

**Review of Liberia's National
Policies in Relations to Carbon and
Emission Reduction**

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Introduction

Liberia is committed to its obligations under the UNFCCC and the Paris Agreement (PA) and has submitted its updated Nationally Determined Contributions (NDC) in August 2021 after a careful in-country review by all relevant stakeholders.

At national level, Liberia has made relevant efforts in upholding its environmental international obligations by adopting several laws and regulations that have an impact on REDD+. For instance, the country passed the environmental protection and management law (2002), the national forestry reform law (2006), the community rights law (2009) and its regulation with respect to forestlands (2017), the land rights Act (2018) and its regulation (2022).

Additionally, Liberia participates under the FLEGT Voluntary Partnership Agreements (VPAs) since 2011 and has developed the chain saw milling regulation (2012) and code of forest harvesting practice (2007) contributing to the sustainable management of forests.

As it concerns carbon rights, the Government of Liberia like many countries has not yet passed a legislation that directly addresses claim to ownership over carbon and the benefits. A starting point would be to define whether carbon is a mineral resources or non-mineral resource.

Overall, climate change mitigation and adaptation laws/policies should address tenure aspects in order to predict, plan and distribute risks and benefits of the incentive thereof. There is also an increasing need to develop a consistent approach to conceptualize carbon rights , so as to reduce uncertainty and complexity as well as costs and risks of participation.

FOREST INSTITUTIONAL FRAMEWORK

Forestry Development Authority (FDA, 1976)

The FDA was created by an Act of the Legislature in 1976, subsequently amended in 2006 with the adoption of the forestry reform law (2006). The FDA provides forestry planning, develops forestry policy, administers and enforces the forestry laws, administers concession agreements, calculates forestry fees, carries out reforestation and forest research and training, monitors the activities of timber companies, and sets up and administers national parks.

The “3 Cs” approach—Commercial, Community, and Conservation—emerged during the forestry sector reform process that began in 2004, and aims to ensure a balance of different approaches and use of forest resources. The objective of the Act is, among others, to establish a permanent forest estate made up of reserved areas and devote all publicly owned forest lands to their most productive use for the permanent good of the whole people considering both direct and indirect values.

The Environmental Protection Agency (EPA) (2003)

The EPA was created by the EPA Act in 2003 but did not become functional until late in 2006, with a board of directors and Policy Council.



Ministry of Agriculture (MOA, 1972)

The MOA established in 1972, plans, administers, and supervises agricultural programs and provides extension services. It also trains local farmers in improved agricultural practices and provides farm inputs to increase food security. The Ministry conducts inspections and enforces rules and regulations governing the agriculture sector, including compliance with Liberian environmental standards and legislation by agricultural concessions companies (e.g., rubber, oil palm). The Ministry implements agricultural programs, protects farming interests, encourages investment in the agricultural sector, and monitors overall activities including the movement of agricultural commodities into and out of the country. The Ministry also regulates the harvesting of botanical species by herbalists and other farmers.

In addition to the government agencies, a number of local and international NGOs, educational institutions, and international financial organizations, complements the government efforts.

National Bureau of Concessions (NBC, 2011)

The NBC was established in 2011 and is responsible for monitoring the performance of the source of the Government of Liberia (GOL) primary revenue base, including natural resource concessions.



The Liberia Extractive Industries Transparency Initiative (LEITI, 2009)

The Liberia Extractive Industries Transparency Initiative (LEITI) was established in 2009 to contribute in ensuring that all benefits due to the Government and people of Liberia on account of the exploitation and/or extraction of the country's mineral and other resources are verifiably paid or provided; duly accounted for; and prudently utilized for the benefits of all Liberians and on the basis of equity and sustainability. Revenue transparency in commercial forestry has been embedded in the public domain by the inclusion of forestry in the LEITI. Currently, this applies to commercial logging but could be expanded to forest carbon revenue.

Liberia Land Authority (LLA, 2009)


Established in 2009 with a five-year mandate, the LLA sets policy for customary ownership and tenure security, aiming to improve land administration, and development of land resources. Strategic objectives include: 1) equitable and productive access to land, especially for marginalized groups; 2) land tenure security, including on customary lands, and the rule of law in land dealings and dispute resolution; 3) effective land administration and management; and 4) promotion of investment in and development of land resources.

FOREST LEGAL FRAMEWORK

The Constitution of Liberia (1986)

The 1986 Constitution recognizes the full participation and respect for the rights of all in the sustainable management of its natural resources; and has made several efforts in this direction. The Liberian Constitution mandates that the management of the natural resources of Liberia shall ensure the maximum realistic participation of Liberians under conditions of equality as to advance the general welfare of the population, and the economic development of the country. Additionally, this Constitutional mandate sets the basis for many national legislations outlining the inclusive and extensive participation and respect for the rights of all including the communities in sustainable natural resources management.

Article 7 of the 1986 Constitution states that : “The Republic shall, consistent with the principles of individual freedom and social justice enshrined in this Constitution, manage the national economy and the natural resources of Liberia in such manner as shall ensure the maximum feasible participation of Liberian citizens under conditions of equality as to advance the general welfare of the Liberian people and the economic development of Liberia.”




Article 22 (a) states that “Every person shall have the right to own property alone as well as in association with others; provided that only Liberian citizens shall have the right to own real property within the Republic.”(b) “Private property rights, however, shall not extend to any mineral resources on or beneath any land or to any lands under the seas and waterways of the Republic. All mineral resources in and under the seas and other waterways shall belong to the Republic and be used by and for the entire Republic.”

The Constitution sets the foundation through which the legislature can enact laws to address prevailing challenges confronting climate change and how to sustainably manage the nature resources of Liberia.

The Environmental Protection and Management Law (2002)

This Act establishes a legal framework for the sustainable development, management and protection of the environment by the Environment Protection Agency in partnership with regulated Ministries and organizations. It also refers to the need to provide high quality information, advising on the state of the environment and for related matters.



Section 77 on the protection of forest sets that guidelines issued by the Agency shall take into account the fact that forestland acts as sink for greenhouse gases. Part VII, section 83, 1g) charges the Agency to measure the value of unexploited natural resources in terms of watershed protection and influences on climate and other potential genetic value. Section 89 insists on the role of rain forests as a sink for greenhouse gases. In addition, Section 78 contains provisions on re-forestation and afforestation.

The Act has a strong alignment with the Rio Conventions, and gives the EPA regulatory, coordinating, collaborating and supervisory functions.

It ensures public participation, upholds human rights, and seeks environmental quality standards, authority to issue environmental restoration order, protecting the right to a clean and healthy environment and has the authority for pollution control and licensing.


The law however doesn't explicitly give the EPA a regulatory power.



The National Forestry Reform Law (NFRL, 2006)

The NFRL is the current legal instrument that guides the management of forest resources in Liberia. It is based on the “3Cs” approach: Commercial, Community and Conservation forestry. The NFRL aims at assuring the sustainable management, conservation, protection and sustainable development of Liberia forestland.

The Act defines the principles of forest management and conservation to be undertaken by the Forestry Development Authority. In granting Forest Management Contracts and Timber Sale Contracts, the Authority shall follow the requirements of the Public Procurement and Concessions Act and other applicable laws. The Authority shall manage all Forest Resources according to the National Forest Policy and the National Forest Management Strategy adopted pursuant to this Act and shall appoint a Forestry Management Advisory Committee. The Authority may grant various types of rights regarding exploitation and sale of forest resources.



The Act further provides, among other things, for: ancillary rights to forestry exploitation rights; sustainable forestry and environmental rehabilitation; reforestation and afforestation; protected forest areas networks and wildlife conservation; the establishment and management of National Forests, National Parks, Nature Reserves, Strict Nature Reserves, Game Reserves, Controlled Hunting Areas and other protected areas; community forestry; rights of land owners; and trade in forest products.

The Community Rights Law (2009)

This Act seeks to empower communities to engage in sustainable management and conservation of forests of Liberia by creating a legal framework that defines and supports community rights in the management and use of forest resources.

It provides the legal framework that empowers local communities located in or near forestlands to access, manage, use and benefit from forest resources on those lands for sustenance and livelihood improvements as well as for community development.




The Land Rights Act (2018)

In force since its publication on the 10th of October 2018, 'The Land Rights Law of the Republic of Liberia' (the LRA) is a watershed development in terms of clarifying land tenure law in Liberia. The LRA repealed previous anachronistic and contradictory laws dating back to the 1950s and 1970s, including the Public Lands Laws of 1958 and 1973, and the Aborigines Law of 1956.

Rooted in the 2013 Land Rights Policy, the LRA also follows a raft of other laws bearing on land and natural resources that have been enacted since the end of Liberia's civil conflict in 2003. Those laws include acts and regulations governing forestry, community rights with respect to forest land, mining, public procurement and concessions, and environmental protection.

The Land Rights Act ensures, for the first time, that the land rights of rural Liberians are recognized, protected, and guaranteed by law – an essential ingredient for these communities to achieve secure land rights. Under the previous land tenure system, as much as 80 percent of Liberians lived without legally recognized rights to land.



The opportunities presented by the LRA are therefore far-reaching, which makes the quality of the Act's implementation especially important.

The first part of the Act confirms four categories of land ownership: Private, Customary, Public and Government Land:

Customary Land is land collectively owned by a self-identifying community according to customary practices and norms, and including but not limited to residential, farmland, forest and fallow areas.

Private Land is land owned by private persons (including citizens and corporations)

Government Land is land owned by the Government including land used for roads, government buildings, public schools, hospitals and other serves/utilities.

Public Land is a catch-all category of land held by Government (but not necessarily currently used by Government) and that is neither Customary, Private nor Government Land.

Carbon Rights and Tenure Link

How a country interprets and assigns carbon rights is closely related to the national forest and land tenure system. In many developing countries, forest resources are deemed to be the property of the state, which affords countries wide latitude to assert rights to some and deny others—particularly when new economic opportunities surface. For example, the Democratic Republic of Congo passed a ‘Homologation Decree’ in 2018, which asserts that the national government as the national forest owner has the primary right to all carbon units.

Liberia has a pluralistic land tenure system based on statutory and customary laws. Customary law, derived from local lineage-based governance systems, dominated in most rural areas. As we have seen, the new Land Rights law in 2018 covers all land in Liberia including: a) Private Land; b) Public Land; c) Government Land; and d) Customary Land. The Liberia Land Authority has the power to come up with rules necessary for implementing this law.

Recommendations

In Liberia, carbon rights is novel and deserves the involvement of all stakeholders' participation in the formulation of any policy, laws and regulations.

In developing any future legal instruments, it will be relevant to take into account a clear definition of whether carbon is a mineral resources or non-mineral resources.

Clear, legal benefit-sharing agreements are necessary, and recipients should be directly involved in deciding the benefits they will receive.

The equity in benefits-sharing of REDD+ revenues, including carbon revenues, should be a goal to be achieved by the implementing institutions, taking into account the following elements: equitable compensation; equal opportunity; targeting the poor; and poverty alleviation.

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