches of Government, or by persons in their capacity as government employees, including parastatal bodies. A government entity is the representative or agent of the State or Republic of Liberia.

1.7. *Government Land*: Land used for the buildings, projects, or activities of the Government.

1.8. *Government Protected Area*: A Protected Area on Government Land.

1.9. *Lease*: The right of an individual, private entity, or the Government to the use and enjoyment of land for a limited period of time and in accordance with a written agreement in exchange for rental payments.

1.10. *Legal Entity*: A private entity or government entity. Legal entities have legal personality and may therefore enter into contracts, own land, and participate in court actions or proceedings before alternative dispute resolution bodies.

1.11. *Mineral Resources*: All nonliving, natural nonrenewable resources, including, but not limited to: fossil fuels such as coal, petroleum, and natural gas; diamonds; gold; iron ore; cobalt; lead; manganese; nickel; tin; dolerite; granite; ilmenite; kyanite; phosphate rock; rutile; sulfur, and sand.

1.12. *Natural Resources*: All living or nonliving natural renewable resources, including, but not limited to: water, soil, trees, plants, animals, and microorganisms.

1.13. *Parastatal Body*: A legal entity owned, managed, or controlled by the Government and created to undertake commercial activities on behalf of the Government.

1.14. *Private Entity*: A legal entity that is not owned, managed, or controlled by the Government although it may receive assistance from the Government (e.g. loans

or grants). Examples of private entities include, but are not limited to: corporations, partnerships, sole proprietorships, non-profit organizations, churches, and a community which has formed a legal entity.

1.15. *Private Land*: Land owned by an individual or private entity, other than land used and managed in accordance with customary practices and norms, such that the owner has the unrestricted and perpetual right to exclude all others from use and possession, to pass ownership through inheritance, and to sell, lease, or otherwise transfer all or some of the rights associated with the land to any individual, private entity, or the Government.

1.16. *Private Owner*: An individual or private entity that owns Private Land.

1.17. *Private Protected Area*: A Protected Area on Private Land.

1.18. *Protected Area*: Land that is part of the Government Land, Customary Land, or Private Land categories that must be conserved and managed for the benefit of all Liberians.

1.19. *Public Land*: Land which is not Government Land, Customary Land, or Private Land.

1.20. *Shall/Must*: 'Shall' and 'must' are used interchangeably and are to be read as synonyms. Both indicate that the Commission recommends that the Government must follow the recommendation or principle.

1.21. *State*: A political institution in the form of the sovereign Republic of Liberia. Liberian government entities are the representatives or agents of the State.

Appendix B

Commentary to Definition of Government Land and Public Land:

1.1. The policy recommendations distinguish between Public Land and Government Land based on how the land is managed, used, and transferred. Ownership is not the basis for distinguishing between these categories. The Republic of Liberia owns the land and it is managed by a government entity on behalf of the Republic. These land categories are a framework which will be followed by more detailed policies covering the management and administration of Public Land and Government Land.

1.2. Government Land is a specific category that includes only the lands used for the buildings, projects, or activities of the Government. These include, for example, lands on which are located: the offices of ministries, agencies, and parastatal bodies; military bases; roads; public schools and public universities; public hospitals and public clinics; public libraries and public museums; public utilities; and airports.

1.3. Government Land may be sold or leased to the Government, an individual, or a private entity. During discussion of this recommendation there were concerns that decentralized management of Government Land and the transfer of that land to private entities and individuals could lead to fraud and abuse. To address these concerns the transfer cannot be in the form of a concession and must follow strict protections, which the final Land Rights Policy Statement will set forth.

1.4. Even if Government Land is leased to an individual or private entity for a private use, the land remains Government Land. This is so even though, strictly speaking, a lease for private use means the land is not being used for the buildings, projects, or activities of the Government during the lease term.

1.5. Government Land also includes Government Protected Areas. These shall not be sold, leased, or granted as a concession and are conserved and managed for the benefit of all Liberians. Government Protected Areas may include: national parks; environmentally sensitive areas; lands on which are located monuments or memorials; and beaches from the low watermark to the high watermark.

1.6. However, Government Protected Areas may be subject to limited beneficial private use, such as, for example, the operations of eco-tourism companies in national parks or scientific research in environmentally sensitive areas. The use must be consistent with conserving and managing the land for the benefit of all Liberians. Some examples of the use violating this requirement are: commercial logging on national parks; or the harming of an environmentally sensitive area by the unauthorized collection of endangered plants and animals.

1.7. It is important to note that additional restrictions on private use of Government Protected Areas will likely be added depending on the nature of the land. For example, wetlands are an environmentally sensitive area and so affected by this

Policy Statement. The Environmental Protection Agency is drafting a National Wetlands Policy likely to include additional, more detailed private use restrictions.

1.8. Public Land is a residual category. It is all land that is not Private Land, Customary Land, or Government Land. Public Land may be transferred to individuals or private entities for commercial use as well as to the Government. Land which falls under this category will be available for concessions.

2.5 SBCC POWERPOINT PRESENTATION

Following Morgan Hillenbrand's short-term technical assistance visit in May 2013 to conduct a Social and Behavioral Change Communication workshop, LCRP worked with the training participants to replicate this event for the Land Coordination Center (LCC) communications staff and County Coordinators. LCCs were familiarized with the Land Commission media and outreach strategies and they practiced message development using the problem tree process. Below is an excerpt from a report prepared by Zeowheh Saywrayne, LCRP Public Communications Specialist:

"In an effort to create awareness around the Land Coordination Center (LCCs) in Bong, Lofa, Margibi, Maryland, and Nimba counties, LCRP/LC drafted posters with illustrations and messages to be pretested by youth from various communities in Kakata, Margibi County. While pretesting the messages, the young men reflected on their own role in land disputes, promising to respond differently in the future.

The illustrations and messages encourage Liberians to refrain from violent conflict over land. Instead, they should access the facilities of the LCC in their respective counties to talk to a trained professional about their land issue (palava) free of charge.

During the meeting with the youth (18-39), they talked about the many land conflicts in their communities and how young people are often used by the older ones to get involved with land conflicts which most time lead to tearing families apart and also the loss of lives and properties. Hence, not many people are aware of the LCC and when these land cases go to court they remain there for a long time without any redress.

As they looked at the poster displayed before them, the young men began to analyze the illustrations. They suggested that since majority of those who live in their communities could not read nor write, the illustration should be rearranged in an order that tells a clear story to anyone who looks at the poster

At the conclusion of the pretesting, the young men were very enthusiastic to get copies of the finished poster so they could take copies and place them in strategic areas in their communities, in order to create more awareness around the LCC and the ADR process. LCRP connected the Land Commission and LCCs with self-appointed peer educators who will continue eagerly to reinforce the messages of the LC and LCCs.

Previously, and with the pressure of time, the Land Commission sought to develop the message first and reflect on its effectiveness later. Forthcoming messages that LCRP supports will now be developed using this method."

BCC TRAINING FOR LCCS

GANTA, NIMBA COUNTY
SEPTEMBER 26-27, 2013

By
Nmah Bropleh
Lead Facilitator
Land Commission

Day 1
Introduction to BCC

A. Definition – *What is Behavior Change Communication to you?*

What is BCC?

- Let participants write their various responses on the flip chart board.
- They should agree on key words that come close to " process of any intervention with individuals, Communities and or societies to develop and promote positive behavior or attitudes that are appropriate to their setting."

BCC three key strategies

(Participatory)

- **Participants will brain storm and on each of the strategies. (Advocacy, Social Mobilization and Behavior Change) All comments and responses should be written on a flip chart paper and pasted on the wall.**
- Ask participants whether they have participated or use any of these strategies in an intervention?

Strategies

- ***1.What is Advocacy?*** to raise resources as well as political and social leadership commitment to development actions and goals.

- 2 ***Social Mobilization***—for wider participation, coalition building, and ownership, including community mobilization (Crusaders for Peace)

STRATEGIES

*3. **Behavior Change***—for changes in knowledge, attitudes, and practices among specific audiences

C-PLANNING

Facilitator will briefly explain the 5 steps in C-Planning process.

1. Understanding the situation sometimes refer to as "situation analysis" deals with (causes and effects) and Formative research using Quantitative (e.g. tells us who, what, where, how) and qualitative (why) research methodologies

C-Planning

2. Focusing & Designing – the results of situation analysis and formative research are used to design an appropriate communication approaches/interventions.

C-Planning

3. Creating- communication products, messages development, pretesting and, communication channels,

4. Implementing & Monitoring

5. Evaluation and Replanning

LUNCH
1:00 – 2:00 P.M.

Understanding the Situation

- A problem tree is a useful tool for analyzing a situation –it enables you to take a critical look at causes, effects and the ways to address the problem.
- These causes have subsets
  - Direct Causes of the problem
  - Indirect Causes, and
  - Underlying Causes

PROBLEM TREE

(Discuss Problem Tree with participants)

One of the challenging problems in Liberia today is people fighting for LAND (core problem)

What are some of the reason people fight for Land? (Direct Causes)

- (Lack of information, knowledge, motivational issues)
- What are the indirect causes? (political will – absence of relevant policies, old land laws)

Problem tree

What are the underlining causes? (give few example)

- years of civil conflict
- Change in administration

PROBLEM TREE

- What are some of the effects? Let participants give examples

People Analysis

- Who are the most affected in the land dispute? (Participatory)
  - . Elders, male youth, etc

- Who are those involved with and influence in those most affected? (participatory)
  - chiefs religious leaders, family

PEOPLE ANALYSIS

- Who are those persons, groups, and or institutions that indirectly influence people most affected? Participatory
  - local authorities, makers/legislators,

Identifying BCC Audience- Primary, Secondary and Tertiary

In the problem tree we identified three audiences.

1.Those who are most affected? Problem Tree example-youths, elders, etc (Primary Audience)

2. Those involved with and influence in those most affected? -Problem tree (e.g.elders, youth leaders family (Secondary Audience)

IDENTIYING AUDIENCE

- 3. Who are those persons, groups, and or institutions that indirectly influence people most affected? Problem Tree
  - Tertiary- e.g.civil society, youth organization etc)

- What the desire change/approach you will use for each audience (e.g. youth, collaborate with elders, participate in ADR training)

Partners, allies and gatekeepers

Let participants brainstorm on the three words.

- Partners
- Allies
- Gatekeepers

Closing

Thanks for your attention and participation

We see you tomorrow

Day 2 –September 17

REVIEW OF DAY 1 ACTIVITIES

Participatory (use schedule)

Creating

The Third Step of a Planning Process for BCC—Creating

- Ask participants to name any type of communication product (e.g., a poster, fliers, a bill board,

Communication channels

Name few communication channels

- Radio reaches the majority of the target audience in urban and rural areas.

- TV reaches mostly urban audiences, providers, and some of the community leaders.

MESSAGE

WHAT IS A MESSAGE?
participatory

- ***A message*** is a brief, value-based statement that captures a positive concept and is aimed at an audience

Pre – Testing

After the message is developed, it is pre-tested to ensure that it is the right message going to the targeted audience.

This can be done by developing a set of questionnaires and through Focus Group Discussion (FDG)

Effective messages

Messages must be:

- Personally ***appealing and discuss only one or two key points***.
- The information should be new, clear, accurate, complete, and culturally appropriate.

EFFECTIVE MESSAGE

Messages should include specific suggestions on actions people can take, and they should communicate key parts of an intervention. (Don’t fight for land; go the LCC for advice).

Assignment

- Let each participants write at least two effective messages on the promotion of the LCC for plenary discussion.
- Participants will Pre-test Message during plenary

EVALUATION

- Questions will be developed the Facilitators

THANK YOU

FOR YOUR COOPERATION & PARTICIPATION

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