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### **LIBERIA AT A CROSSROADS: THE POLITICAL ECONOMY OF KEY POLICY AND INSTITUTIONAL REFORMS IN THE LAND SECTOR**

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## **Abstract**

Our paper applies a political economy analysis lens to two key ongoing policy and institutional reforms in Liberia: (1) passage of land rights legislation, and (2) creation of a new land agency. By considering the existing political landscape and economics of decision-making, and identifying anticipated opposition, support, and impediments to reform, we enable Liberians and development practitioners to prioritize reforms based on likelihood of success. This allows for the strategic investment of aid dollars in interventions that strengthen property rights and land-related institutions, and, helps keep Liberia moving away from conflict and toward equitable and inclusive economic growth. Our methodology includes literature review, key informant interviews at the local and national level, focus group discussions, and the latest in political economy analysis techniques developed by international donors. We determine that while these reforms are essential long-term initiatives to strengthen Liberia's land governance system, they are likely to face delays because they are top-down, maximalist approaches to change that threaten vested interests and require complex technical and political processes in a country with limited resources and capacity. We conclude with a presentation of a series of less political reforms that we argue are opportunities for immediate donor investment and short-term impact.

**Key Words:** institutional reform, Liberia, land policy, land tenure, political economy analysis

# **Liberia at a Crossroads: The Political Economy of Key Policy and Institutional Reforms in the Land Sector**

**By: Katelyn Baldwin, Michael Geertson, and Ali Kaba**

**Executive Summary.** In this paper, we analyze how the political and economic incentives for land reform in Liberia are aligned. The goal of our paper is to help development practitioners make decisions about which interventions to support that will strengthen property rights and land-related institutions and help Liberia continue on a path toward peaceful, equitable, and inclusive economic growth. In Section I, we introduce the political economy analysis (PEA) concept and provide an overview of our methodology. In Section II, we present our problem statement by putting land issues into historical context and describe the window of opportunity for land reform today. In Section III, we present six key drivers of change affecting reform in Liberia. These drivers underpin our analysis in Section IV, where we explore two ongoing policy and institutional reforms: passage of land rights legislation and the creation of a new land agency. We determine that although these reforms are essential long-term initiatives to strengthen Liberia's land governance system, they are likely to face delays because they are top-down, maximalist approaches to change that threaten vested interests and require complex technical and political processes in a country with limited resources and capacity. In Section V, we make recommendations to donor agencies on where to invest in the short-term and long-term, and present four less political reforms that we argue are opportunities for immediate donor investment and short-term impact.

## I. Introduction

**PEA Overview.** Political economy analysis (PEA) — a relatively new way of thinking in the aid community — looks beyond pure technocratic reforms to understand how the interests and incentives of influential actors and institutions shape the political dynamics of reform in a country or sector (DfID, 2009). By its nature and methodology, PEA exposes anticipated support or opposition to reform and makes it possible to determine which interventions are politically feasible, even if they are not always considered “best practices.” In the context of foreign development assistance, PEA enables aid practitioners to prioritize and invest aid dollars in more saleable, “good enough governance” interventions that are most likely to succeed given the political and economic conditions (DfID, 2004; Grindle, 2007).

**Applying PEA to Land Reform in Liberia.** A political economy assessment is an essential first step before land reform interventions can be designed or implemented, because around the world, land tenure<sup>1</sup> insecurity issues are politically charged, frequently lead to disputes, and impede economic growth. Given the existing and large anticipated donor investment in multimillion-dollar, multi-year programming initiatives to strengthen Liberia’s tenure security, the stakes are particularly high and warrant a new approach. Our approach differs from purely technical discussions of land reform, which may not sufficiently consider the power and influence that a particular individual, group, or institution may have on promoting or preventing reforms. Those who benefit from the current state of affairs naturally oppose improvements and are often quite powerful, whereas those who stand to benefit from reforms are less organized, have fewer resources, and limited political clout. Designing realistically achievable, appropriately sequenced interventions that address this dynamic is vital to avoid stalled reforms.

**Methodology.** Our methodology includes a literature review and qualitative approaches, such as key informant interviews and small-group meetings at the local and national levels. Primary data sources contributing to this analysis include existing academic research and literature; donors’ assessments, reports, and country strategies; official documents including laws, regulations, and organizational strategies; public opinion surveys; and media reporting. We met with more than 100 individuals based both in the capital, Monrovia, and in “the counties,” including central and local government representatives, traditional authorities, civil society, international nongovernmental organizations (INGO), private sector organizations, and donor organizations. Annex A provides details of key land-related government institutions and agencies.

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<sup>1</sup> Land tenure is the relationship, whether legally or customarily defined, among people, as individuals or groups, with respect to land. Land tenure is an institution, i.e., rules invented by societies to regulate behavior. Rules of tenure define how property rights to land are to be allocated within societies. See <http://www.fao.org/docrep/005/y4307e/y4307e05.htm>.

We approached this paper from the perspective that data triangulation (asking the same questions to multiple stakeholders and gathering similar data from multiple sources) is essential to unmasking the patterns underlying drivers and impediments to reform. From information gathered, it is possible to infer logical conclusions based on the positions articulated and the interests of the person being interviewed. We compiled and cross-checked information collected through document review and interviews to draw conclusions and provide programmatic recommendations. We used the latest in PEA techniques developed by international donors<sup>2</sup> and ensured that the views expressed below represent a collection of interviewees from different backgrounds and regions of the country.

## II. Overview of Land Sector and Problem Statement

In some ways, the characteristics of the land sector in Liberia are similar to those in other post-conflict settings, including frequency with which land disputes lead to conflict and poor record-keeping. However, other factors, such as Liberia's dual legal system and tremendous natural resource wealth, make the country's land sector unique.<sup>3</sup>

“Land reform in this country will be a challenge. Our history is one of political domination and land expropriation. Not all will be in favor of customary rights.”

***Cultural and economic aspects of land.*** The country's population of approximately four million is roughly evenly split between urban (primarily in and around Monrovia) and rural areas. The country's political elite primarily occupy the urban and coastal areas, and indigenous groups primarily occupy the rural areas. To the state, land and its resources represent power. To the indigenous groups, land is more than a resource for food and water; it is the heart of traditional culture and historic tribal identity (Unruh, 2007; Unruh, 2009).

Agriculture, in the form of small-scale farming or work on large plantations, provides a livelihood for most of the population. However, only four percent of land is arable, and less than two percent of total land is in permanent crops (USAID, 2010). Forests cover 45% of total land area (USAID, 2010). Liberia's significant natural resources — including biodiversity, timber, iron ore, gold and diamonds, rubber, palm oil, and petroleum — have sparked the interest of agribusiness and mineral extraction companies in exploiting the land for commercial profit. A Constitutional provision barring foreigners from owning land

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<sup>2</sup> DfID, the World Bank, and the EU all provide guidance on how to conduct PEAs and appropriate methodologies to employ.

<sup>3</sup> The pull quotes in the margins come from interviews conducted in preparation for this report.

increases the pressure on government to grant long-term land-use rights to foreign-owned businesses, because most commercial enterprises are not owned by Liberians.

Liberia's weak justice sector and legal environment discourage some investors, but those willing to bear risk in an insecure operating environment can gain market share.

Liberia has the highest ratio of direct foreign investment to GDP in the world, and ranks near the top in Africa for land concession rates (Knight, Siakor, & Kaba, 2013). The

government estimates that signed natural resource

concession agreements, which are primarily awarded to

foreign companies, total more than US \$19 billion (Lanier, Mukpo, & Wilhelmsen, 2012). The potential

for commercial profit and government revenue has resulted in "rubber, oil palm and forestry concessions

[on] approximately 2,546,406 hectares, or approximately 25% of the country," more than a dozen of

which are for longer than 25 years (Siakor, 2012, p. 17; Knight et al., 2013, p. 34). More than 10% of

Liberia's land has been granted to palm and rubber agro-plantations<sup>4</sup>, and some projections indicate that

the government has granted long-term use rights over as much as 75 percent of the total land (World Bank

2008). Some concessions provide for land-use rights for up to 65 years with renewals possible. This is

significant considering that the average Liberian lifespan is 57.3 years (United Nations Development

Programme [UNDP], n.d.). Although concessions contracts require provisions for community

development projects and contributions to county social development funds, the funds are largely

managed at the central state level and money rarely makes it outside of Monrovia due to inefficiency and corruption.

"There is currently little quality control for land transactions in Liberia."

***Liberia's dual tenure system and weak legal framework.*** On paper, the Liberian government operates under a legal system that recognizes both statutory (formal) and customary land tenure systems. Urban and peri-urban residents and immigrant settlers acquire private land rights through statutory law, whereas indigenous communities collectively own and govern land according to customary rules through the leadership of traditional authorities (USAID, 2010). Customary land is managed according to customary law, as long as it does not conflict with statutory law. This elevates the status of the statutory system, which is already biased toward citizens of higher socioeconomic status due to legal fees associated with the court system.

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<sup>4</sup>Significant rubber concessions have been granted to companies such as Sime Darby, Golden Veroleum, Firestone, Cavala Rubber, Liberia American Company, Equatorial Palm Oil. See Land Matrix, 2012, <http://landportal.info/landmatrix>.

In practice, this dual land system lends itself to contradictions with high potential for disparities. In particular, the land and resource rights of strangers,<sup>5</sup> individuals at higher risk (i.e., people of poor health, orphans, etc), and women are usually subordinate to those of native or local men under the customary tenure system (Kaba, 2013, May 15). Land rights for women, which are greater under the statutory system, are slowly improving, but weak legal enforcement undermines these improvements. Both systems suffer from capacity constraints. The statutory system’s ability to mediate disputes efficiently and effectively is impeded by a lack of independence, weak court capacity, and outdated technology and equipment.

Lack of harmonization between the two systems creates disconnect throughout the country and a perception that many interviewees referred to as “two different Liberias.” Due to the ambiguous status of customary land rights, those using the customary system experience less tenure security (see Exhibit IIA). Moreover, unfamiliar and challenging processes for acquiring land intimidate and marginalize rural communities.

Large scale concession agreements — ratified by the legislature and thus holding the force of law — particularly threaten customary tenure security. The true value of the land is not often clearly explained to, or understood by, families who accept monetary compensation to relocate. Despite the legal precedent requiring prior and informed consent during the concession awarding and implementation process, in practice, affected communities are not consulted before concession

#### **Exhibit IIA. Key Legal Developments Related to Land**

- **Founding.** The first Americo-Liberian settlers of the country acquired land from tribes in “fee simple,” equivalent to private ownership today.
- **1949 Hinterlands Act.** Recognized customary ownership of land. Legalized an arrangement allowing chiefs to formalize tribal land claims through fee-simple purchase. Only 13 chiefdoms acquired formal deeds leaving the majority of customary land not formally recognized (Wily, 2007).
- **1956 Aborigines Law.** Gave ownership of tribal land back to the state by recognizing customary land rights as only usufruct rights.
- **Mid-1970s revision to the Liberian Code of Law.** Created confusion as to whether the 1949 Hinterlands Act or 1956 Aborigines Law remained in effect.
- **1972 Public Lands Law.** Detailed procedures for the purchase or lease of public lands to foreigners, involving the transfer of ownership through private purchase. Also detailed processes for the claim of land reverted to government ownership.
- **1974 Registered Land Law.** Formalized the land registration system and required landholders to register landholdings.
- **1986 Constitution.** Established citizenship requirement, limited to persons of Negro descent, for land ownership
- **2009 Community Rights Act.** Viewed as stepping stone in giving partial control and jurisdiction over certain land back to communities, but did not fully clarify the status of customary rights.

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<sup>5</sup> “Stranger” in this reference refers to newcomers in a community who are primarily, but not exclusively, of different ethnic backgrounds.

agreements are designed or implemented; this triggers land disputes in the interior, where state authority is weak. In addition, due to public land sale transactions<sup>6</sup>, those able to exploit the statutory system have been able to obtain deeds to customary land and enjoy more rights than the community. Although the customary tenure system is losing legitimacy in the eyes of some communities, the vast majority of Liberians still prefer it to the statutory system for land dispute resolution due to accessibility and affordability.

A history of ambiguous and conflicting land legislation governing the formal system exacerbates confusion between the two systems. More than 25 laws discuss land, and those drafted in the nineteenth century are widely considered inadequate for the times (Bruce & Kanneh, 2011). Exhibit IIA provides a general overview of Liberia's complex land-related legal framework. Since 1956, state ownership of all public land, including unofficially recognized customary land, has enabled the state to grant extensive agriculture, forestry, and mining concessions. The 1972 Public Lands Law enabled wealthy individuals and groups, including chiefdoms, to acquire large tracts of state land and convert it to private ownership. This process, however, is complex and requires numerous steps including payment of a licensed land surveyor, presenting logistical and affordability challenges for people deep in the interior. The confusion over tribal certificates further complicates this process (see text box). As of 2008, less than one quarter of Liberia's total land was held through private deeds (World Bank, 2008).

#### **Confusion over Tribal Certificates**

Tribal certificates are documents signed by customary and local government leaders and issued to parties interested in acquiring customary land as proof that the desired land is not community or private land. In the interior, tribal certificates are considered by most as legitimate ownership claims to the land, similar to a land deed. The state, however, considers obtaining a tribal certificate as only the first step in a process of acquiring formal land ownership.

The Chairman of the National Council of Chiefs and Elders of Liberia explained: "in the interior, people consider a tribal certificate to be a 'father to a land deed,' and, in itself, a perpetual claim to customary land."

Land tenure insecurity is more than just a rural economic issue. In the context of fast growing cities and decentralization, it hinders urban development. Over the past eight years, land crises have been reported in Monrovia, Harper City (Maryland County), Ganta (Nimba County), and Zorzor (Lofa County). Although some of these land conflicts have had tribal undertones, cases in Monrovia have been broad in scope and scale. A recent Supreme Court ruling left many in the city anxious about their tenure security when a 180-acre tract of land outside Monrovia, with homes and businesses, was returned to one family (Kaba, 2013, May 15). This is not an isolated occurrence — others are merely less publicized. Numerous

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<sup>6</sup> In 2010, the president issued an executive order moratorium on public land sales because wealthy individuals were exploiting the public land sale process to gain ownership of large tracts of land.



court cases over land disputes, challenged by inadequate human and technical capacity, have undermined urban land tenure security.

The formal land governance system is further complicated by the diffusion of land administration, management, and policy authority across a variety of line ministries and agencies. This creates confusion over roles, responsibilities, and institutional mandates. Land issues take the lowest priority at the Ministry of Mines, Lands, and Energy (MLME), the primary agency responsible for land administration, due to competing priorities over energy and mining concession management.

“Liberia has suffered from a deficiency in political will to effect reforms that change the lives of the people”

***Land documentation and information challenges.*** In the war years (1989 to 2003), historical private and public land records were lost or deliberately destroyed, resulting in confusion. Overlapping land claims are passed down from one generation to the next. The state’s capacity to evaluate the legitimacy of competing claims is further limited by poor recordkeeping and a lack of detailed country maps. There is no national land information system or land cadastre linking deeded land to physical parcels. Limited capacity to gather geospatial data, map, and properly demarcate land has created a situation where overlapping claims to land are possible between traditional communities and private landowners, and between traditional communities and concessionaires with long-term land use rights.

***Land and conflict.*** Conflict over land and natural resource rights contributed to the onset of two civil wars that lasted 14 years. A rise in land scarcity has seen increased competition between communities and concessionaires and between communities themselves for use of land. There is also an informal land market, where one plot of land is sold multiple times and fraudulent land deeds are then granted to multiple parties (Kaba, 2013). Perceived infringement of land rights and difficulties in receiving formal documentation for land ownership can result in violent consequences. In fact, a 2009 International Crisis Group (ICG) report called land conflict “the most explosive issue in Liberia today” (ICG, 2009). Land conflicts are widely recognized as the most common type of conflict the courts hear, but limited access to services and weak court capacity prolongs formal dispute resolution. As a result, traditional justice and alternative dispute resolution (ADR) are increasingly recognized as the most efficient way to resolve disputes.

**Window of Opportunity for Land Reform.** The Liberian government has taken positive steps toward improving tenure security since President Ellen Johnson Sirleaf took office in 2006. In 2009, the government passed the Community Rights Law and established a Land Commission with a five-year mandate to coordinate the reform of land policy, laws, and programs in Liberia. President Sirleaf has spoken eloquently in support of land sector reform, highlighting land issues in her 2013 and 2014 State of the Nation addresses. She has issued executive orders on controversial land-related issues, and has issued executive moratoria on public land sale transactions and private use permits<sup>7</sup>. In May 2013, the Executive formally adopted the Land Commission’s Land Rights Policy, which establishes customary land rights as a new land rights category. The donor community, including UN HABITAT, the World Bank, United States Agency for International Development (USAID), the Millennium Challenge Corporation, and the European Union, are implementing, or poised to implement, large land reform projects.

Below, we apply a PEA lens to a package of specific ongoing land reforms to determine whether the politics and economic incentives at plan are aligned in their favor and whether they represent a window of opportunity for donor investment. Our primary goal in the following sections is to help donors, navigate complex political dynamics, think beyond the best technical and legal interventions, and make more informed long-term investments for improved land tenure security.

### III. Drivers of Change to Land Reform in Liberia

In this section, we introduce key political economy drivers of change to land reform in Liberia. These drivers underlie all reform efforts and can act either to facilitate or impede reform. The drivers identified below result from the interaction between agents, structures, and institutions.

**Elite Liberian political and economic interests.** Land and other reform initiatives in Liberia are largely driven by elite political and economic interests concentrated in and around Monrovia, Liberia’s undisputed center of power and economic dominance. The modern-day urban elite — often referred to as “Monrovia elites,” include descendents of Americo-Liberians who first settled the country and acquired large tracts of land from the indigenous populations, individuals freed from slave ships referred to as “Congo people,” and Liberians from diaspora communities in the United States and elsewhere, who left the country during the war and

#### Exhibit IIIA. Drivers of Change (DfID 2009)

Drivers of change result from the interaction between:

- *Agents*: internal actors such as political leaders and external actors such as donors
- *Structures*: long-term contextual factors not readily influenced such as natural resource endowment or social structures
- *Institutions*: formal in the sense of codified laws or informal in the sense of political, social and cultural norms

<sup>7</sup> For more on private use permits, please see Global Witness, 2012, *Signing their lives away* in references.

have returned to positions of power in government or the private sector. Uneven distribution of wealth and a concentration of power and resources in high-level officials and their patronage networks created the conditions for civil conflict and today contribute to the social fractionalization of Liberian communities.

In the rural counties, traditional elites — including chiefs and local government authorities — exert influence over indigenous groups. Although elite hierarchies in the counties are not immune to fragmentation and sociopolitical dynamics that hinder land reform, the general perception among interviewees inside and outside Monrovia is that those based in Monrovia drive national reform efforts.

***The President.*** Liberians perceive support or lack of it from President Sirleaf as a key determinant in the likelihood of a particular reform's success or failure. Her influence and power over domestic reform stem both from the Constitution and from her international reputation as a Nobel Peace Prize recipient, her status as Africa's first female president, and Liberia's close historical relationship with the United States. Her relationships result in hundreds of millions of aid dollars for Liberia annually. Although President Sirleaf comes down hard against corruption in the Liberian media, she has been criticized for not following through on her promises and for lacking the political leverage to match her rhetoric.

Liberia's strong executive and centralized decision-making structures concentrate power in a small group of elites and vest immense power in the presidency. The Constitution calls for the presidential appointment of nearly every leading government position except for the vice president, legislators, and chiefs. This allows the president to exercise political patronage in the form of public employment. The breadth of the president's reach outside Monrovia is reflected through chiefdoms, which some interviewees referred to as the "state imposition of administrative control through indirect rule." As both traditional authorities and state employees, chiefs hold sway over rural populations but sit on the government payroll. Although political appointees report to the president and serve at her pleasure, many have broad discretionary powers that are largely unchecked by media, interest, or citizens groups.

***Purposeful and divisive dualism.*** The social and legal divide between Americo-Liberians and the indigenous population and between Monrovia and the largely undeveloped rest of Liberia is more complex than a simple urban-rural divide. Contemporary legal dualism derives from the deliberate separation of customary and formal land law to govern certain groups of people in certain geographic places (Unruh,

**Bias Against Customary Land Rights**

"A two-tier land rights system has existed since the inception of the Republic of Liberia, which favors statutory land rights over customary land rights"

– Dr. Cecil O. Brandy, *National Land Rights Policy Validation Conference, May 2013*

2007). The two sets of land and property laws were deliberately designed to marginalize indigenous populations and discriminate against certain groups, such as youth, women, and strangers. Challenges faced in physically accessing and disseminating information to the counties as a result of poor rural infrastructure and unmaintained roads — particularly during the six-month rainy season — contribute to the broader sense of duality and further hinder reforms. This deliberate and divisive dualism challenges land reform by discouraging land investment and creating social fractionalizations that lead to exploitation.

***Limited ability of rural populations to participate in decision-making.*** In general, communities reap few benefits from the exploitation of their land. Instead, natural resource wealth and foreign business interests in Liberia present an opportunity for national resource-based economic growth and strengthen incentives for a concentrated group of elites to oversee significant business transactions. Well managed resource extraction can help transform developing economies, but poorly managed resource extraction can lead to a concentration of resource wealth in the hands of a few and growth without inclusive development (Clower, Dalton, & Walters, 1966). In Liberia, the unequal distribution of wealth from concessions-related investment has resulted in a lack of development in terms of jobs and infrastructure and has left many communities worse off. Underrepresented communities are frustrated over their limited ability to participate in decision-making processes over rural land, but they lack the tools and outlets to work together for a common cause. Poor information dissemination and communication between communities and concessionaires, concessionaires and the government, and government and communities intensifies the frustration. When grievances occur, there is confusion over whom to seek out and how to solve them. Even if the government wanted to be more inclusive in the concession process, limited resources and expertise would impede efforts.

***Limited capacity.*** The 2013 UN Human Development Index ranks Liberia 174 among 183 countries (UNDP, n.d.). Liberia's civil war decimated the education system. Although high-level political appointees are largely considered competent, the bureaucracies are staffed by a large unskilled labor force, hindering all reform efforts. One of the problems Liberia faces in professionalizing its lower level civil servants is the inability to efficiently bring in a new generation of talent. Current civil service employees have no incentive to retire, because there is no functional pension system. Retirement means losing a paycheck and the ability to support dependents.

Human and institutional capacity gaps hinder land reform and impede the implementation and enforcement of policies and laws. Lack of institutional capacity is both a cause and an effect of underdeveloped industries and weak infrastructure. Every institution has financial, administrative, legal,

and human capacity gaps creating the conditions discussed above for conflicting laws and weak land governance. Moreover, limited enforcement ability creates a large disconnect between the law and practice. Within the land sector, “you encounter people with shortage of education and experience to carry out some very complicated functions” (Wierenga, 2013, May 14). A small group of elites largely benefits from weaknesses in the current system.

“There is a serious integrity deficiency in our country.”

***Culture of impunity.*** Long-term conflict and weak governance have contributed to the current “anything goes” culture that extends to most aspects of Liberian society. The generation in power today survived 14 years of war. As a result, the “day-to-day survival” mentality tends to outweigh the concept of long-term consequences for actions. The problem is intensified because Liberia cannot afford to pay its public servants adequate salaries. For example, as Liberia National Police officers are paid less per month than drivers<sup>8</sup>, it is understood and accepted that officers will stop vehicles and ask for “cold water,” the Liberian term for bribes. Many citizens accept this, considering it within their civic duty to give to those less fortunate, who, ironically, are public servants. In addition, Liberia is a small country, and most of those in power are linked to one another through personal, family, or professional connections, and businesses, livelihoods, and access to markets all depend on such connections. Many people who are aware of serious corrupt acts by public officials choose not to say anything because the potential losses from doing so — including alienation from their community — far outweigh the gains.

This culture of impunity is widely accepted as a way of life. There are few penalties or repercussions for illegal actions. Corruption infiltrates all segments of Liberian society, including land issues. A special presidential committee investigated the logging contracts that cover more than 20% of the country’s land and determined that most private use permits, under which the logging contracts were granted, were issued fraudulently (Global Witness, 2012). This example demonstrates the nature of illegality in many land transactions (Kaba, Madan, Otto, & Geddeh, 2013). Although most World Bank Governance Indicators<sup>9</sup> for Liberia have shown gradual improvement, “Voice and Accountability” and “Control of Corruption” have decreased from 42% to 36% and 47% to 34%, respectively (World Bank Group, n.d.), showing that the issue is getting worse. Media reports routinely comment that the president has “lost the war on corruption.” The pervasiveness of this culture suggests that reform will not easily come until individuals committing illegal acts are penalized and their punishment enforced.

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<sup>8</sup> Drivers receive \$300-500/month and police officers receive \$80/month. Police salaries are public information and we determined driver salaries through personal interaction with drivers.

<sup>9</sup> The World Bank Governance Indicators include aggregated data from 1996 to 2012.

#### IV. PEA Analysis of Key Ongoing Policy and Institutional Reforms Success

In this section, we analyze two key ongoing policy and institutional reforms through a PEA lens: passage of land rights legislation and the creation of a new land agency. We determine the likelihood of success by exploring the existing window of opportunity for reform, key advocates, potential spoilers, and anticipated challenges. Annex A complements this section by identifying relevant institutions in Liberia's land sector. In this table, we note the strengths and progress toward land reform as well as the challenges and capacity gaps facing each institution.

##### A. Passage of Land Rights Legislation Based on the Land Rights Policy

**Background.** In May 2013, the Executive adopted the Land Rights Policy, which established a new category of customary land defined 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” (Land Commission, 2013, May 21). The policy calls for the protection of customary rights “whether or not the community has self-identified, established a legal entity, or been issued a deed, clarifying historical ambiguities about customary land ownership” (Land Commission, 2013, May 21). As a vision statement about where the country intends to move with land rights — not as an implementation plan — the policy is one of Liberia's most progressive. The policy is not a law, however, so from a practical perspective, it cannot be implemented or enforced until it is translated into a corresponding bill, passed by the legislature, and signed into law by the President.

**Window of Opportunity.** Public adoption of the policy during a two-day national validation conference with the President, relevant government agencies and ministries, donors, civil society actors, and traditional authorities from all 15 counties signaled a political window of opportunity for subsequent land rights legislation. Clear and direct presidential endorsement for this reform, considered among interviewees as a necessary prerequisite for success, suggests that incentives are aligned for its timely enactment into law (see text box). The Land Commission has already drafted the legislation and anticipates sending a final land rights act to the legislature by March 2014. We see this timing as ambitious and unrealistic, and predict that, despite presidential and Commission rhetoric to the contrary, land rights legislation is unlikely in 2014. The high-profile attention to the process is encouraging, however.

##### Presidential Endorsement of the Land Rights Policy

“The Land Rights Policy promulgated in May is the clearest and most comprehensive categorization of land rights ever articulated in public policy in Liberia. It represents a paradigm shift away from the unwritten but widely accepted policy of the past that gave government ownership rights over all lands. It will provide opportunities for empowering rural communities by allowing them to manage their land and land-based resources.”

– President Ellen Johnson Sirleaf,  
Address to Legislature, January 2014

**Key Advocates:**

- *The President.* Interviewees consistently reported that President Sirleaf's public endorsement for this reform in her January 2014 State of the Nation address to the legislature is not only an absolute prerequisite but also a significant determinant of a reform's success. She has publicly endorsed the legislative effort in multiple fora, and with two years left in her term, land rights legislation could play a key role in her legacy. Her support comes from the recognition that insecurity of land tenure hurts foreign investment and challenges economic growth. She also faces internal pressure from civil society actors and external pressure from donor institutions to reform land policies. As Liberia recovers from the devastation of war, land and natural resource issues are receiving more public attention, as a result of improving communications and infrastructure. Political rhetoric must be carefully studied to determine whether its purpose is to calm international investors and keep aid dollars flowing or promote real reform.
- *Land Commission.* The Commission is prioritizing passage of land rights legislation. Thus far, it has approached land reform through an inclusive and participatory lens, resulting in international donor support for technical assistance and public support from the President.
- *Civil society.* The 2010 moratorium on public land sales has impeded the ability of communities to acquire customary land rights. A small number of civil society organizations (CSOs), including Sustainable Development Institute<sup>10</sup> (SDI), are actively advocating for land rights legislation and inclusiveness in the drafting process. These organizations are successfully building broader awareness on the need for land reform and creating a sense of urgency for land rights legislation on behalf of rural communities.
- *Men and women in traditional communities.* Given the historical marginalization of the customary system to the formal system, and of women both statutorily and customarily, a land rights law would provide instruments for the protection of women's land rights related to ownership and productivity. There is a strategic window of opportunity to engage men and women in traditional communities who have historically had little voice and build their capacity to become advocates for customary land rights.

**Potential Spoilers:**

- *Urban elites and large estate owners.* The strengthening of customary rights through legislation may threaten the existing landholdings of large estate owners who currently claim land through tribal

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<sup>10</sup> SDI is working with rural communities to self-define, harmonize boundaries, and create community-led governance structures to manage land and natural resources, with the ultimate goal of strengthening the ability of communities to protect, enforce and defend their land rights.

certificates. Elites who have benefited from the transfer of state land to private ownership are also likely to oppose this reform. During interviews, some elites preferred state ownership of land to customary ownership because they believed that the state has more capacity to ensure adequate land utilization and distribute its resource benefits. They expressed frustration with idea of “country people” having control and power over rural land.

“Rural people do not purchase the land...they sit on it, think they own it, but do not utilize it for the greater benefit of the country.”

- *Customary leaders.* Although customary leaders would appear to benefit from land rights legislation because it would strengthen them as leaders, interviews confirmed that some customary leaders may not have the best interests of their communities at heart. There may be opposition to the proposed reforms from customary leaders who have historically acted with impunity and abused their power to facilitate land transactions in their own interests. Challenges faced by SDI’s pilot project shed light on the rural hierarchies and political and economic drivers impeding reform at the local level (see textbox).
- *Government entities that stand to lose power.* Interagency politics will also prove challenging to navigate. For example, although MLME and the Forestry Development Agency (FDA) are on the Land Commission’s key policy task forces, interviewees perceived that they had been slow to endorse the policy. The FDA is a powerful agency with a mandate for regulatory and management control over forest resources. If land rights legislation declares that carbon trade benefits will shift to customary communities, the FDA may feel threatened and oppose customary rights recognition. Indeed, the policy states that “ownership of customary land includes ownership of natural resources on the land, such as forests, including carbon credits, and water” (Land Commission 2013, May 21).
- *Legislature.* Perceptions of the legislature’s appetite for land rights reform are mixed. In 2012, the legislature considered the Criminal Conveyance bill land-related legislation. If passed, the bill will address “criminal activities in the land sector, such as fraudulent sales [and] will enhance access to land and improve tenure security” (Sirleaf 2014, January 27). The Senate unanimously endorsed the bill, but it has stalled in the House. The President recently reiterated her call for its success.

**Impediments to Community Self-Definition:**

*SDI’s Community Land Titling Initiative, 2009-2011*

- Community leaders were weak, corrupt, or engaged in power struggle.
- Local and national elites interfered with or sabotaged a community’s process.
- The greatest threat to community land was coming from elites within the community, rather than an external source.
- The community lacked internal cohesion and consequently failed to cooperate.
- An intractable boundary dispute consumed a community’s attention, to the exclusion of all other land documentation activities.



Monitoring the fate of this bill will be a way to gauge the legislative branch's true stance on land reform. Some interviewees have suggested that some legislators will not pass legislation without bribes.

- *Concessionaires.* Some reports indicate that over half of Liberia's land is allocated to concessions, including agriculture, mining and forestry.<sup>11</sup> Concessionaires are likely to resist efforts to recognize customary land tenure, because it will limit their ability to exploit resources from the land with little oversight.

“There will be a lot of battle in passing the land rights law because many people are fearful of rural power over land.”

***Anticipated Challenges.*** Turning the existing land rights policy into law will face many potential challenges, including the possibility of a lack of true political backing, competing legislative priorities, and the conviction in the minds of many citizens that the state owns all land that is not privately deeded. Complex technical requirements for well written legislation and public calls for consultations in the legal drafting phase will result in delays. Further, land rights legislation is only as strong as the state's capacity for enforcement, the accompanying dispute resolution procedures, and the future land administration law which could also affect land ownership.

*Political rhetoric masking lack of political will.* Although presidential rhetoric suggests strong support for this reform, rhetoric can sometimes mask a lack of political support for reform. Passage of the act is a political process, and the political challenges are often underestimated. Customary ownership of land implies that rural communities will have the right to use and manage land as they see fit, without fear of their rights being infringed by government or concessionaires.<sup>12</sup> The vast majority of public land is currently under customary tenure, implying a future decrease in the amount of public land when it is reclassified as customary. This is a major shift that threatens the existing public land management power base; the government can grant concessions only on public land. There are obvious incentives for those benefiting from the status quo to stall reform. These actors include Monrovia and traditional elites, individuals with tribal certificates to large plots of customary land that they haven't yet converted to

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<sup>11</sup> Some evidence suggests that much of the country's 9.5 million hectares of land has either been granted or promised to foreign direct investors through concession agreements. See for example, Rights and Resources Group (2013), Investments into the Agribusiness, Extractive and Infrastructure Sectors of Liberia: An Overview, Washington DC: RRG, p.18.

<sup>12</sup> The policy states that “Government has exclusive ownership rights over any mineral resources on or beneath any land” (Land Commission, 2013, May 21) suggesting that communities will still be vulnerable to extractive activities on the land regardless of ownership. Land rights legislation, however, has the potential to strengthen the ability of communities to engage in the monitoring of existing concessions and the negotiation of future concessions.

deeds, and concessionaires who may own subsurface or surface land use rights to extract natural resources. Passage of the act will require significant negotiation to align interests and incentives among key actors that will be difficult to achieve in 2014 for the reasons outlined below. Although the President may favor reform, she has to work within a complicated and corrupt system, and success will require coordinated support from actors who have conflicting incentives.

*Competing interests from legislators.* Half of the Liberian Senate is up for reelection in October 2014. At present, campaigning is the prime focus. One interviewee based outside Monrovia shared his perception that “sitting and concentrating is challenging” for the legislature due to competing reelection priorities. Although democratic elections

**2012 Liberia Corruption Perception Index Results:  
The Legislature**

“Citizens have very limited trust and confidence in their representation in the National Legislature, as they consider members of the two houses to be self-seeking and greedy, because the members of the Senate and the House of Representatives, more usually than not, are highly interested in working mainly for their personal aims and gratification” (Cummeh & Paasawe, 2012, p. 36)

theoretically present an opportunity for citizens to lobby for legislative reform, in Liberia, election victories are perceived to be the result of personal money and connections. The only way to change this dynamic is to build capacity from the bottom up and create a demand for accountability. This task is complicated by the lack of a unified voice at the local level to push for change. Younger Liberians live in a different world from their elders, and customary authorities are more undermined than in the past. Fractionalization creates space for exploitation and hinders the unity required for collective action to push a bottom-up movement for tenure security.

*Broad conceptual shift.* We heard in multiple stakeholder interviews that “the state owns the land and the people are the custodians of the land.” Formalization of customary rights will be a significant divergence from established historical practices. In the long term, adopting land rights legislation will require Liberians to undergo a massive conceptual shift to the idea that people, not the state, are the owners of the land. This idea will take years, if not generations, for Liberians to fully embrace.

*Complex technical requirements.* Passing land rights legislation is both a political and a technical process. As a basis for future land rights legislation, the policy leaves serious, contentious questions unanswered that well written legislation should answer. For example, well written legislation should provide detailed guidance on the formal registration of community rights, the institutionalization of community demarcation, and creation of community-led governance structures for land administration, use, and management. Because the policy states that recommendations will not be applied retroactively, it is critical that legislation provide guidance for what will happen if somebody shows up with an old land deed claiming newly recognized customary land. Community demarcation is a tedious and expensive

process, but it can be done. Demarcating the entire country, however, is meaningless if the legitimacy of customary claims to land cannot be enforced. There is also a need to clarify the relationship between communities and existing concessions — which hold the force of law — on current public land that could become customary land. Land rights legislation must also clarify

the confusion over tribal certificates. The vast technical requirements for well written legislation — which will require comprehensive legal and regulatory reform, including amendment of obsolete constitutional provisions that challenge land reform efforts — will likely delay the anticipated timeline.

#### **Changing the Legal Framework**

“As the foundation for reforming Liberia’s land sector, this Policy will form the basis of a new land rights law, and will require substantial changes to the existing legal framework”

– 2013 Land Rights Policy

*Community self-identification and demarcation.* The policy calls on communities to self-define and establish community-led governance structures to administer land and confirms the state’s ownership over mineral resources on that land, but provides no further guidance. Defining a community is a complex political process that requires a participatory and inclusive approach, due to the social and cultural implications of self-definition and boundary delineation. Further complicating boundary delineation is that customary expectations for land governance, which “generally comprise a complex mesh of overlapping land ownership, use, and access rights,” often do align with statutory expectations (Knight et al., 2013, p. 44). The government should look both to successful models for developing such procedures and to guidance that has worked in Liberia and throughout the continent.

*Overformalizing an informal system.* Other African countries have faced problems when undergoing land reform in “overformalizing” customary registration processes. To enable true decentralized, community-led governance of customary land, there is a need to balance the inherent flexibility of an informal system of land tenure against the push to “formalize an informal system.”

*The need for accompanying dispute resolution procedures and enforcement capacity.* Boundary delineation and creation of rural governance structures are political processes. A pilot conducted by SDI found that “the process [of community demarcation] not only unearthed every latent, unresolved land conflict – long dormant or festering for years – but also created new boundary disputes that flared up in response to the impending documentation efforts” (Knight et al., 2013, p. 64). Therefore, customary rights legislation is only as good as the dispute resolution processes and procedures (in Liberia’s case, both formal and informal) that accompany it. Further, even if the procedures are well written, they are meaningless without enforcement capacity.

*Accessibility of state court system.* The success of legislated equality of customary land ownership also depends on the accessibility of the court system. Unfortunately, most Liberians perceive Liberia's court system to be inaccessible, inconsistent, and corrupt (see textbox next page). Effective enforcement and conflict resolution procedures will be critical for reforms to be implemented successfully.

*Debate over public consultations.* In interviews, civil society activists expressed the fear that “the law will not sufficiently answer the questions introduced in the policy” because civil society actors have not been invited to monitor the legal drafting process. The Land Commission has not yet circulated the draft act for public comment. This follows the international best practice of reserving space for extensive public consultations during the policy development phase, not during the technical drafting phase, because “broad population consultation on a law is difficult given its technical nature” (Bruce & Kanneh, 2011, p. 3). The Commission claims to have

received input from stakeholder groups on the technical language, including the Association of Female Lawyers of Liberia, the Constitutional Review Committee, the Governance Commission, and the president's legal team, and argues that once the bill is sent to the legislature, Liberia's elected officials will have the opportunity to change the language to reflect the will of the people. But Liberians largely mistrust their government. Dissatisfaction from civil society, combined with poor public perceptions of Liberian government officials, suggest that unless the public is invited to comment on the draft law — which will result in further delays — fears about the content of the final act will persist. Further, any legislation that the public has not been invited to comment on will face legitimacy problems.

*Likelihood of Success.* If this reform succeeds, large numbers of Liberians stand to benefit from increased tenure security. President Sirleaf will benefit, as land rights legislation will become part of her legacy. The Land Commission will also benefit, as leaders of the policy and legal reform effort. Increased tenure security means a more stable business environment, which will encourage foreign investment. Donors want to see this reform succeed, because providing

**2012 Liberia Corruption Perception Index Results: Judiciary**

“Public perception about the Judiciary is abysmal. People do not believe that the Judiciary has the integrity to give impartial, fair and transparent justice, rather that justice is more often than not for he who possesses the most money, and knows how to ‘spread’ it around. The circuit courts are considered extremely corrupt. Bribery is the most pressing form of corruption that must be tackled in the judiciary” (Cumme & Passawe, 2012, p. 36)

“It is important that civil society organizations are active in the land policy debate, and continue to push for the positive aspects of the policy to be enshrined into law.”

statutory backing for customary rights is the international best practice and promotes more equitable economic growth. Without presidential support, efforts to formalize customary rights will hit a wall of patronage networks and vested interests. Interviewees often expressed that recognition of customary ownership is not supported by all.

Although those opposing land rights legislation have influence over the decisions of the legislature and president, ultimately, President Sirleaf will face strong external pressures from donor agencies, the international human rights community, and internal pressures from civil society organizations to maintain steady political support. The president may be able to persuade her cabinet to endorse the legislation, but the fate of reform depends on the legislature. How the legislature perceives the Land Commission's work and whether or not the opposition can be aligned with President Sirleaf's vision for land reform will determine whether the legislation succeeds in the short term. If those opposing the legalization of customary land rights can organize to lobby the legislature, or if legislators' election priorities distract their attention, this reform will be delayed or fail. If rural communities see the upcoming elections as an opportunity to generate political pressure for legislation, the reform has a higher chance of success. This assumes, however, that rural Liberians understand the significance of land rights legislation and have capacity to organize, unite, and lobby, which stakeholder interviews outside of Monrovia did not confirm.

## **B. Creation of a New Land Agency**

**Background.** In her last two State of the Nation addresses, President Sirleaf has called for creation of a new land agency. Her call stems from Liberia's fragmented land governance framework, in which "sectoral and other agencies play major roles and the ministry with a cross-cutting responsibility for land has a notably weak mandate" (Bruce and Kanneh, 2011, v). The act to create a new agency is currently in draft form, led by a legal drafting team within the Land Commission's land administration task force.

### **The President's Call for a New Land Agency**

"There is urgent need to create a new land agency, which would consolidate the land sector and improve efficiency and transparency of land administration and management. A draft creating the new agency is under review and will subsequently be forwarded to you"

– President Ellen Johnson Sirleaf, *State of the Nation Address, January 2014*

It is important to define terminology surrounding land governance because there is confusion over how this proposed agency will fit into Liberia's larger land system. Land governance is a broad term that encompasses three components: land policy, land administration, and land management (Ford 2013).

- The *land policy component* provides policies and guiding principles for the allocation and sustainable use of land resources. Currently, the Land Commission is Liberia’s land policy making entity.
- The *land administration component* collects, organizes, maintains, and supplies the information to the land management decision makers. In Liberia, these functions are currently split across several government institutions: 1) *Deeds registration*: Center for National Documents and Records Agency (CNDRA), Probate Court, Ministry of Foreign Affairs, Ministry of Justice; 2) *Taxation and valuation*: Ministry of Finance; 3) *Land information management*: MLME, Liberia Institute of Statistics and Geo-Information Services; 4) *Preparation of regulation and land use plans*: Ministry of Public Works, sectoral ministries and agencies (Ministry of Agriculture, the MLME, Forest Development Authority, Environmental Protection Agency) (Ford, 2013).
- The *land management component* makes decisions on the allocation and use of the land resources and implements and enforces regulations and land use plans. In Liberia, land management is led by the sectoral ministries and agencies referenced in the fourth category above and the Ministry of Internal Affairs, which is responsible for all local government affairs. The Ministry of Agriculture and Forest Development Authority are currently involved in the management — including planning and monitoring — of agricultural and forestry concessions on public land.

“With the new land agency, there is an opportunity to create a new slate, and an opportunity to design land systems that is very unique for a country. “It is rare that a country is willing to start over.”

The Land Commission is still working out the proposed structure for a land agency. Its vision at the time of this paper, however, was to create an autonomous land governance agency based in Monrovia with broad oversight authority because, as one high-level government employee explained, “without land use and management authority over public land, the agency will have no teeth to carry out its function.” The agency will include a robust national land information system to host a land cadastre and may also play an adjudicatory role in resolving competing land claims through its management of the cadastre.

**Window of Opportunity.** President Sirleaf’s call for a new agency gives Liberia a unique window of opportunity to start from the ground up, create a new institution tailored to the country’s needs, and correct the existing dysfunction and inefficiency in land governance. A significant land system reform is

necessary in the long term because the status quo is not a viable option. Separate and functional land administration components embedded in various government-run institutions is not feasible. There is too much fragmentation and dysfunction and too little information sharing. In some cases, reporting and lines of authority inadvertently differ from the legal code due to lack of knowledge of the law<sup>13</sup>. Competing priorities with mining and energy has left land administration neglected. There is a general consensus that the “land function” must be removed from MLME’s jurisdiction. The Land Commission is prioritizing the completion of this act alongside land rights legislation and estimates that the act will be sent to the legislature by March 2014.

Although creation of a new land agency is an important long-term reform, interviews with key informants who will be affected by this reform stress that complex coordination will be required between the new entity and existing land actors. As a result of the required coordination, interviewees were divided on the likelihood of the agency’s success. Some felt that “nobody will oppose this reform because it has presidential backing and is in the national interest,” but others believed that it a new agency “duplicate responsibilities” and face resistance because “each sector will do what they need to do to protect their power.” We explore the key advocates, potential spoilers, and challenges associated with the creation of a new agency below.

### ***Key Advocates:***

- *The President.* The president’s rhetoric powerfully supports creation of a new land agency. Those interviewees aware of this ongoing reform felt that President Sirleaf is the only one who can make all the various agencies involved cooperate in its formation, and she is “anxious to get the land agency formed and up and running.” As with successful land rights legislation, a land agency would be a key part of her legacy and promote her international image.
- *Land Commission.* Some Land Commission staff see the new agency as an opportunity to wipe the slate clean and begin anew. The Commission, whose mandate expires in March 2015, is in the powerful position of drafting the new agency act. It can write itself directly into the act as the core policy unit of the new agency, because significant policy work remains to be completed; land administration, land disputes, and land use and management policies are still in the pipeline.

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<sup>13</sup> One illustrative example of existing confusion that became apparent through interviews is that of reporting lines for County Land Commissioners and County Land Surveyors. Most Liberians, including the GSA which issues motorbikes under the MIA tag to County Land Commissioners, believe that Land Commissioners report to the Ministry of Internal Affairs and County Land Surveyors report to the Ministry of Lands, Mines, and Energy’s Department of Surveying and Cartography. This is the widespread practice. However, PRC Decree 23 notes: “all Land Commissioners shall become personnel of the Ministry of Lands, Mines and Energy (Section 9.16).

However, interviewees expressed mixed perceptions of the Commission's ultimate influence on the success of this reform. Some interviewees believed that the Commission has a high reputation among Liberians right now because it demonstrated an ability to produce with the land rights policy. Other interviewees perceived broader political alignments, including differences within the Commission and the ruling political party, negatively affecting its ability to sway the reform.

- *MLME.* Some interviewees believe that MLME will oppose this reform because it has “enjoyed absolute power over land.” However, meetings with senior MLME leadership suggested an awareness of, and support for, the agency. From a resource incentive perspective, removing the land units, which include surveying and mapping, should not present a problem for MLME. These units already lack funding and resources. No comprehensive mapping efforts have been conducted for 30 years. Land does not generate revenue for MLME; mining concessions and energy projects do. Although MLME land staff would lose their jobs and need to reapply to the new agency through merit-based hiring procedures, as it stands, land is more of a liability for MLME than an asset. As a national revenue generator, MLME holds more power than the Land Commission. Thus, MLME has the power to stall this reform, if it later reverses its support.
- *International donors.* Interviews suggested that although donors largely favor the idea of a new land agency and publicly endorse the idea, they do not fully understand the constraints this reform faces. In their role as external influencers, however, donors will be a critical factor in the success or failure of a new agency.

“The new entity will take land from MLME. MLME needs to focus on mining and power, so this new agency will create more efficiency.”

#### ***Potential Spoilers:***

- *Line ministries and agencies slated to lose power.* Until the final proposed structure of the agency is understood, it is unclear exactly which line ministries and agencies would be affected. As a revenue generating ministry and the current ministry responsible for land, MLME has sway over the president and other ministries to influence reform. Although it currently expresses support for the agency, if the reform fails, land administration power will remain with MLME. This presents some incentive to retain authority. If the agency is a broad-based land governance agency with management and regulatory authority, it will have oversight over unallocated public and government land, including



allocation of concessions. If land agency authority reaches into the natural resources management arena, those institutions currently overseeing allocation and management of public and government land will oppose its creation.

- *Surveyors.* If employees of the new land agency must go through a merit-based hiring process, state surveyors currently employed by MLME but lacking basic surveying competencies will not be hired; they will be given severance packages. Although state surveyors are not currently a well coordinated body, possible resistance is anticipated.
- *Legislature.* The same legislative constraints discussed under land rights legislation present possible roadblocks to this reform (see text box).

***Anticipated Challenges.*** A new land agency has the potential to streamline confusing processes and procedures and create more efficiency in the land governance system. However, if the proposed authority is too broad, it will face significant challenges by government entities whose power and influence is threatened. Resistance, if not due to outright opposition then due to limited capacity to embrace change, should be anticipated, despite political rhetoric to the contrary. Below, we explore key anticipated challenges.

*Unclear vision for agency.* Interviews unveiled an inconsistency in the vision for the new agency among the Land Commission, donors, and potentially affected line ministries and agencies. Opinions differed over whether the agency needed a broad or specific mandate. A strictly land administration agency would certainly face less resistance as a result of interagency politics.

Interviews also revealed uncertainty as to whether the agency should have a policy unit. Those outside the Commission expressed frustration, but not surprise, at what they saw as an attempt by the Commission to transform itself into the agency's policy unit. They generally agreed that President Sirleaf will issue an executive order to extend the Commission's mandate, if the agency act does not pass the legislature before the Commission's mandate expires.

*Unclear role for agency within national decentralization efforts.* The Ministry of Internal Affairs (MIA) currently oversees national decentralization efforts, including the establishment and empowerment of local government structures. Given the draft act calls for the establishment of decentralized land

“Best practice or not, the Land Commission staff will be a key part of any new land entity, and it will probably bring sanity to the process.”

administration and management structures, it is unclear how a land agency would function in the context of national political and fiscal decentralization efforts. Interviews with key informants at the MIA revealed a complete lack of awareness about this proposed agency and skepticism that the legislature will support the act.

*Poor information dissemination.* In general, most interviewees expressed concern over this proposed new agency — often hearing about it for the first time. To date, the Land Commission has not effectively disseminated important information throughout key government institutions. This may be because the final proposed structure has not yet been decided. Nevertheless, in Monrovia, potentially affected institutions beyond MLME did not understand the implications. Outside of Monrovia, local government authorities were entirely unaware of this reform and how it might affect their communities. We anticipate the need for extensive outreach and consultations as the implications of what is being proposed become more broadly understood.

*Establishment of a new bureaucracy and interagency politics.* If and when the act passes, interagency politics will impede the bureaucratic establishment of such an agency, including physical building from the ground up, a plan for institutional restructuring, and the establishment of political and merit-based hiring processes. The less realignment of institutional mandates and restructuring required, the less interagency politics will interfere, and the more likely the act will succeed.

*Likelihood of Success.* Regardless of the final structure, passing legislation is a substantial bureaucratic, administrative, and political process that will involve extensive restructuring, realignment of mandates, and a level of inter-ministerial coordination difficult to achieve in a country with power struggles and capacity constraints. Although Liberians will ultimately benefit from a more functional land governance system, change will not come quickly. Given the challenges indicated in this paper, the best estimate is that it will take five to ten years to achieve a functional land agency. As a result of its complexity, it will not likely have any immediate impact on land rights in the short term. Moreover, as with land rights legislation, the fate of this reform in the short-term lies with the interests of the legislature.

We predict that the new agency's final structure and proposed functions will influence whether or not the act is met with strong opposition or adopted by the cabinet without resistance. If the final act calls for a robust land governance agency with oversight over public and government land, the likelihood of success decreases. If it calls for a land administration agency, the likelihood of success increases. Ultimately, we

believe that the Land Commission's proposed timeline is ambitious and unrealistic, and, regardless of President Sirleaf's backing, we anticipate this reform will not succeed without external influence.

## **V. Recommended Entry Points for Donor Engagement**

Both passing land rights legislation and creating a new land agency will require an overhaul of the existing system. The political processes associated with legislating customary rights and establishing a new land agency will face opposition and delays, because they challenge existing power structures and require massive institutional restructuring in a country with weak institutional capacity, where legislators operate with little demand-driven accountability from citizens, and where ambiguity is exploited for the benefit of a select group of elites. The political process for gathering the required buy-in from line ministries and agencies for a new land agency has not yet commenced. The Senate is already focused on the upcoming 2014 elections. Once the rainy season hits (usually from April through October), the country slows down. As a result of these factors, we doubt that either piece of legislation will pass this year.

Both these reforms are important, however, and donors should invest resources strategically to ensure their ultimate success. Both are long-term processes, and the short-term impact or results required to secure funding from aid agencies will be hard to come by. Donors must act sooner rather than later, however, because the window of opportunity for reform is closing. President Sirleaf has only two years left in office. Her replacement is unlikely to support the same overhauls to the existing land governance system that she has proposed. Below, we make recommendations for next steps on supporting land rights legislation and the creation of a new land agency. We also explore windows of opportunity for donors to invest in other technical and operational reforms that will face less political resistance and offer short-term results, while politics delay the two key pieces of legislation.

*Below are recommendations on how donors should proceed and prioritize interventions.*

**A. Land rights legislation.** First, because land rights legislation will face delays, we recommend that donors immediately **support an extensive land rights policy outreach focused outside of Monrovia.** Although it lacks enforcement capacity, the policy has been endorsed as an official government document, and the public needs to be educated on its contents. This is an important short-term investment for donors because the policy is not largely understood and most rural Liberians do not know their basic land rights. Civic outreach, particularly powerful during an election year, will also help ignite bottom-up demand for democratic accountability and good governance.

We predict that donors will face information dissemination difficulties due to underdeveloped institutions and poor infrastructure. To overcome these challenges, they should look to empower traditional authorities, such as paramount, clan, and town chiefs and local government authorities, such as superintendents and district commissioners. Working as they do at the intersection of the formal and customary systems, chiefs and local government authorities are strategically positioned to support land rights policy outreach because they live by traditional norms, understand the customary systems, and yield great power within their administrative boundaries, clans, and towns.

**Second,** we recommend that donors **anticipate and provide support to the Land Commission for drafting, early on, the key regulations and implementation plans that will accompany broad-based land rights legislation.** Although the international best practice is for the government to pass detailed and prescriptive legislation clarifying all potential processes and procedures, leaving no room for future legal ambiguity, adequate definitions within legislation require technical proficiency, take years to develop properly, and may actually impede the chance for efficient passage through the legislature. The alternative is to write general, broad-based legislation to jump start the reform and follow the legislation with executive orders detailing necessary processes and procedures. Given the pressure that President Sirleaf has placed on the Land Commission to finalize legislation, the “good enough governance” intervention in this case is broad-based legislation.

Legislating broad-based equality of statutory rights creates a window of opportunity for donors to provide assistance in defining processes and procedures for community self-identification, boundary delineation, and customary land governance. This window, however, comes with risk and the potential to undermine the goal of empowering rural communities. It is both a productive space to create well-designed regulations and a productive space to manipulate and exploit in the case of weak institutions with low capacity. Donor support is critical to ensure the latter scenario does not play out in Liberia.

**Third,** we recommend that donors **invest now in expanding existing models for community demarcation,** currently being led by SDI and USAID’s People, Rules and Organizations Supporting the Protection of Ecosystem Resources project. Extensive community self-definition and mapping exercises carried out by SDI in the 2009-2011 “Community Land Titling” pilot in Rivercess led to Liberia-specific findings that can inform the procedures for community delimitation and creation of community governance structures for land management. SDI has already determined the community demarcation process should consist of “(1) the technical task of resolution (2) the peace-building task of land conflict legislation and (3) the governance task of strengthening local land and natural resources management and promoting equity” (Knight et al., 2013, pp. 57, 149). Donors should heed SDI’s lessons learned that more

community engagement in decision-making processes for land leads to more ownership and interest in managing the land and its natural resources and more tenure secure communities.

**B. Land agency legislation.** Although creating a new land agency is a bold vision — enticing for the opportunity it offers Liberia to start over and attractive — it will be challenging to push the act through the legislature. It has significant jurisdictional and territorial implications, so politics and power dynamics will slow down the process. If and when the act passes, the complicated bureaucratic procedure of setting up the new agency will likely meet serious resistance from existing institutions that stand to lose resources and power. We caution donors against letting the Land Commission’s optimistic timeline influence the design of programs whose purpose is to get this new agency off the ground, particularly because extensive support to a new land agency will not impact land rights in the short term.

Given Liberia’s resource constraints, a new land agency will require an infusion of donor funding to get off the ground. Thus, donors are strategically positioned to act. There are two potential courses of action:

- Use influence and resources to support President Sirleaf in pushing this act through, recognizing the agency will take at least 5 to 10 years to become functional. This will entail funding outreach and education programs to contribute to the agency’s successful creation in the short term, and providing technical support for setting up a new agency in the medium term.
- Step back and choose to invest in more realistic and higher impact land reform interventions with short-term impact.

As a result of the poor information dissemination about this new land agency and the opposition that legislation will face, we recommend that donors **wait to support this reform until the final proposed structure for the new agency is clarified.** We also highlight a critical window of opportunity for donors to convey the comparative feasibility of establishing a land administration agency with a more narrow mandate that does not strip away the management authority of existing agencies, rather than a full land governance agency. As we discussed in Section IV, a land administration agency is a governing body that looks after land information management. Sector ministries and agencies retain their land management functions while using information from the land administration agency to make land management and land use planning decisions.

Further, we recommend that donors **design, fund, and implement a land project with a flexible mandate to provide institutional support to the Land Commission and enable the continuation of key policy reforms.** Once the act forming the land agency passes, setting up a new government agency becomes a bureaucratic process that will require immediate technical assistance and capacity building

support. The new agency's immediate technical needs will include human resources capacity building, provision of basic information technology and computer skills to manage land records and documentation, and training in GIS and mapping for parcel identification. If land rights legislation passes, land agency staff will need training on the new land designations and how to document them.

**C. Cost-effective, but strategic lower level interventions.** Given the anticipated delays for the two key policy and institutional reforms discussed above, **we present four primarily technical and operation land administration reforms that will strengthen land documentation and demarcation processes and land dispute resolution.** These reforms are less threatening to political interests than top-down policy and legislative reforms and present strategic opportunities for donor investment in the short-term.

*1) Support to CNDRA to continue land deeds registration and digitization*

*Background.* CNDRA's Deeds Registry unit, which currently performs the land registration function for Liberia, plays a key role in promoting fair, effective property rights. Through its Customer Service Center and clear procedures to document and record deeds, CNDRA serves around 400 customers per month and ensures that land deeds are legitimate, respected, and enforceable. Despite facing the same resource constraints as all Liberian public institutions, CNDRA functions relatively well. The Director General is widely lauded as a competent manager who understands clear next steps for reform.

Since September 2012, CNDRA has been automatically digitizing all new land deeds that come into Monrovia. Each month, CNDRA staff scans an average of 2,500 documents into an Open Title registry. Open Title has spatial data input functions that can be adapted for to a future land information system, and document storage allows for documentation of social tenure relationships (Pichel, Sayeh, Thruscott, and Kemeh-Gama, 2012, April 23-26). The use of Open Title has improved registrars' abilities to track land deed information and identify possible forgeries. The Buchanan Registrar told us that scanning deeds has "transformed the way records are kept" and "revolutionized the finding of illegal deeds."

*Proposed intervention.* We propose that donors **build and strengthen the capacity of systems to track and enforce legitimate land claims.** As CNDRA is one of the most functional and best managed bureaucracies in Liberia and has a widespread positive reputation, we recommend that donors **provide institutional capacity building support to help CNDRA continue deeds registration and automation through decentralization of their registry offices.** Thus far, Buchanan in Grand Bassa County has the only functional office outside of Monrovia; it has been in operation since October 2013. Establishing new decentralized registries would cost \$3,000 to \$5,000 per office.

## ***2) Improve national geospatial and mapping capacity***

*Background.* Liberia needs to carry out a national mapping effort and establish base maps of the country at different scales, on which all resources and land ownership information can be placed. Base maps are critical to securing of land rights and better understanding where the four categories of land ownership exist and the extent to which existing concessions are granted on overlapping plots of land. They would also serve as the core of a future national land cadastre.

Although MLME/DLSC's Department of Cartography's mandate is to provide topographic mapping, base mapping, parcel mapping, and thematic mapping, it severely lacks financial resources and technical capacity and has produced no new maps since before the conflict. International companies invest in digital imagery for commercial use, but they do not share the data with the Liberian government.

*Proposed intervention.* We recommend that donors **cooperate in a joint initiative and fund a full base mapping for Liberia**. All aid agencies operating in Liberia also have national private sector interests throughout the country as a result of Liberia's vast natural resources. All existing concessions and land tenure activities would benefit from comprehensive base maps, which would enable actors to work from the same frame of reference — the same map — when discussing land issues. Some donors who have previously contemplated such an initiative have paused because it is unclear which institution would house the base maps and national country spatial data until the new land agency is created. The former USAID/Land Policy and Institutional Support project determined a creative, three-year, "Build-Operate-Transfer" aerial imagery solution that would create a set of national base maps and cost \$8-10 million (Ford, 2013). This intervention would establish a new surveying and mapping facility, effectively solving the issue of host institution. This facility could later be transferred into a new land agency or become a private enterprise, a common approach in other countries. Investing in base mapping now will improve existing land information and be a critical step in establishing a land cadastre. Some interviewees feared that such an undertaking would uncover extensive overlapping claims and lead to more land conflict. This fear is rightly acknowledged, but overlapping claims will eventually be discovered. The question is whether the discovery happens sooner or later.

"The investor, when he comes to put in his infrastructure, will need his maps."

### ***3) Reform and privatization of Liberia's surveying profession***

*Background.* Reforming the surveying profession and improving the capacity of surveyors to operate within a regulated, transparent system will improve tenure security throughout Liberia, because surveyors play a critical role in the process of obtaining state-recognized land rights. Any official deed sent to CNDRA and approved for incorporation into the deeds registry requires an official survey. There are 76 registered surveyors, with approximately 85% employed by the state and 15% employed by private companies, but it is estimated that dozens more operate without licenses and unlawfully prepare deeds that contain inaccurate information. The MLME currently oversees the land surveying profession, and surveying regulation falls under the resource-lacking Department of Lands, Surveys, and Cartography.

“Public trust has eroded in county surveyors and even land commissioners in some cases.”

Although surveyors were historically viewed as qualified and competent, the public perception of Liberians surveyors today is very low. Guidelines and standards for professional surveyors were lost during the war, so the profession is unregulated and ripe for corruption. Demarcation is a key issue in land disputes, and surveyors are frequently blamed as a cause of many disputes. In the rural areas, country surveyors have a “major influence over and frequently abuse the powers of their position when conducting surveys and preparing deeds” (Ford, 2013). Moreover, if the Probate Court validates a surveyor’s fraudulent deed, CNDRA is legally bound to accept it and input it into the deeds registry, contaminating the system. In addition, because government surveyors are paid so poorly, they regularly take private surveying work to boost income, using government resource and equipment for the job. This creates a clear conflict of interest.

Reforming the surveying profession requires both technical capacity building and a move toward privatization of the entire surveying profession. Although eliminating all state surveyor positions will likely be resisted by those currently using state resources for private gain, privatizing the profession is the most efficient way to establish legitimacy. The Association of Professional Land Surveyors of Liberia (APLSUL) is a new and independent, self-regulated, professional surveying association that has a potential role to play in privatizing and regulating the surveying profession. Its charter, prepared with support from USAID, includes a code of surveying ethics. However, until ratified by the legislature, the charter is merely a guidance document.



*Proposed intervention.* We recommend that donors

**support building the technical capacity of surveyors and privatization of the surveying profession,** both of

which will positively affect land documentation and demarcation efforts. There is a need to establish a surveying technician program at universities and other technical institutions teaching modern, digital technologies

to train the next generation of surveyors, and build

surveying and mapping operating capacity for existing surveyors. Technical capacity building of surveyors will not face opposition. Further, there is a need to support APLSUL in liaising with the legislature to ratify its charter. If the charter is ratified by legislature, APLSUL would exist under statutory authority, and surveying organizations would be required by law to subscribe to it, thus enabling regulation of the profession. Strengthening the surveying profession will improve demarcation and decrease land disputes resulting from poorly demarcated deeds.

“This is a post-war country. People are easily excitable. If we go back to war, it will be because of land”

#### ***4) Strengthened land dispute resolution mechanisms***

*Background.* If land rights legislation passes, clarification and formalization of property rights will lead to disputes. Liberia needs the institutions and capacity to mediate such disputes. Currently, however, capacity and access constraints impede the ability of formal institutions to resolve them efficiently. Most Liberians prefer informal justice systems to formal because informal justice — often through ADR mechanisms — is quicker, less costly, and generally results in more favorable outcomes (Isser et al., 2009). Strengthened ADR procedures also provide a viable alternative to the establishment of “fast track land courts,” suggested as a reform to relieve caseloads on court dockets. Thus, forums for facilitating disputes through ADR must continue and be strengthened. The Land Commission is currently piloting Land Coordination Centers (LCCs) in Lofa, Bong, Margibi, Maryland, and Nimba counties to formalize ADR procedures as they relate to customary land disputes. The LCCs are working to facilitate, coordinate, and expedite ADR when disputes arise, including empowering local dispute solvers through “Mediation Practitioners” certificates.

Historically and today, the legal profession through the Liberian National Bar Association has opposed ADR, including the establishment of paralegals, as an extrajudicial procedure contrary to the rule of law. They perceive ADR as threatening the role of the legal profession and the need for courts and lawyers. Today, however, there is less opposition to ADR and thus, a more conducive political environment in

which donors can act. There are actors within the judiciary who support ADR because it is clear that better methodologies and techniques relieve caseloads.

*Proposed intervention.* Although ADR is allowed under the law, it is an evolving process done differently by different actors. We recommend that **donors support formalization of the ADR system to build broader awareness of best practices and harmonize the various processes between the main ADR actors:** INGOs, CSOs, and traditional authorities, such as chiefs. Strengthening ADR procedures presents donors with a strategic opportunity to support the mediation of land conflicts in the short-term while legislative reforms are delayed, and will be a critical component of community self-identification efforts. Although there are many ways to support formalization of ADR, two options include continued support to the LCCs and providing support to NGOs and CSOs that are well positioned to undertake strategic outreach initiatives.

## **VI. Conclusion**

In this paper, we analyzed two ongoing policy and institutional land reforms in Liberia through a PEA lens. By focusing on the drivers of change, PEA helps development practitioners better understand the existing political landscape and economics of decision-making and enables practitioners to prioritize reforms based on where political and economic incentives are aligned.

Although top-down legislative reforms, such as passage of land rights legislation or formation of a land agency, have far-reaching implications for strengthened tenure security and improved governance, a variety of factors can impede success. Donors invest hundreds of millions of dollars annually in multimillion-dollar, multi-year programming initiatives in Liberia and are held accountable for the results. It is important to give sufficient consideration to the power and influence that a particular individual, group, or institution may have on promoting or preventing reforms, and invest aid dollars strategically. When large policy and institutional reforms are predicted to face delays, donors must consider investment in less political interventions that will have a positive short-term impact on the ultimate goal of strengthening Liberia's land institutions and helping the country continue on a path toward equitable and inclusive economic growth.

## Annex A. Key Land-Related Government Institutions and Agencies

Institution	Key actors and mandate (as of February 2014)	Strengths and progress toward accountable governance in land (policies/processes)	Capacity gaps and obstacles to land reform
<b>LAND POLICY</b>			
<b>Land Commission</b>	<ul style="list-style-type: none"> <li>Chairman, Dr. Cecil O. Brandy</li> <li>Mandate is to propose, advocate, and coordinate reforms of land policy, laws and programs in Liberia.</li> <li>Has no adjudicatory or implementation role</li> </ul>	<ul style="list-style-type: none"> <li>Proposed moratorium on public land sales to Executive</li> <li>Passed Land Rights Policy May 2013</li> <li>Currently drafting land rights legislation</li> <li>Other ongoing policy and legal reform initiatives: Act to create a National Land Authority, policies for land administration land disputes, land use and management</li> </ul>	<ul style="list-style-type: none"> <li>Mandate expires in 2015</li> <li>Dependent on donor support for operations and technical capacity</li> <li>Navigating the balance between historically strong, vested interests in land issues and increasing land tenure security for all</li> <li>Poor flow of information with other land-based stakeholders</li> <li>Divided national political alliances and interests hinder land reform</li> </ul>
<b>Governance Commission</b>	<ul style="list-style-type: none"> <li>Chairman, Dr. Amos Sawyer</li> <li>Serve as an autonomous body whose purpose is to help government draft national policies and laws</li> <li>The Governance Commission is Liberia's premier governance reform institution that researches and consults Liberians on governance issues, recommending policy and institutional reforms to improve public service delivery and living standards</li> </ul>	<ul style="list-style-type: none"> <li>Seen as a powerful agency in the post-war reform process</li> <li>Drafted Act to create Land Commission</li> <li>Draft Act to create Law Reform Commission</li> <li>Drafted Act to create Constitutional Reform Commission</li> <li>Currently drafting Local Government Act</li> </ul>	<ul style="list-style-type: none"> <li>Lacks robust in-house capacity to provide guidance on Acts drafted by Land Commission</li> <li>Public perceives information dissemination and interaction between Commission and other government institutes as weak</li> <li>Not directly reviewing national policies</li> </ul>
<b>Law Reform Commission (LRC)</b>	<ul style="list-style-type: none"> <li>Chairman, Cllr. Jallah Barbu</li> <li>LRC is an autonomous commission mandated with the systematic development and reform of legislation, including codification and unification to identify and flag conflicting laws for future amendment</li> </ul>	<ul style="list-style-type: none"> <li>In strategic position to ensure adaption and clarification of existing land-related policies in legislation</li> <li>Collects relevant statutes and legal materials, and summarizes, reviews and analyzes all Supreme Court decisions related to land</li> </ul>	<ul style="list-style-type: none"> <li>Poor human and logistically capacity to track and effectively inform draft acts</li> </ul>
<b>LAND ADMINISTRATION and MANAGEMENT</b>			

<b>Ministry of Lands, Mines, and Energy (MLME)</b>	<ul style="list-style-type: none"> <li>Minister Patrick Sendolo</li> <li>Mandate is to administer all activities related to land, mineral, water and energy resources exploration, coordination, and development in the Republic of Liberia</li> <li>Key Departments: Department of Land, Surveys, and Cartography, with responsibility for surveying public and government land and mapping</li> </ul>	<ul style="list-style-type: none"> <li>Houses important land data and national mining cadastre</li> <li>Power to issue concession licenses to mining agents and provides oversight to other mineral-based operating structures</li> <li>Supervises, regulates, and monitors mineral concessions such as diamond, gold, and iron ore</li> <li>Drafted Mineral Development Agreement and Mineral Policy</li> </ul>	<ul style="list-style-type: none"> <li>Focus is energy and minerals, not land</li> <li>Conflict of interest between land rights and mining rights</li> <li>Lacks appropriate land data tracking tools</li> <li>Very weak to nonexistent mapping and spatial data capacity</li> <li>Surveyors lack technical expertise and perceived as unprofessional by majority of Liberians</li> <li>Poor capacity, logistical, and information flow between the ministry and stakeholders</li> </ul>
<b>Forest Development Authority (FDA)</b>	<ul style="list-style-type: none"> <li>Managing Director Harrison Karnwea</li> <li>Mandate is to sustainably manage and conserve all forest resource for the benefit of present and future generations</li> </ul>	<ul style="list-style-type: none"> <li>FDA operates Liberia forest lands (a large portion of the country's land surface) under 3Cs – Conservation, Commercial and Community activities</li> <li>Notable policies and laws: the Community Right Laws of 2009 (CRL) which defines communities' rights in the forestry sectors and the predecessor National Forestry Reform Law of 2006 (NFRL) that promotes transparency in the same sector,</li> <li>Signed on to Voluntary Partnership Agreement (VPA) which provides the regulatory framework to ensure that trade in timber industry, between Liberia and EU, is legal.</li> </ul>	<ul style="list-style-type: none"> <li>Lacks capacity, information, and proper equipment to regulate the sector</li> <li>Poor balance of priority between conservation, commercial, and community rights</li> <li>Limited capacity to manage forest lands</li> <li>Perception of corruption and mismanagement: PUP controversy as an example</li> <li>Lacks knowledge on community rights and forest regulations</li> </ul>
<b>Ministry of Agriculture</b>	<ul style="list-style-type: none"> <li>Minister Florence Chenoweth</li> <li>Responsible for the development of the agriculture sector, including developing agriculture policies, and negotiating agro-plantation concession agreements on behalf of the government.</li> </ul>	<ul style="list-style-type: none"> <li>Regulates the agriculture sectors: supervising and monitoring of rubber, rice, and oil palm concessions</li> <li>Focuses on agro-plantation is a major instrument of land use and management, and contribute to the national economy</li> <li>Close relationship to the executive and perceived as influential ministry in the land sector</li> <li>MOA has statutory power over FDA</li> </ul>	<ul style="list-style-type: none"> <li>Prioritize concession agriculture over traditional or commercial agriculture</li> <li>Poor institutional, human, and logistical capacity to manage the sector</li> <li>Dependency on externally driven and concession-based land use and management policies</li> </ul>
<b>Ministry of Public Works</b>	<ul style="list-style-type: none"> <li>Minister Dr. Antoinette Weeks</li> <li>Bureau of Planning and Programming has mandate for national zoning and land use planning</li> </ul>	<ul style="list-style-type: none"> <li>Enforces zoning plan for Monrovia, including roads and other infrastructures</li> </ul>	<ul style="list-style-type: none"> <li>Lack capacity and resources to engage in national land use planning initiatives</li> </ul>
<b>Environmental Protection Agency</b>	<ul style="list-style-type: none"> <li>Managing Director Anyaa Vohiri</li> <li>Mandate is to implement</li> </ul>	<ul style="list-style-type: none"> <li>Progressive land-related policies and legislation include EPA Act, EPA National Policy, EPA</li> </ul>	<ul style="list-style-type: none"> <li>Weak mandate and low budgetary support to carry out mandate</li> </ul>

	the national environmental policy and sustainable management law for the protection of natural resources in Liberia	Management Law, and EPA Procedural Guidelines based operations <ul style="list-style-type: none"> <li>Power to stop land use operations due to environmental compliance issues</li> </ul>	<ul style="list-style-type: none"> <li>Poor staff capacity to monitor concession operations and other land-use activities throughout Liberia for environmental compliance</li> </ul>
<b>LISGIS (Land Information Management)</b>	<ul style="list-style-type: none"> <li>Director-General/Asst. Census Coordinator, Dr. Edward Liberty</li> <li>LISGIS is an autonomous agency responsible for compilation, analysis, publication and dissemination of all data from individuals, establishments and Geo-spatial Information in the country</li> </ul>	<ul style="list-style-type: none"> <li>Gathering geo-data on existing administrative boundaries</li> <li>Conducting national surveys to get statistical information</li> </ul>	<ul style="list-style-type: none"> <li>Lacking capacity to collect accurate information</li> <li>Lacks modern tools and human capacity to capture land based data</li> <li>Using outdated geo-referencing tools and secondary data to produce maps</li> </ul>
<b>Center for National Documents and Records Agency</b>	<ul style="list-style-type: none"> <li>Director General Philomena Bloh-Sayeh</li> <li>Mandate is to preserve the country's historical records, including land deeds</li> </ul>	<ul style="list-style-type: none"> <li>Relatively well managed</li> <li>Successful Customer Service Center in Monrovia for land deed registration</li> <li>Setting up decentralized "out offices" in counties for land deed registration, currently Buchanan is in operation</li> <li>Staff training and capacity building for finance, personnel, HR, logistics ongoing</li> <li>Payment to register deeds now in CNDRA vs. MOF.</li> <li>Competitive hiring, a budding meritocracy</li> </ul>	<ul style="list-style-type: none"> <li>Donor-dependent</li> <li>Must accept and enter into the deeds registry all deeds validated by the Probate Court, even if fraud is suspected.</li> </ul>
<b>Ministry of Justice</b>	<ul style="list-style-type: none"> <li>Responsible for prosecuting cases related to land and enforcing the laws of the countries through support from the Liberian National Police</li> </ul>	<ul style="list-style-type: none"> <li>A statutory member of the Inter-Ministerial Concessions Committee</li> <li>Advises the government on land-based contracts</li> </ul>	<ul style="list-style-type: none"> <li>Ability to respond to land disputes is limited to weak court capacity – including prosecutorial and case management capacity</li> </ul>
<b>Probate Court</b>	<ul style="list-style-type: none"> <li>Responsible for endorsing Administrative Deeds, Executor Deeds, Quit Claim Deeds, and Warrant Deeds</li> </ul>	<ul style="list-style-type: none"> <li>Power to legitimize land deeds</li> <li>Probate Court held in high regard among citizens of Liberia due to its legitimizing function</li> </ul>	<ul style="list-style-type: none"> <li>Lacks capacity to verify if the content and validity of the land transaction document presented which creates problem of endorsing forged deeds, affecting CNDRA as they are legally bound to accept and register the document if approved by Probate Court</li> <li>Many question value add of Probate Court's role in the land transaction process</li> </ul>

<b>Ministry of Foreign Affairs</b>	<ul style="list-style-type: none"> <li>Minister Augustine Kpehe Ngafuan</li> <li>Before CNDRA was created, MOFA was responsible for housing national archives including land records</li> </ul>	<ul style="list-style-type: none"> <li>Stores historical records and land deeds</li> </ul>	<ul style="list-style-type: none"> <li>Limited capacity or political will to transfer information to CNDRA</li> </ul>
<b>Ministry of Finance and Ministry of Planning &amp; Economic Affairs</b>	<ul style="list-style-type: none"> <li>Minister Amara Konneh heads Ministry of Finance and Ministry of Planning and Economic Affairs, but merger is underway</li> <li>MOF's mandate relevant to land is to determine land valuation and taxation and collect revenue</li> <li>The Bureau of Revenue collects fees associated with land registration and transfer and property taxes</li> <li>MOPEA's mandate is to develop national policies</li> </ul>	<ul style="list-style-type: none"> <li>Planning created National Agenda for Transformation and National Vision 2030</li> <li>Finance is setting budgetary and revenue policies, submitting budget for government agencies and ministries, and processing government payroll – very powerful ministry</li> <li>Collecting revenues and taxes related to concession agreements and other properties (land)</li> <li>A key member of the Inter-Ministerial Concessions Committee</li> </ul>	<ul style="list-style-type: none"> <li>Limited capacity to budget and disburse revenue (social development funds and county development funds)</li> </ul>
<b>Ministry of Internal Affairs (MIA)</b>	<ul style="list-style-type: none"> <li>Minister Morris Dukuly</li> <li>Mandate is to manage the affairs of local government authorities, including decentralized land administration, management, and dispute resolution</li> <li>Supervises chiefs</li> </ul>	<ul style="list-style-type: none"> <li>Currently drafting Local Government Act</li> <li>Clan and Chiefdom administrative boundary harmonization</li> <li>Supervision of chiefs, which gives MIA closest relationship with customary land tenure issues and control over land and resources use rights</li> <li>A member of the Inter-Ministerial Concessions Committee</li> </ul>	<ul style="list-style-type: none"> <li>Limited resources and capacity to regulate and balance between customary and statutory norms</li> <li>Poor information and awareness within the agency</li> </ul>
<b>Local government officials and chiefdoms</b>	<ul style="list-style-type: none"> <li>Play a unique role connecting statutory and customary norms</li> <li>Paramount, clan, and sectional chiefs are on state payroll</li> <li>Work under the supervision of the Ministry of Internal Affairs, but with direct influence at the local levels</li> </ul>	<ul style="list-style-type: none"> <li>Power to directly govern local communities, including land and resource use and management</li> <li>Based in the locations where they govern (ex: clan chief lives in the clan)</li> <li>Customary decisions informed by community elders</li> </ul>	<ul style="list-style-type: none"> <li>Supposed to be elected, but the majority of them are appointed by the President with recommendations from county representatives and prominent citizens</li> <li>Limited capacity and information on understanding the link between customary land rights and land reform initiatives happening in Monrovia</li> <li>Dependent on central government for funding and direction</li> <li>Limited logistical resources to travel throughout their areas of governance</li> </ul>
<b>THREE BRANCHES OF GOVERNMENT</b>			
<b>Legislature</b>	<ul style="list-style-type: none"> <li>President Pro-Temp Gbehzongar Findley (Independent)</li> <li>Speaker of the House Alex Tyler (United Party)</li> </ul>	<ul style="list-style-type: none"> <li>National Forest Reform Law in 2006. Passed Community Rights Law in 2009</li> <li>Act to create the Land Commission</li> </ul>	<ul style="list-style-type: none"> <li>Notoriously slow on passing legislation (ex: sitting on Criminal Conveyance Bill)</li> <li>Perceived by Liberians as a self-interested institution</li> </ul>

	<ul style="list-style-type: none"> <li>Function is to make laws that address the concerns of Liberia, with oversight over budgetary allotments, and ratifications of acts and concession agreements</li> </ul>		<ul style="list-style-type: none"> <li>Capacity issues</li> <li>Office staff perceived as weak technical advisors due to patronage and not merit</li> <li>Take three-month agriculture break each year</li> <li>During election years, reelection takes precedence over passing legislation</li> </ul>
<b>Office of the President/Executive</b>	<ul style="list-style-type: none"> <li>President Ellen Johnson Sirleaf</li> <li>The Executive is very powerful, responsible for appointing many government officials, and perceived as driving reform in the country</li> </ul>	<ul style="list-style-type: none"> <li>State of the union calls 2013 and 2014 for land rights policy, land rights legislation, and creation of new land governance agency</li> <li>Executive orders on PUP, Public Land Sale Moratorium, established the land commission, veto power, and approves policies and submit bills to the legislature</li> <li>Appointing power of cabinet ministers, local government officials, and other public offices</li> </ul>	<ul style="list-style-type: none"> <li>Perceived as lacking the clarity and consistency between policy/laws and practice</li> <li>Seen as lacking the political will to make change in the land sector</li> </ul>
<b>Judiciary (Supreme Court, Circuit Courts and Magistrate Courts)</b>	<ul style="list-style-type: none"> <li>The Supreme Court is headed by the Chief Justice, Francis Korpor</li> <li>Highest body of the country's Judicial Branch</li> <li>Responsible for resolving land disputes in the formal legal system, whereas traditional authorities resolve land disputes in the customary legal system</li> </ul>	<ul style="list-style-type: none"> <li>Made a land mark ruling on a land case involving "illegal" occupation.</li> <li>Has not ruled on any major land case yet but has the potential to define ownership rights</li> </ul>	<ul style="list-style-type: none"> <li>Actors are all appointed by the President</li> <li>Poor precedent in addressing complicated tenure system</li> <li>Poor capacity, resources, and time to research land cases.</li> <li>Capacity to reach at the local level is poor and or not existing in many parts of the country</li> </ul>
<b>Other Relevant Entities</b>			
<b>National Bureau of Concessions</b>	<ul style="list-style-type: none"> <li>Director general Siata Bishop</li> <li>Responsible for management and oversight of ongoing concessions</li> </ul>	<ul style="list-style-type: none"> <li>Monitoring and evaluation of concession activities</li> </ul>	<ul style="list-style-type: none"> <li>New entity, still getting off the ground and has capacity constraints</li> <li>Weak mandate to monitor concession agreements</li> </ul>
<b>National Investment Commission</b>	<ul style="list-style-type: none"> <li>Chairman Michael Wotorson</li> <li>Mandate is to promote investment opportunity for Liberia</li> </ul>	<ul style="list-style-type: none"> <li>Provide professional and formal links between investors and investment opportunities (concession) in Liberia</li> <li>Chairs the Inter-Ministerial Concessions Committee</li> </ul>	<ul style="list-style-type: none"> <li>Poor capacity and resources</li> <li>Focus is on foreign direct investment</li> </ul>
<b>APLSUL</b> (independent, non-government association)	<ul style="list-style-type: none"> <li>President is Josephus Burgess, who is also a Director in MLME</li> </ul>	<ul style="list-style-type: none"> <li>Creation of APLSUL association itself, including a charter with standards and guidelines for the surveying profession.</li> <li>Small group of more seasoned surveyors who understand where the profession needs to go to be up to standards. Trained pre-war by USG/UN, but trained in pre-digital technologies.</li> </ul>	<ul style="list-style-type: none"> <li>Younger surveyors do not understand the basics.</li> <li>Very low internal digital surveying capacity that is not appropriate for modern times</li> <li>Surveyors currently hold the legal right to prepare land transaction documents, which opens to the door to forgery opportunities and is not common practice in other common-law jurisdictions</li> </ul>

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