

THE LAND RIGHTS LAW OF LIBERIA A SIMPLIFIED VERSION OF PART THREE – CHAPTER EIGHT: CUSTOMARY LAND



Portrait of a woman proofing ownership of her land at the Liberia Land Authority



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Abbreviations / Acronyms

ADR	Alternative Dispute Resolution
ARD	Alliance for Rural Democracy
CLDMC	Community Land Development and Management Committee
CAFOD	Catholic Agency for Overseas Development
CSO-WG	Civil Society Organizations Working Group on Land Rights
EU	European Union
FL	Forest Land
FDA	Forestry Development Authority
LLA	Liberia Land Authority
LLS	Liberia Law Society
LRA	Land Rights Act
LRM	Liberia Reform Movement
MAs	Mining Areas
NBC	National Bureau of Concessions
PAs	Protected Areas
SDI	Sustainable Development Institute
SESDev	Social Entrepreneurs for Sustainable Development
WHH	Welthungerhilfe
RRF	Rights and Rice Foundation
TCs	Tribal Certificates



Acknowledgement

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Introduction:

The purpose of this simplified version of the customary land section of the Land Rights Law, known as the Land Rights Act (LRA) is to educate communities in the rural parts of Liberia on their rights and responsibilities related to customary land. The document deals with the provisions under part three, chapter 8 of the LRA.

The President of Liberia approved the LRA on September 19, 2018 and was published into handbill on October 10, 2018. Overall, the LRA focuses on property rights, particularly land rights. As such, the right to land includes the following: the right to possess; the right to use; the right to exclude or include; the right to transfer through sale; the right to devise and transfer as gift.

The law recognizes four categories of land ownership:

- Government Land
- Public Land
- Private Land
- Customary Land



Chapter 8: ACQUISITION AND NATURE OF CUSTOMARY LAND

Article 32: (Identification of customary Land) (“The ways communities can get customary land):

1. Customary land is the land a community has got and owned in line with their local traditional way and rules about how to get land and based on the long period of time they have stayed on the land and use it.
2. Ownership of customary land starts from the date this law was signed by the President and printed into law book by the Ministry of foreign Affairs on October 10, 2018. As of this date, the law will apply.
3. Communities can get and own customary land if the community can show one or more of the things listed below:
 - (i) That the community already has deed for the land before the law was created.
 - (ii) If members of the community believe for long time that the customary land is for them. This means the community has been using the land or has taken control of it for a long period of time for cultural and business purposes in a way that no other community has been able to use it. Also, it is that land the community depends on to support their living and been doing those activities for at least 50 years. But it must be the clear fact that can be backed by stories of members of the community and members of other nearby communities that share the same boundary.
4. All land Deeds which the government gave to the “Elders” or “the People of” the community before the law was made is called customary land.
5. Besides the customary land deed or other land papers that community received from government before this law was passed, community can also get customary land based on the long time the community has been living on and using the land

Article 33: Nature and Extent of Community Ownership of Lands

1. When a community gets customary land, it becomes the property of the entire community and every member has equal right to the land.
2. When a community becomes owner of customary land, that community has certain rights over the land, and they include:
 - I. To stop anybody who is not a member of the community from using or getting some of the land;
 - II. To control and use the land and other resources on the land but not the minerals on or under it.
 - III. To use the land like planting crops, or farm trees or buildings and to take and use materials from the forest, or the community can sign contract with different group to sell the things/materials in the forest/or bush on their land; and
 - IV. The right to give some of the land to other people by way of lease/rent, or any other ways that are in line with this law.
3. The Constitution gives the right to the government to use the minerals or rich materials under the surface of the land, including customary land. As such, they can award contract with



companies for use of this land. Before any new contract, concession, permit or other arrangement can be made to use the land, all the community members need to be properly informed about the extent, reasons and purpose of such a contract and agree willingly before the contract can be signed. Existing contracts will remain as they are.

Chapter 9: IDENTIFICATION AND ORGANIZATION OF COMMUNITY

Article 34: Identification of community (The way a community defines itself)

1. Each community has the right to clearly show the area of their customary land areas and boundary, in line with their traditional ways, stories, and rules of getting land.
2. Each community has the right to say and agree on who can be a member; and that no member can be denied his or her right to belong to the community.
3. All the members of a community have the same right to use some of the land and to take part in taking care of the customary land, even if the person is a woman or man, small or big, or different tribe, or cripple, or even if the member can pray to God in a different way from the other members.
4. The community cannot stop a community member from using the land to build his or her house. Any order by the community to stop a member of the community from enjoying or using the land set aside by the community to build houses, that order will only hold if it is in line with the local traditional way and rules of the community. Those rules must not go against the big law book called the Constitution of Liberia. At the same time, if the land is taken from an individual by the community for community use, the community will pay the person for it.
5. The community must be ready for change or for new ideas that may come when people born plenty children, when death take away some people, or when some people move from or different people/strangers come into the community in the future.

Article 35: Organization of Community (Forming the Community)

1. To form a community, the members must do the following things:
 - a. Write by-laws/rules and do it in a way that all community members agreed to.
 - b. Put together a group of members of the community to take care of land matters. This group will be called the “Community Land Development and Management Committee, (CLDMC).”
 - c. Make rules for the community to decide how a stranger can become a member of the community.
 - d. Vote for members of the CLDMC and write rules that will guide the way for them to work.
 - e. Write a plan that will show how the community will use and take good care of their land.
2. A community that has put itself together in the way that **section 1 of Article 35** of this law say, that community can now be considered a lawful group, which has all the rights and power to sign contracts and can sue and be sued.

Article 36: Governance and Management (Leadership and decision-making)

1. The power for taking care of customary land and making development on it is directly in the hands of all members of the community coming together to make decisions.



2. The community members working together are the highest decision makers concerning their land. They have power to make decisions through a majority members of **2/3 votes**:
 - a. To agree to sell, lease, rent, or give some of the customary land to other people who are not members of the community;
 - b. To agree to sell, lease or make gift with some of the customary land to the government;
 - c. To agree to lease some of the customary land that is more than 50 acres.
 - d. To agree to sell customary land after 50 years that this law talks about in Articles 49 and 51.
 - e. Look into complaints involving CLDMC members, or to agree to remove members of CLDMC and to make sure that any person that will replace the removed member, is elected in the way that is in line with Article 36(4) of this law.
 - f. To agree on any matter about the community's land in line with the by-laws/rules that will be established by the community.
3. The CLDMC will have the power to put together and support smaller different groups to work under it in the community.
4. The CLDMC must make sure to explain its activities to all members of the community and make reports about everything they do to the community members every time according to what the by-laws/rules say, and to make sure that the report is made to the community members at least one time every year.
5. The CLDMC has the power to look into complaint/or palava about customary land and to make peace. They can also look into other complaint about (house area)/or town house land area. The CLDMC must make sure to share or give information to all members of the community about the decisions that it takes on palava that they hear.
6. Members of the CLDMC must include equal representatives of the following groups in the community: men, women, and youths who must be voted for by members of the community. Chiefs will serve as advisors to the CLDMC.
7. All decisions of the CLDMC, like the appointment of officers, must be in an agreement with the members.
8. Any decision they make about customary land must be in line with the customs, traditions, and practices of the community.
9. No one can be a member of the CLDMC, or any other body formed by the CLDMC if:
 - I. A court has found you guilty of a serious crime
 - II. A court has found you unable to pay your debts
 - III. A court has judged you mentally unfit under Liberian law or other legal system
 - IV. If you are younger than 18 years
10. Members of the CLDMC will serve without pay and members of the community must make sure that this happens.
11. Any member of the CLDMC will be responsible for any bad thing he/she will do like corruption, carelessness, or for not being able/or fit to do the job, whether or not the problem caused by the member affect the community.



12. The government will join hands together with the community to make rules and by-laws that will guide the work of the CLDMC.
13. Each CLDMC must work with the local government officials and the government must find the money needed to carry out all the things that are in the law.

CHAPTER 10: DEMARCATION AND CATEGORIES OF CUSTOMARY LAND (Boundaries and types of customary land)

Article 37: Demarcation of Customary Land

1. When a community says that they are the owner of a customary land, it must provide strong proof including oral stories from members of the community, maps of the area, and agreements signed between the nearby communities or any other correct land document that the community knows about.
2. The government will make sure that all customary land areas are surveyed so that the boundaries can be clearly marked for people to know. This survey will start within twenty-four (24) months starting from the date this law was passed. The survey will be carried out by the government office in charge of all land matter called the Liberia Land Authority (LLA). Report about the survey must be carefully looked into (reviewed), shared with the public, for everybody to know and it must be recorded with the LLA. Once the LLA has the record of the survey, it will give a deed to the community and it will be recorded the same way the law says that all land deed must be recorded.
3. Depending on the amount of customary land, during the time the survey will be taking place to identify customary land, no more than 10% of the customary land in each community will be put aside to be used as public land.
4. If the survey that the government is supposed to carry out is taking time or not done, it cannot stop the community from owning their customary land and controlling it. But until the land is surveyed by the government, a community cannot sell or rent their customary land, especially if there is a case where other community, private citizens or the government says that the same land is for them too.
5. While waiting for the government to give land deed to community to show proof that they are the owner of that customary land, which will be registered with LLA, the agreed correct points, size and the maps of each customary land will be used as the proof of ownership, in place of the deed.
6. Any time and where private land owner will come to question or deny a community ownership/boundary or total customary land area, then the load is on that private land owner to proof it. But the kind of proof to produce must be very clear and it must include a public land deed for the particular land he or she is talking about.
7. If the boundary or total area of a community customary land is not accepted by another community, then the conflict or case must be fairly looked into just like they are judging case between two private land deeds owners and the kind of proof must include clear fact (evidence) to be backed by oral statements of members of the community and or some marks on the land to show as fact (evidence) or other things that can show ownership.
8. The government through the LLA will write down steps to show how confusion or land palava on customary land between communities, can be settled through the usage of customary ways and another way out of court, which is called Alternative Dispute Resolution (ADR).



9. If/when the LLA make any decision or pass judgement in any land case or palava that a community is not happy with, that judgement or decision can be looked into by the 'Circuit Court' where the land palava came from. But the only thing is that the community or person who wants the Court to look into the matter must carry the case to the Court within 30 days from the day the LLA made the decision. Also, if one side/person is not happy with the judgment from the Circuit Court that person/community can take the case to the Supreme Court of Liberia to look into the matter, in line with section 51 of the Civil Procedure Law, the law that can tell lawyers how to carry case to the Supreme Court, or other law that may come from the Law Makers of Liberia.
10. If no community, group, or persons say they are not happy with the judgment or decision of the LLA in resolving any land case/palava, then the LLA must ask the Circuit Court in that particular county within 30 days for the Court to make sure that the LLA's decision is carried out and respected.

Article 38: Categories of Customary Lands (Different types of land)

1. A community may divide their customary land area into different types of lands, like the following:
 - a. Living area where each community member can build house.
 - b. Land for farming
 - c. Land to do business
 - d. Land for factory and mining
 - e. Land for cultural practices
 - f. Land the community keeping for future use
 - g. Forest area
 - h. Any other types of land that the community may see fit or good
2. The community can decide the different types of ways they want to use the land base on traditional practices, long time they use the land and in agreement by members of the community. The community members can also change the types of land use as time changes.

Article 39: Residential Area (Land type identifying an area that community members can use to build house)

1. A part of customary land put aside by the community to be used only for living place where community members can build their houses.
2. A member of the community man or woman must have the same rights to get and own their own piece of land (house spot) for building houses.
3. Every town land which the community member gets to build their own house (house spot), that particular land will be their personal property with the same legal rights as private land owners.

Article 40: Agriculture Area (Land area to make farm)

1. Every community member must have the right to make farm on portion of the customary land that is put aside for farming purpose.
2. When the community members agree, a community member or other people may rent/lease or maybe use some of the agriculture area for either medium or large farming activities



including raising animal or cash crops production, and it should be for a time period that the community agreed to.

3. The CLDMC in each community must put in its by-laws/rules clear steps and ways members or other people can be able to lease or rent big area of the community land for farming.

Article 41: Cultural shrines and/ or Heritage Sites (Traditional places)

1. An agreed part of customary land must be put aside by the community to be used for cultural practices or as a traditional area, in line with the community ways of life.
2. A cultural or traditional place is an area identified by one or all of the following:
 - a. Used by a particular group of community members for a long time for their cultural/traditional activities.
 - b. Where they have special tree, water, mountain or other things that are importantly tied to their past generations in a special way.
 - c. A land put aside by the community.
3. A cultural place or thing can have the same protection as the areas identified as protected by the FDA in Article 42 of this law and other Liberians laws.

Article 42: Protected Area (PAs)

1. All the land that is surveyed and put aside by the Forestry Development Authority (FDA) as protected areas must remain and stay inside the Government Land. A land that was considered by FDA in the past to be protected area but was not surveyed before the signing of this law, is now left between the FDA and the community to talk about it and they must jointly agree on how to use it in line with what the law says in provisions 2 & 3 of this article.
2. A portion of customary land may be put aside to be a protected area by the government if:
 - (i) If the he community asks the government; or (ii) If the government asks for it by talking to the community in a fair way. But if the talk between the government and the community breaks down, then the government has the right to take it for the good of the people of Liberia (Eminent Domain /or government take it by force). This taking of the land without the community agreeing must be done in line with the Constitution of Liberia and Article 54 of this law and other Liberian laws.
3. Every protected area in a customary land is owned by the community and the community will keep it and take good care of it for all Liberians to benefit.
4. The special place called protected areas inside customary lands maybe a forest land, swamp land, major water/ river, and a land put aside by the community for the purpose of using it enjoying the environment and wildlife to natural areas that keep the environment safe and improves the well-being of local people.
5. When special portion of land is put aside as protected areas in customary land, it cannot be sold, leased or be given to a company. But the community members may have some rights to use it to support their living, only that they should use it in line with the national forestry reform law of 2006 that show the way how to take good care of the forest.
6. The government must give resources and technical support to build the strength of community members so that they can be able to take good care of the protected areas in their customary land. This will make the government to be able to monitor/or look over the different things (animals and plants) in the forest and on the land, and also to make sure that



members of the community will respect the National Forestry Reform Law of 2006 and other laws.

Article 43: Forest Land (FL)

1. A portion of customary land can be put aside and used as forest land if it is not:
 - (i) A residential area or town land, agriculture area, cultural bush/place; and
 - (ii) The land has big trees or timbers that cover most of the land area.
2. A community can use their forest lands and can cut big trees/timber and other useful non-timber materials in the forest. They can do it directly by themselves or through other persons/groups, in line with the community Rights Law and National forestry Reform law of Liberia (2006).

Article 44: Commercial Areas (Areas set aside for doing business)

A particular portion of customary land may or can be put aside to be used for business activities like, to build and run shops and other type of business activities. Any commercial or business land maybe leased to non-community member for commercial/business activities by the community.

Article 45: Mining Areas (MAs)

A portion of customary land maybe used by the community to do mining business if they get license from the Ministry of Mines & Energy.

Chapter 11: DEEDED LANDS AND DOCUMENTED RIGHTS IN CUSTOMARY LAND

Article 46: Deeded Private land within a Customary Land.

1. The way customary land rights have now become law, it still cannot and will not stop the rights of private land or people who have private land located inside customary land.
2. The private land (the owner has deed) that someone got deed for before this law was made is considered to be valid (good).
3. Private land that is already inside customary land area must be protected in a good way just like customary land. Also, everybody must joint hands to take care and look at it. And at the same time, the community and each member should make sure that the rights of private land owners can be given respect in the community. But also, the person who has private land inside customary land area must respect the customary land rights of the community members and respect the community's rules.

Article 47: Tribal Certificate (TC)

1. Any person who has a good tribal certificate that was received before this law was passed but he/she never received a deed for the land, that person has up to **24 months** in order to get a deed. Also, the Liberia land Authority (**LLA**) will make sure that everybody will get to know about the steps so that people who have tribal certificates can be able to finish the steps that will make them to get deed for their land. Again, before tribal certificate is considered to be a good certificate, the **LLA** along with the community must check to be sure if the tribal certificate holder got the land from the community people in the proper way. If the tribal certificate holder cannot finish getting deed for the land during the 24 months period, then the land must go back to the community and it will be turned into customary land.



2. Starting from the date this law was signed into law book, any person who already has a good tribal certificate, the person must get 100% of all the area the certificate holder has made improvement on. But the other land area that nothing is happening on will remain in the community land until the tribal certificate holder can talk to the community again for it.

Article 48: Concession Area within Customary Land.

1. All the areas in customary land that the government gave to a company to work on through a contract before this law was signed into law book, the areas will stay under that contract until all the time government gave them to use the land has finished.
2. Any time the company and government ready to visit the company contract or agreement, the views of members of the community must be put on the table through their CLDMC. They must be present in the review meeting to make sure that the community rights and interest are respected.
3. The community that get company on their customary land, including mineral company, that community has the right to receive at least five percent (**5%**) interest (rights/or share) of the company contract, or the license/paper for the operation on the land. Also, community must get other benefits that the company already agreed to give the community in line with the contract it signed with the government.
4. Any time the agreement or contract time finished for any company that is doing business on customary land, the land which the company was sitting on will now go back to the community and become part of its customary land.

Chapter 12: SALE, LEASE AND OTHER TRANSFER OF CUSTOMARY LANDS

Article 49: General Provision Pertaining to Sale, Lease and Transfer of Customary Land.

1. Starting from the date this law was signed into law book, customary land area where a community member has his/her house to live will become his/her private land/or property and the owner can now get deed for it in line with section 2 of article 36, section 2, article 39, and section 4 of article 70 of this law.
2. To give town land (Residential Area) to a community member(s), the community through the CLDMC must give deed to the community member in his/he own name for the land. A community member who can prove that the house and land area is for him or her will be allowed to live and own this area even without a deed from the CLDMC.
3. Besides giving town land (Residential area) to members of the community like the way section 1 of this article says, no customary land can be put on the market for sale, and no one will buy customary land until 50 years pass, starting from the date this law was signed into law book.
4. The community can agree on rules allowing its CLDM to lease/rent customary land that is smaller than 50 acres. For customary land larger than 50 acres, the community members must come together to agree on it. The period of time customary land can be given for lease/rent cannot be more than 50 years.
5. A rent or lease agreement for any customary land must show how the rent or lease will be paid and at what time, and the lease agreement must show that the benefits will be shared rightfully with the community.
6. Customary land will not be given to anybody for rent or lease until:



- a. The community finished come together and put in place its CLDMC;
- b. The purpose or reason for renting/leasing the land is in line with articles 35 and 36 of this law.

Article 50: Adverse Possession and Condemnation of Customary Land.

1. The law that says a person can take and own another person's land by making use of it for a long time, called "Adverse Possession", cannot and will not be used to take customary land or to own it, and nobody can use it to get paper or deed for any customary land.
2. To take customary land for public use, it must be by good talk with the right community that has the land. The land can be taken through rent/lease or buying it from the community, but the community must have saying in it. But government has the power to cancel customary land or use the "take it by force law" or "eminent domain" to use customary land; but the government must do all the things the Liberian Constitution (the big law book) says and Article 54 of this law.

Article 51: Extinction of Customary Land

Besides the part of Article 49 of this Law that says no community should sell their customary land except the area or land in the town or Village where members have the right to own and get deed for as their private land to build, the community can cancel their customary land. But the community cannot decide to sell this land until after the fifty years of the passing of this law into the law book.



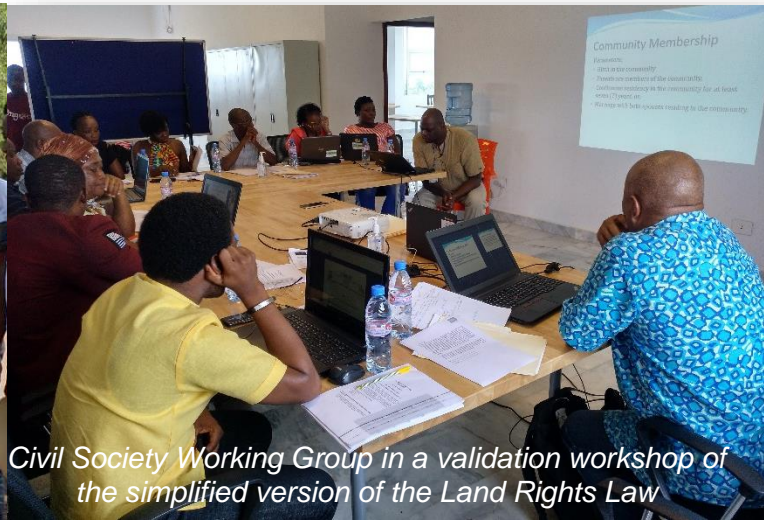
Intervention map of the EU Land Rights Project in Liberia



Photos before, during and after the passage of the Land Rights Law



CSOs at the capital building in Monrovia before the passage of the Land Rights Law



Civil Society Working Group in a validation workshop of the simplified version of the Land Rights Law



WHH celebrating with Liberians after the passage of the Land Right Law



Simplified version of the Land Rights Law on t-shirts for public awareness



Regional advocacy workshop with CSOs in Harper, Maryland County



Simplified version of the Land Rights Law on t-shirts for public awareness

