



# LIBERIA

CAPITAL: Monrovia  
POPULATION: 4.0 million  
GNI PER CAPITA (PPP): \$300

SCORES	2006	2010
ACCOUNTABILITY AND PUBLIC VOICE:	N/A	4.45
CIVIL LIBERTIES:	N/A	4.18
RULE OF LAW:	N/A	3.36
ANTICORRUPTION AND TRANSPARENCY:	N/A	2.81

(scores are based on a scale of 0 to 7, with 0 representing weakest and 7 representing strongest performance)

## D. Elwood Dunn

### INTRODUCTION

After a quarter-century of instability and war, capped by the dramatic forced resignation and exile in 2003 of former warlord and president Charles Taylor, Liberian political and civic leaders who for several months had been assembled in Ghana under international auspices began to chart a new course for peace and reconciliation. The outcome of their deliberations was the Accra Comprehensive Peace Agreement (CPA), which provided for a power-sharing interim arrangement, to be followed by internationally supervised elections out of which would emerge a legitimate government of Liberia.

At the time of the peace talks, the country remained gripped by a 14-year contest for power between Liberian armed and political factions that had left the state tottering on the brink of collapse. In December 1989, National Patriotic Front of Liberia (NPFL) insurgency leader Charles Taylor challenged the government of President Samuel Doe, launching an attack on government posts from across the border with Cote d'Ivoire. In late 1990, a faction of the NPFL led by Prince Johnson killed Doe and a coalition of civilian political parties known as the Interim Government of National Unity was installed with the assistance of the Economic Community of West African States (ECOWAS) and the tacit support of Johnson's forces. A decade later, and despite being voted into office in 1997, Taylor remained utterly uninterested in national reconciliation. Instead, the government devolved into a warlord-style regime battling other armed factions, eventually bringing Liberia to its 2003 circumstances.

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The CPA provided for an interim period of two years, although a number of critical issues were left unresolved. Considering the fraught set of issues confronting the country, there was a rush to elections, a course desired by some Liberian politicians and an international community anxious to set Liberia right and reassign resources elsewhere. All of this occurred before Liberians had the opportunity to engage in a national conversation about how to address two fundamental issues: the unresolved historical question of national self-identity, citizenship, and shared community highlighted by events leading up to the coup d'état of 1980; and the perversions of the 1989-2003 civil war, which among other effects exacerbated ethnic and other factional grievances.

These foundational issues were rooted in the evolution of a settler society toward inclusive governance. The core issue was the character of the choice to be made between the idea of building Liberia as a "little America" in Africa, or the building of an African nationality modified by western influences. Liberia has struggled with this situation since its founding in the 19th century, and some Liberians viewed the 1980 coup d'état, which transferred power away from American-descended Liberians after decades of dominance, as an opportunity to tip the scale toward the African conception. However, the post-1980 military leadership under Samuel Doe sustained a model of personal power that betrayed the promise of change, and the country degenerated into civil war. To the unresolved national identity issue was thus added a brutal conflict yielding such devastating consequences as 250,000 deaths, the widespread use of child soldiers, extensive ethnic score settling, and massive human rights violations—in short, a society shaken to its very core.

Still unable or unwilling to address these foundational issues, Liberia went forward with elections in 2005. Twenty-two candidates participated in the first round of the presidential election. The second round pitted soccer star George Weah against economist Ellen Johnson Sirleaf, and the latter won with almost 60 percent of the vote, thus becoming the first elected female president in Liberian and, indeed, African history. Under extremely challenging circumstances, she set forth a governance agenda that emphasized peace and security, economic revitalization, the rule of law, infrastructure development, and basic social services. Initiatives by the government have resulted in a measure of economic recovery and some advances on priorities including debt forgiveness, fighting corruption, reforming the security sector, regaining control of natural resources, and consolidation of authority throughout the country. Despite these accomplishments, Liberia still features remote areas outside the government's writ.

With a population of 3.4 million people, 68 percent living in abject poverty, the Liberian economy reportedly grew at a rate of 7 percent in 2008, down from 9.5 percent the previous year, but per capita GDP remained just US\$221.<sup>1</sup> While revenue collection has risen, the global financial crisis has had a severe impact on remittances and investment, increasing fears of setbacks to quantitative targets and governance improvement programs.<sup>2</sup>

The scale of governance challenges is vast, and capacity is severely constrained. The record is mixed regarding the ability of the state to uphold constitutionally stipulated civil liberties. Progress reports produced by the United Nations Mission in Liberia (UNMIL) and other sources point to continued serious shortfalls in the reform of a legal judicial system burdened by poorly trained personnel. Corruption—both the endemic variety resulting from decades of autocratic rule and civil war, and the specific issue of corruption among public officials today—could “seriously undermine the development gains achieved” so far.<sup>3</sup>

It bears emphasizing that the unresolved pre-1980 historical challenges and the debilitating consequences of 14 years of civil war continue to define today’s Liberia. Together they provide context for understanding the country’s developments in fits and starts and its measure of progress, as well as the fragility of Liberia’s peace.<sup>4</sup> The concern now is that the overwhelming immediate problems will overshadow the historic challenges. Should that occur, the outcome could be a renewal of armed conflict. To escape the “conflict trap” and move toward a political community of inclusive governance based on principles of equity and justice, Liberia must simultaneously address both dimensions of its legacy of conflict.

## ACCOUNTABILITY AND PUBLIC VOICE

4.45

FREE AND FAIR ELECTORAL LAWS AND ELECTIONS	4.75
EFFECTIVE AND ACCOUNTABLE GOVERNMENT	3.75
CIVIC ENGAGEMENT AND CIVIC MONITORING	5.00
MEDIA INDEPENDENCE AND FREEDOM OF EXPRESSION	4.29

Liberia has a presidential system broadly modeled after that of the United States. Because of the conflict, however, the general elections of October 2005 were not based strictly on the 1986 constitution, but rather on amendments to electoral clauses of the constitution and provisions of the CPA. Even so, campaign finance laws were not rigorously enforced during elections highly dependent on private and public donations and logistical and technical support from the international community. Candidates with personal fortunes or who were otherwise well connected seemed to have an advantage over less networked candidates. Capacity and time constraints prevented the National Elections Commission (NEC) from fully monitoring the flow of funds.<sup>5</sup>

As none of the 22 presidential candidates received an absolute majority in the first round, a run-off election was contested by the two leading vote getters, football star George Weah of the Congress for Democratic Change (CDC) and Ellen Johnson Sirleaf of the Unity Party (UP). The official results, released by the NEC and backed by the opinion of international observers, awarded Johnson Sirleaf almost 60 percent of the votes. The CDC strenuously objected,

contending that the NEC was biased in favor of the UP, even appealing to the Supreme Court. The appeal was subsequently withdrawn in response to domestic and international pleas.

Johnson Sirleaf took office on January 16, 2006, but the UP did not win a majority of seats in the bicameral legislature, which is comprised of a 64-seat House of Representatives elected to six-year terms and a 30-seat Senate (2 senators for each of 15 counties) whose members serve for nine years. Opposition parties or independents dominate in both houses; the UP has only four senators and eight representatives. A coalition of political parties, COTOL, has the most seats in the Senate, with seven, and the CDC has the most seats in the House of Representatives, with 15. All parties were free to organize and campaign in 2005 without government interference, abetted by the fact that the elections were held under an interim power-sharing caretaker government held in place by 15,000 UN troops and the legitimacy of the global community. Apprehension about future processes, however, highlights the need for a comprehensive electoral plan while international umpires are based in country.

There have been a number of local by-elections during Johnson Sirleaf's term, mostly won by opposition political parties, including the February 2009 senatorial contest in River Gee County, in which prominent UP candidate Ambassador Conmany Wesseh lost to Destiny Party candidate Nathaniel Williams. One problematic issue that has emerged is the government's inability to hold mayoral and other local elections for financial reasons, with attention called to certain officials of questionable repute that were held over from the interim government. The government has been open about its resource constraints and suggested temporarily filling local positions by presidential appointment, with legislative consent. When the opposition raised constitutional concerns, the debate was referred to the Supreme Court, which ruled that the president could make the appointments to ensure smooth government operations pending the 2011 general elections.

Some groups with links to wartime militia, such as the National Patriotic Party (NPP) of former president Charles Taylor and the All Liberia Coalition Party (ALCOL) of former warlord Alhaji Kromah, are represented in the legislature and therefore continue to exercise considerable authority. Liberians' fascination with the CDC, touted as the most grassroots of all political parties, has not dissipated. In anticipation of the 2011 race, several parties have been courting the CDC, while the ruling UP signed a merger accord with the Liberia Action Party (LAP) and the Liberia Unification Party (LUP). While the understanding still has to be endorsed by rank-and-file membership, it has sparked intense debate about political realignment as the 2011 balloting nears.<sup>6</sup>

Recruitment into the civil service and promotions within it remain a source of contention. As incipient professionalism slowly takes hold, some UP partisans claimed priority treatment, scoffing at the post-election notion of a "government of national unity." Because patronage remains deeply embedded in

society, some claim the president has yielded to the temptation of employing patronage to repay political debts. The president has herself acknowledged political hirings, suggesting that she would reconsider such appointments. The opposition has criticized a few appointments in particular, including the June 2009 nomination of a new head for the National Police who was perceived to owe his selection to political connections to Fumba Sirleaf, the president's foster son, who is himself head of the National Security Agency.

Strong executive branch powers enshrined in the constitution overshadow the legislature and the judiciary in Liberia. This legacy of executive dominance was reinforced by the post-1989 era of warlordism. Although President Johnson Sirleaf has been judicious in her exercise of power thus far, there is little guarantee that her successor will be equally sensible. As one observer put it, "the president's power is still lying around like a loaded gun."<sup>7</sup> Aside from the potential for abuse, such hyper-presidential powers could create the impression among ordinary Liberians that political hegemony is normal. Such perceptions, anchored in a culture predisposed to autocracy, make it difficult to establish the rule of law.

The legislature has therefore sought legitimacy in the eyes of Liberians since its installation in 2006. Its weakness results from a problematic and traumatized postwar society and the pool of candidates drawn from that electorate, as well as the absence of consensus on governance priorities among the political elite. Members of the current legislature include former warlords and other notorious figures whose names are highlighted in the Final Report of the Truth and Reconciliation Commission (TRC) released in July 2009. Although the opposition predominates in both houses, proper oversight over the executive is impeded by divisions that prevent the opposition from functioning as a coherent bloc. Such circumstances create an environment in which subtle executive manipulations, as evidenced in the 2007 ouster of Speaker of the House Edwin Snowe, further weaken the institution. Snowe, an independent aligned with the interests of former president Taylor, was alleged to have used ill-gotten wealth to influence his election to the speakership. Once in office, his behavior often proved embarrassing to the administration, as when he attempted to conduct personal diplomacy with Taiwanese officials—at a time when the government was diplomatically engaged with China. Moreover, the legislature at times exhibits openness to manipulation by special interests.

Many civil society organizations and nongovernmental organizations (NGOs) have emerged since the beginning of the civil war and international involvement to broker peace. Local NGOs are involved in constructive initiatives on issues such as women, youth, and human rights, though questions remain about the transformative impact of the work of such groups. International NGOs, or their local partners, often enjoy considerable voice at the table, but they often urge a one-size-fits-all approach that reflects the mindset of donors unfamiliar with Liberian realities. Professional Liberians, both domestically and

in the diaspora, are sometimes marginalized. International groups prioritize technical solutions over foundational change issues such as creating a national vision and addressing Liberia's identity problem.<sup>8</sup>

Although there are no legal restrictions on the ability of NGOs to function, practical impediments exist. For example, Mulbah K. Morlu Jr., the leader of the interest group Forum for the Establishment of a War Crimes Court in Liberia, was arrested and temporarily detained on several occasions in recent years, including once in 2008 when he called President Johnson Sirleaf a "rebel," and again during a March 2009 gathering in Monrovia of the International Colloquium on Women's Empowerment, when he and his supporters were seized and reportedly brutalized by police.<sup>9</sup> To human rights activists, these actions demonstrated that regardless of government intentions, inherited law enforcement institutions are still predisposed to restrict such activities. There are also threats and intimidations from nonstate actors: in the aftermath of the TRC report release in July 2009, former warlord and current senator Prince Johnson and his allies called a press conference during which they issued veiled threats warning of consequences in the event recommendations for their prosecutions were carried out.

The constitution guarantees freedom of expression. Historically, the emphasis under Liberia's series of autocratic regimes has been on form rather than substance. The experience of 14 years of civil war, when such guarantees were nonexistent, casts a shadow over the attitudes that most public officials bring to freedom of expression issues.

Because of an illiteracy rate near 80 percent, most Liberians acquire their information from radio. There are 13 independent radio stations in Monrovia, in addition to the government's Liberian Broadcasting System (LBS). Only Star Radio and UNMIL Radio cover the entire country. There are also 24 local community radio stations in various areas outside Monrovia, some of which relay radio programs from the capital. UNMIL Radio operates as part of a broader public information office that organizes workshops for senior editors focusing on creative writing and development journalism. Its efforts have led to the formation of the Liberian Association of Development Journalism, a pioneering professional body that shares space with the more traditional Press Union of Liberia (PUL). The PUL itself is viewed as being of questionable effectiveness in terms of establishing and husbanding standards for the profession. Educated members of the press are executives rather than reporters, and below-minimum wage pay leaves journalists susceptible to bribery. In addition, reporting tends to be loose with the facts due both to poor training and manipulation by political operatives. Whether the union and the association will eventually provide leadership to address these challenges remains to be seen.

Television is limited to three local stations, and viewership is limited to those that can afford to buy sets, generators, and fuel to provide electricity. There is complete internet freedom for those with the means to access it. Of significant note is the emergence of online news organs such as the Liberian

Observer, Liberian Connection, Front Page Africa, and other diaspora media, which provide effective service to an influential exile community that offers Liberia remittances and influence over illiterate citizen relatives, as well as a pool of human capital for Liberia. President Johnson Sirleaf has drawn from the diaspora to fill important cabinet positions.

Newspapers exist in abundance, though only a few pass the quality and seriousness test. There are six independent dailies and five bi-weeklies, as well as the government-owned *New Liberian* newspaper. Distribution of these papers is limited to Monrovia due to illiteracy and the logistical challenges posed by poor roads. The leading newspapers include the *New Democrat*, the *Analyst*, the *Inquirer*, which provide independent reporting, and the *Daily Observer*, which has an independent past, but now appears largely to support the current government.

Though one can generally speak of a free press in Liberia, there is some evidence of attempted legal intimidation of journalists. One revealing instance was the government's reaction to critical press reports following the release of the contentious report of the Ad Hoc Independent Commission on the E-Mail Saga, an exercise resulting from allegations in spring 2008 of widespread corruption at the upper reaches of the Liberian government. In the stampede of media reportage following release of the report, the government singled out the *New Democrat*, threatening to sue the paper for false attacks on the president and her family. There was no follow-through.<sup>10</sup> There were also reports of police beating and handcuffing the *Renaissance* reporter Nathaniel McClain. Libel and defamation of character remain criminal offenses. While journalists have not been prosecuted or jailed, they have been intimidated, as when the president sued the editor of the *New Broom* newspaper in mid-2009 for falsely printing that she received a bribe of US\$2 million from a rubber company in exchange for favoring the company's bid for a government contract.<sup>11</sup>

## CIVIL LIBERTIES

## 4.18

PROTECTION FROM STATE TERROR, UNJUSTIFIED IMPRISONMENT, AND TORTURE	3.13
GENDER EQUITY	4.00
RIGHTS OF ETHNIC, RELIGIOUS, AND OTHER DISTINCT GROUPS	4.00
FREEDOM OF CONSCIENCE AND BELIEF	5.00
FREEDOM OF ASSOCIATION AND ASSEMBLY	4.75

Chapter II, articles 11-26 of the 1986 constitution guarantee basic freedoms, including protection against torture, extrajudicial killings, arbitrary arrests, and violence by private and nonstate actors. The state's capacity to safeguard these civil and political rights is a continuing issue. Even with the assistance of UNMIL and other international agencies, weak state capacity persists. Numerous instances of rights violations have been followed by the initiation

of remedial processes that end in frustration. The generally problematic rule of law environment is reflected in harsh prison and detention center conditions, which are at times life-threatening. Monrovia's central prison holds four times its capacity due to the large number of pretrial detainees. The government relies on international NGOs and the World Food Program to feed inmates, while the UN and NGOs also provide most routine medical services. Renovations are underway in some county prisons, including the Palace of Correction in Zwedru, though men and women are kept in the same cells. The situation in Zwedru is replicated in other remote detention facilities. There has been a near epidemic of jailbreaks, with 31 separate incidents in 2008. Jailbreaks occurred from the Monrovia prison in December 2008 and May 2009, in Zwedru in early 2009, and from the Harper prison on June 15, 2009.<sup>12</sup>

There are no reports of the government or its agents committing arbitrary or unlawful killings or torture. The international presence of UNMIL may be serving as a constraint. Seemingly political deaths that have been reported are generally related to ex-combatant activities and other disputes. In one recent case, a land dispute involving Margibi Senator Roland Kaine and others led to an encounter in which 17 people died. Though indicted for murder and imprisoned, Kaine was subsequently acquitted and returned to his seat. The state protects peaceful activists and political opponents from arbitrary arrests. To do otherwise would be to invite public outcry in an atmosphere characterized by a significant and visible international presence.

Certain unwholesome traditional practices, including trial by ordeal and ritual killings, appear to be widespread, in some cases with the knowledge and encouragement of local authorities. Fourteen people were convicted of murder in the course of a trial by ordeal in November 2007, but presidential clemency followed in September 2008 in response to an appeal by the families of the victims and perpetrators, along with county legislators and local community leaders. The number of ritual killings remains disputed, and such cases are rarely prosecuted.<sup>13</sup>

Historically, gender inequity has existed in both modern and traditional sectors of Liberian society. Rural Liberians tend to send boys rather than girls to school, and a culture of male dominance pervades the urban sector as well. Yet the 1986 constitution prohibits all forms of discrimination, including on the basis of gender.<sup>14</sup> However, scarce resources and traditional customs compete with legal guarantees, exacerbated by the unresolved issue of integrating statutory and customary legal systems. For example, many rape cases are settled by families rather than court proceedings because people want to protect their relatives from being socially tainted. As elsewhere, violence against women and sexual harassment are problems in Liberia. A special gender court was created in 2008 as a means of more rapidly adjudicating such cases.

Women still face disparities between customary and statutory wives regarding the right to dower. The law governing statutory, but not customary, marriage prohibits men from marrying more than one woman. Even after



improvements enacted in the 2003 Inheritance Law, all the wives (regardless of number) of a deceased husband under customary marriage are entitled jointly to just one-third of their husband's property, while statutorily married women enjoy one-third dower outright.

Despite the government's explicitly pro-female posture and policies, evidenced by the presence of a female head of state, a surge of women in politics, and increased attention to other women's rights issues, women constitute only 16.7 percent of the Senate, 12.5 percent of the House of Representatives, 20 percent of the cabinet, and 40 percent of the judiciary.<sup>15</sup> A Liberian National Action Plan for women was launched at a 2009 colloquium on the implementation of UN Security Council Resolution 1325 on Women, Peace, and Security, adopted in 2000 to address the impact of conflict and warfare on women. Implementation of the National Action Plan is reportedly off to a slow start.

The preamble to the constitution acknowledges ethnic rights, as does the "fundamental rights" clause. As an understudied country in which the issue of ethnic nomenclature has yet to be officially established, there is much variation in estimates of sociocultural groupings in Liberia. Anthropological and other estimates vary from 16 to 28 distinct groups. Some studies have employed linguistics to categorize Liberians into Mel speakers, Kruan speakers, and Mande speakers. In the absence of official settlement of the matter, the government has tended to avoid sanctioning classification other than county designations, though it implicitly acknowledges the cultural integrity of the wide variety of Liberian ethnic groups.<sup>16</sup>

It is important to underscore the fluidity of Liberian ethnicity. The free movement of peoples, natural ethnic intermarriage, and occasional aggressive national unification and integration efforts mitigate ethnic cleavages. A sense of ethnic identity is nonetheless palpable in society; it has figured prominently in political discourse in recent decades, prolonged and sustained the civil war as an "ethnic war," and left the challenge of acute ethnic divides for postwar resolution. Indeed, the conflict pitted the predominantly Mano/Dahn NPFL versus the predominantly Krahn/Mandingo Armed Forces of Liberia, though numerous other combinations and fallings-out complicated the panorama.

The phrase "inclusive governance" is employed by the government to suggest a full awareness of the social cleavages inherited. Appointments to the executive and nominations to the judiciary are made with this in mind. Apart from these ethnic splits, perceptions of a dichotomous Liberia—indigenous and immigrant—die hard. Opposition news organs are quick to report any perceived slippage on part of the government in addressing the clear imbalances of past governments, which often favored a minority immigrant group that never exceeded 5 percent of the population. Ethnic tension is implicit in the electoral Threshold Bill, which seeks to reapportion legislative seats on the basis of the new national census. Less populous regions are seeking to resist what they consider marginalization, and the bill remained under legislative consideration in late 2009, even as many nervously prepare for national elections in 2011.

Even the abrogated founding constitution of 1847 was explicit in providing for freedom of religion, emphasizing that all citizens had the right to worship according to the dictates of their conscience. The 1986 constitution has been no less explicit. Figures for the religious affiliations of Liberians are estimates, as no official effort has been made to determine affiliations. Foreign research agencies have estimated that 40 percent of Liberians are Christians; another 40 percent practice traditional indigenous religions; 20 percent follow Islam, the vast majority being Sunni Muslims; and small groups adhere to Baha'i, Hindu, Sikh, and Buddhist beliefs.

Tensions between Christians and Muslims have sparked occasional inter-religious violence, with attacks on churches and mosques during the war, including the massacre of some 600 civilians at the Lutheran Church in Monrovia in 1990. On December 29, 2007, Minister of Information Lawrence Bropleh, himself a Methodist clergyman, publicly appealed to the legislature to designate non-Christian holidays as national holidays. He also suggested that a religious advisory board representing all major faiths in Liberia advise the president. Some of Bropleh's Methodist peers, however, condemned his words as fueling religious tensions.

The CPA provided for a TRC roughly on the model of post-apartheid South Africa, and planning for the commission involved broad consultation and an emphasis on ethnic, regional, gender, and religious balance. In July 2009 the TRC released its final report. At the heart of the controversial document is the continuing dilemma of justice versus peace, an issue that the CPA skirted but Liberian society cannot so easily sideline. At least two sets of players are featured in the report: the warlords, who are accused of "killings, extortion, massacres, destruction of property, forced recruitment, assault, torture, forced labor and rape;" and more than 50 leading politicians, including President Johnson Sirleaf, who are recommended for sanctions because of their "moral and financial support" to the warlords. These sanctions include a 30-year ban from seeking public office, which would apply to the president and others upon leaving office. Reactions were sharp: the warlords claimed exemption or immunity based on the CPA and other statutes, while at least some of the politicians described the notion of exclusion from public office as unrealistic, inequitable, and unlikely to foster national healing.<sup>17</sup>

Trade unions are recognized in both law and practice. Though most Liberian workers labor in agriculture or the informal economy, there are several active unions independent of government control, including commercial drivers and laborers on the giant Firestone rubber plantation. Both agitate for rights within their respective industries, at times threatening (and actualizing) strike actions to apply pressure on government or industry. In 2008 the Firestone workers achieved notable success with the signing of a new collective bargaining agreement. However, protections against discrimination for those attempting to form new unions remain weak.<sup>18</sup>

The issue of constitutional guarantee coupled with deeply flawed enforcement systems also applies to freedom of assembly. Permits are required to protest and are generally granted, though the Forum for War Crimes was denied permission when it sought to demonstrate during the 2009 international women's colloquium in Monrovia. Demonstrations occasionally turn violent, as with incidents in late 2007 and 2008 involving a land dispute in Nimba County, workers at the National Port Authority, and demobilized military and security forces. The repressive potential of the security forces is limited, given their limited role in a country where security remains largely the domain of international forces.

## **RULE OF LAW**

**3.36**

INDEPENDENT JUDICIARY	2.80
PRIMACY OF RULE OF LAW IN CIVIL AND CRIMINAL MATTERS	2.40
ACCOUNTABILITY OF SECURITY FORCES AND MILITARY TO CIVILIAN AUTHORITIES	4.25
PROTECTION OF PROPERTY RIGHTS	4.00

Although Liberia has a history of executive preeminence over the other branches of government, Article 3 of the constitution guarantees judicial independence and the Judicial Autonomy Act allows the judiciary to manage its budgetary appropriation. To advance judicial independence, salaries, benefits, and immunity for Supreme Court justices and judges in subordinate courts were significantly increased by the postwar government. Despite these guarantees and recent improvements, the judiciary lacks independence due to corruption involving judges and court personnel, inadequate education, training, and experience of judges (especially magistrates), and poor administrative monitoring. Litigants are frequently pressed to make unauthorized payments to court officers to process and serve court orders. Of more than 300 magistrates, less than 10 are law school graduates. A lack of basic understanding of complex litigation procedures and laws allows for manipulation, influence-peddling, and obstruction by government officials, highly-educated attorneys, and other actors.

The president appoints judges with the advice and consent of the senate. A more effective method designed to include a judicial review committee to aid presidential nominations was recommended by the commission that drafted the 1986 constitution; however, it was not included in the final version and the old, highly personalized method continues to prevail. The tenure of judges is constitutionally guaranteed up to retirement at age 70, unless impeached and convicted by the legislature. Nonetheless, the president can unilaterally dismiss magistrates: in 2007 Magistrate Milton Taylor of Liberia's premier magisterial court, Monrovia City Court, was ousted following a disagreement over Taylor's granting of bail to accused criminals. Taylor appealed to the Supreme Court; as of mid-2009 the case remains pending. The president announced a second

removal in January 2008, this time of a judge in a specialized debt court, but the action was suspended when the Trial Judges Association issued a statement in opposition. The executive branch complies with judicial decisions that go against it. The government lost a prominent case in 2008, when it failed to convict former interim head of state Charles Gyude Bryant for economic crimes. Indeed, the Ministry of Justice was publicly ridiculed following a number of court losses by prosecutors, leading to personnel changes effected in mid-2009 to address the problem.

Judicial review occurs with respect to both legislative procedures and the constitutionality of laws. The Supreme Court's decisions upholding the removal of the former speaker Edwin M. Snowe (see *Accountability and Public Voice*) and Senate president Pro Tempore Isaac Nyenabo raised issues of the boundaries between the judiciary and the legislature, especially the court's power of judicial review. Indeed, the Supreme Court has ruled that the separation of powers doctrine is not absolute. In the Snowe case, for instance, his legislative colleagues determined that his removal from office was warranted based on behavior that tarnished the legislature's reputation. The Court, on the other hand, reasoned that Snowe's claim that the act of removing him unconstitutionally denied his due process rights was valid.

Presumption of innocence exists in criminal prosecutions. Criminal defendants have a right to bail for noncapital offenses; speedy, public and impartial trial by a competent jury and court; access to counsel of their choice, including public defenders provided by the state if the accused is indigent; and protection from double jeopardy. However, some of these constitutional rights are not available to most defendants. Speedy trial, adequate representation by counsel, and judgment by a competent jury are demonstrably nonexistent in the criminal justice system. As attested to by local and international human rights groups—and in violation of Liberian and international law—many accused criminals spend more than the prescribed period in pretrial detention, and grand and petit jurors lack the requisite understanding of legal and technical issues because of poor education; in addition, they are grossly underpaid for their services by the government and are thus susceptible to tampering. While the accused may hire a counsel of choice, the associated fee (even for a misdemeanor) is grossly unaffordable for most people.<sup>19</sup> Although accused persons may be supplied public defenders, they still face the dilemma of public defenders' abject incapability; many are not even formally trained attorneys, especially in rural areas. Though a Judicial Training Institute was launched in June 2008 to help remedy this situation, it is not yet fully operational. As with rape cases, many citizens prefer to pursue remedies outside the court system. In cases of theft, for instance, victims favor direct retrieval of the stolen property or its equivalent value, or even simple identification and shaming of the thief, to the complications of legal intervention.

County attorneys are the principal prosecutors in Liberia's 15 counties. They are strictly accountable to, and controlled by, the executive under the direction

of the Ministry of Justice (headed by the attorney general) and the solicitor general—both political appointees that serve at the pleasure of the president. The recent substitution of law school graduates for prosecutors trained through Liberia’s traditional apprentice system of “reading law” under established lawyers has improved the system, but a majority of new recruits are inexperienced. The Ministry of Justice temporarily addresses this problem by contracting and directing private attorneys on a case-by-case basis. Consequently, both government and privately contracted prosecutors do not exercise independence in their prosecutorial duties. Nevertheless, there have been prosecutions of both current and past government officials, including the trials of Senator Roland Kaine, Charles Gyude Bryant, and Edwin Snowe mentioned above—all three of whom were acquitted. Concerns have also mounted over the government’s failure to prosecute current public officials who are removed from their offices for corrupt practices; it apparently prefers to give political reasons for their removal. The dismissal in mid-2009 of General Services Agency (the government’s procurement unit) Deputy Director General Richard Fallah, sparked by an employee strike action on allegations of corrupt activities, typifies the reluctance of the government to prosecute public officials for wrongdoing.<sup>20</sup>

The police and military are undergoing reorganization and retraining and appear to generally understand their responsibility to remain under civilian control and protect the population. Former combatants were deliberately left out of the reconstituted army, though their services were not precluded for the police and other security forces. The military, which is not yet fully deployed, poses little threat of instability, despite protests for benefits in 2008 by some military officers at the country’s Camp Kesselly barracks. However, corruption in the police force remains rampant, and both corruption and abuses by the security forces are generally ignored. General security remains substantially in the hands of the 10,000-strong UNMIL force.

Property rights are constitutionally guaranteed on an individual and collective basis, but only citizens (limited to “Negro or persons of Negro descent”), regardless of ethnicity, may own real estate or land. Benevolent institutions such as churches may own land, but only for their civic purposes. Protection of property rights, especially when infringed, is undermined by poor court enforcement as well as the inadequacy of the records system.

Property rights do not extend to mineral resources on or beneath the land surface. The foreign-owned Liberia Agriculture Company (LAC) and indigenous people living in its area of operations have been in conflict over such rights in recent years. Tension reached a boiling point when an expatriate LAC manager was killed in 2007. The murder case, which remains pending, is indicative of a broader problem with conflict between indigenous land rights relative to those of the owners of major rubber plantations. In recent years, densely populated Monrovia has experienced issues with squatters that have occupied government-owned properties and made them livable, only to witness the government repossess the properties with little or no compensation or

alternate housing provided. Citizens displaced by the war generally return to their property, though many have to contend with squatters and other illegal claimants. Such issues comprise part of the general land ownership dilemma plaguing postwar Liberia, which many hope will be resolved by the National Land Commission formed to address the entire sensitive topic.

## **ANTICORRUPTION AND TRANSPARENCY 2.81**

ENVIRONMENT TO PROTECT AGAINST CORRUPTION	2.00
PROCEDURES AND SYSTEMS TO ENFORCE ANTICORRUPTION LAWS	2.50
EXISTENCE OF ANTICORRUPTION NORMS, STANDARDS, AND PROTECTIONS	3.25
GOVERNMENTAL TRANSPARENCY	3.50

Shortly after the 2005 elections, the Johnson Sirleaf government pronounced a policy of zero-tolerance of corruption. The executive's draft corruption offenses act was poised for submission to the legislature in mid-2009. An independent Anti-Corruption Commission (ACC) has been established, though it is still in the organizational stage. In addition, the police Criminal Investigation Division (CID), the National Security Agency, and the National Bureau of Investigation (NBI) possess anticorruption mandates. Despite the existence of these agencies, corruption remains prevalent in Liberia.

The General Auditing Commission (GAC), established by a 2005 amendment to the Executive Law of 1972, has established the existence of significant corrupt activities in public offices. The auditor general who heads the commission now reports to the legislature rather than to the executive, though the GAC prepares three quarterly reports and an annual Uniform Accounting Report for the president, the legislature, and the public.<sup>21</sup> Conflicts between the GAC and the executive previously threatened to undercut the agency's crucial role in the fight against graft, but international and public support for the GAC's activities has dampened the government's initial reservations about the gusto with which Auditor General John S. Morlu approached his job. The presidency has recently received a series of audit reports and appears to be working on acting upon them. GAC reports can be accessed on its website or at its head office in Monrovia.

Prosecution of public officials for corruption is inconsistent. When corruption is engaged, it is on a post facto basis, mainly because there is hardly any effective barrier to check its occurrence. Prosecutions, penalties, and restitution are not yet vigorously pursued. The ACC, established by the Anti-Corruption Act of 2008, initiated work in the fall of 2009 and possesses the power to arrest and interrogate suspects. If the commission can acquire traction and overcome public skepticism by delivering results, it could over time signal the emergence of a clear strategy to address the vexing corruption problem.<sup>22</sup>

The interwoven and complex processing requirements in public agencies and absence of checks on public officials creates an environment in which public servants' behavior is characterized by negligence and outright solicitation of bribes. For example, clearing procedures conducted by officials at ports of entry are cumbersome, complicated, and subjective, resulting in prolonged stays of goods in the port and, sometimes, abandonment by owners due to damage or incapacity to settle high storage costs resulting from bottlenecks.

The government maintains a public procurement agency, the Public Procurement and Concessions Commission (PPCC), which oversees concessions and privatizations. The PPCC was created in 2005 with the responsibility to regulate and monitor all forms of public procurement. In addition, various government agencies form assessment and vetting groups for proposed government concessions and investment negotiations. However, processes carried out by the government have at times been marred by acts of negligence. One example involved bids for the Wologisi iron ore deposits referred to as the Western Clusters. Both Tata Steel of India and Delta Mining Consolidated of South Africa bid for the project, and press reports described a saga that included a government failure to conduct due diligence and accusations of improprieties on the part of both the companies and senior government officials. In mid-2009 the matter was on the verge of resolution, with the government exonerating both Delta and Tata of any wrongdoing and Tata reportedly withdrawing its bid.<sup>23</sup> The due diligence shortcomings prior to selecting a winner, and the president's subsequent reversal of the award, exemplify the regulatory inadequacies characteristic of such processes. In addition, with ongoing allegations of solicitations of bribes by officials, some foreign companies may be reluctant to enter bidding processes in Liberia.

Article 90 of the constitution prohibits acts by holders of public office that breach public policy or create conflicts of interest. The office of the president also drafted a code of conduct for public officials, but its approval has been pending before the legislature for over a year. While awaiting approval of the code of conduct, the Civil Service Agency has established a set of regulations to promote ethical behavior among civil servants. Despite the constitutional mandate and administrative regulations, the GAC and other entities report that public servants, including senior government officials, openly engage in activities that conflict with the statutes and create situations that inhibit the enforcement of tax and other fiscal regulations. Although the government is cognizant of such breaches and conflicts of interest, its inaction seems to license such acts. Although an assets declaration requirement was decreed by the government, as of early October 2009 its provisions remained unimplemented, as noted in an ACC report stating that only 18 officials had complied with the declarations directive.

A tax and accountability monitoring system, the Liberia Extractive Industries Transparency Initiative (LEITI), was established in 2008 and enacted

into law in July 2009 to perform a similar monitoring function. Liberia decided to join the EITI global initiative in order to promote transparency in mineral revenue through a process of disclosure, verification, and publication. The first LEITI report pointed to gaps between the payments steelmaker ArcelorMittal reportedly paid to the government and what the government reported as received. In a February 2009 meeting various stakeholders representing the government, industry, and the citizenry “committed themselves to resolve all discrepancies.”<sup>24</sup>

The president’s immediate emphasis of a zero-tolerance policy on corruption took several years to yield a steady series of investigations, but the policy appears to be picking up steam. The president’s dismissal of close political ally Harry Greaves as head of the Liberian Petroleum Refinery Corporation (LPRC) in August 2009 for violating bribery laws is one powerful example. The unceremonious removal earlier in 2009 of agriculture minister Chris Toe might be another, though the circumstances of his dismissal have not officially been made public.

As reported in the press and related in private by educators, corruption in Liberia transcends public office. Educational entities, especially public schools, condone institutionalized corruption, as manifested by fraudulent admissions processes and the imposition of fees for make-up examinations, some of which deliberately create conditions for students to fail. Students remain vulnerable to such unethical behaviors because of poor supervision and the absence of established performance evaluations.<sup>25</sup>

The ability to denounce corrupt acts is more positive. Local and international news media vocally publicize allegations of corruption by public officials and private individuals. The government generally endorses such activity, but has also warned that it will demand proof, a stance that represents a potential hazard to the continuous reporting of corruption, especially in light of the president’s decision to sue the editor of the *New Broom* newspaper (see Accountability and Public Voice). Moreover, as of late 2009, there are no legal protections for whistleblowers. The government remains theoretically committed to combating corruption, but needs to exhibit tangible results to dispel public perceptions that it is giving the issue mere lip service. Although mooted by later events, the president’s early 2009 appointment of former director of police Paul Mulbah, whom she previously declared to be corrupt and unworthy of public service, as a high-level police advisor seemed to support the public’s apprehension regarding the government’s resolve.

Access to government information is fair and improving. Information is more easily retrievable than previously via the internet, at little or no cost. Although some government websites exist, government information is not readily available in a public or user-friendly format. A draft set of freedom of information laws was proposed to the legislature by a group of activists in 2008, but has not yet been enacted into law. Information unavailable to the public on time,



if at all, includes the budget and detailed expenditure reports. Although the executive tended to submit draft budgets to the legislature so late as to constrain the time available to conduct scrutiny prior to approval, some improvements have been noted. The 2009 budget bill was submitted on time, and a healthy public budget debate occurred in the months prior to the July 13, 2009 signing into law of the fiscal year 2009/2010 budget.

## RECOMMENDATIONS

- Strengthen the electoral laws to assure fair and transparent campaign financing and balloting procedures while international actors are still present to mediate in the event of discord.
- In keeping with emerging international standards, decriminalize libel and defamation.
- Address unresolved legitimacy issues related to Liberia's status as a settler state in transition by undertaking a national dialogue regarding institutional arrangements.
- Strengthen the law program at the University of Liberia in order to prepare the next generation of lawyers, judges, and prosecutors and assure uniform and appropriate jurisprudential formation.
- Ensure that the Anti-Corruption Commission remains autonomous and that officials and other agencies are required to cooperate with its investigations.

## NOTES

For URLs and endnote hyperlinks, please visit the *Countries at the Crossroads* homepage at <http://freedomhouse.org/template.cfm?page=139&edition=8>.

- <sup>1</sup> Liberia Institute for Geo-Information Sciences (LISGIS), *2008 National Population and Housing Census Final Results* (Monrovia: LISGIS, May 2009); "Poverty Spreads in Liberia: UNMIL Official Unveils Statistics," *Daily Observer*, March 3, 2009.
- <sup>2</sup> This at a time when Liberia has improved its image regarding governance. See "How African Countries Are Improving Standards of Governance," *Vanguard* (Nigeria), October 7, 2008; Mo Ibrahim Foundation, *The Ibrahim Index of African Governance 2009* (London: Mo Ibrahim Foundation, 2009).
- <sup>3</sup> UN Security Council (UNSC), *18<sup>th</sup> Progress Report of the Secretary General on the U.N. Mission in Liberia* (New York: UNSC, February 10, 2009), 9.
- <sup>4</sup> See wide-ranging sentiments expressed in Truth and Reconciliation Commission of Liberia, *Final Report* (Monrovia: Truth and Reconciliation Commission, 2009).
- <sup>5</sup> Republic of Liberia, *The Electoral Reform Law: An Act Suspending Certain Provisions of the Constitution of Liberia and Amending Specific Sections of the New Elections Law of 1986*, December 2004; Republic of Liberia, *The New Elections Law: An Act Repealing Decree 85 of the People's Redemption Council Adopting a New Title 11 in Lieu Thereof to Be Known As the New Elections Law*, September 1986; Some candidates with personal fortunes included Varney Sherman, George Weah and David Farhat. Ellen Johnson Sirleaf and Charles W. Brumskine were well connected internationally, and at least two candidates (Joseph Korto and George Kieh) faced particular resource challenges, as revealed to this writer.

- <sup>6</sup> UNSC, *Midterm Report of the Panel of Experts on Liberia Submitted Pursuant to Paragraph 4 of Security Council Resolution 1854 (2008)* (New York: UNSC, June 2009), 22.
- <sup>7</sup> David C. Williams, "The Evolution of Democracy in Liberia" (paper presented at the Ambassador Seminar on Liberia, U.S. Department of State Bureau of Intelligence and Research, Washington, D.C., July 24, 2008).
- <sup>8</sup> The international NGOs seem to display the mindset of what economist William Easterly calls "planners" (top-down approach) as opposed to "searchers" (bottom-up approach). See William Easterly, *The White Man's Burden: Why the West's Effort to Aid the Rest Have Done So Much Ill and So Little Good* (New York: Penguin Books, 2006).
- <sup>9</sup> The Anti-War Advocacy Wing of the Progressive Action for Change, "War Crimes Group Details Police Brutality in March 7 Catastrophe," press release, March 14, 2009. Morlu's advocacy was discredited by reported lies about a meeting he claimed to have had with U.S. President Barack Obama during the latter's visit to Ghana in July 2009. See "Delusional Morlu Frauds War Crimes Cause in Liberia; U.S. Denies Obama Meet," Front Page Africa, July 13, 2009.
- <sup>10</sup> Ad-Hoc Independent Commission on the E-Mail Saga, *Report of the Ad-Hoc Independent Commission on the E-Mail Saga* (Monrovia: Ad-Hoc Independent Commission on the E-Mail Saga, January 7, 2009). Though the report was promptly released following its January 7, 2009 submission by the commission chaired by D. Elwood Dunn, the release did not include vital appendices, and there is no evidence to date of the government's action in respect of the report's recommendations.
- <sup>11</sup> "Memo to the President: Killing Fly with Sledgehammer Is Counterproductive," *Analyst*, September 28, 2009.
- <sup>12</sup> "Liberia: Angry Mob Breaks Harper Prison—Over 500 Prisoners Flee," *Informer*, June 12, 2009; A. Abbas Dulleh, "Another Jailbreak—New Batch of Central Prison Inmates Escape," *New Democrat*, May 18, 2009.
- <sup>13</sup> UNSC, *16th Progress Report/Liberia of the Secretary General on United Nations Mission in Liberia* (New York: UNSC, March 19, 2008); Rebecca Murray, "Even the Devil Is Subject to the Law," Inter Press Service, March 10, 2009.
- <sup>14</sup> There is one exception to the prohibition on discrimination: the 1986 Constitution states that only black people may become Liberian citizens. See Republic of Liberia, *1986 Constitution of the Republic of Liberia*.
- <sup>15</sup> United Nations Development Fund for Women (UNIFEM), *Beyond Numbers: Supporting Women's Political Participation and Promoting Gender Equality in Post-Conflict Governance in Africa* (New York: UNIFEM, January 2006).
- <sup>16</sup> D. Elwood Dunn, Amos J. Beyan, and Carl Patrick Burrowes, *Historical Dictionary of Liberia* (Lanham, MD: Rowman & Littlefield, 2001), 261.
- <sup>17</sup> Truth and Reconciliation Commission of Liberia, *Final Report*.
- <sup>18</sup> International Trade Union Confederation (ITUC), "Liberia," in *2009 Annual Survey of Violations of Trade Union Rights* (Brussels: ITUC, 2009).
- <sup>19</sup> The minimum wage is US\$70 monthly. See Ellen Johnson Sirleaf, "Annual Message to the Fourth Session of the 52<sup>nd</sup> National Legislature of the Republic of Liberia," Monrovia, January 26, 2009, 8.
- <sup>20</sup> Tiawan S. Gongloe, "For Three Consecutive Years, Prosecution Wins More Cases Than Loses under President Johnson-Sirleaf," *Perspective*, June 3, 2009; Economic Community of West African States (ECOWAS), *Final Report of ECOWAS Team of Investigators on Economic Crimes in Liberia* (Abuja: ECOWAS, June 18, 2005); Truth and Reconciliation Commission of Liberia, *Final Report*.

- <sup>21</sup> John Sembe Morlu II, *A Blueprint for Accountability, Transparency and Good Governance: The GAC: Building A New Liberia on Solid Foundations* (Monrovia: General Auditing Commission, January 2007), 4, 22.
- <sup>22</sup> Mbeeninsia N. Kialain, "LACC Investigates 4 Cases of Corruption," *Liberian Observer*, October 5, 2009; "Ribadu Calls for Revamping of Liberian Anti Corruption Commission," *Elombah.com*, August 22, 2009.
- <sup>23</sup> Press Trust of India, "Tata Shelves Plan to Bid for US\$1.6 Billion Iron Ore Project," *Business Standard*, May 4, 2009; "Mining Indaba 2009: Liberia Expected to Reopen Bidding for Wologosi Iron Ore Deposits," *Metal Bulletin*, February 11, 2009; "Delta Reconsiders Liberia Venture," *Business Day* (South Africa), May 7, 2009.
- <sup>24</sup> Desmond Crane et al., *Final Report of the Administrators of the First LEITI Reconciliation* (Monrovia: Liberia Extractive Industries Transparency Initiative [LEITI], February 2009); LEITI, "LEITI Holds Second Stakeholders Retreat," *LEITI Newsletter* 2, no. 1 (January–April 2009), 6.
- <sup>25</sup> Moses D. Sandy, "Corruption: A De Facto Way of Life in Liberia," *Liberian Journal*, December 23, 2008; Emmanuel Dolo, "Building a Corruption-Sensitive Society," *Liberian Journal*, December 17, 2008; William Reno, "Anti-Corruption Efforts in Liberia: Are They Aimed at the Right Targets?" *International Peacekeeping* 15, no. 3 (June 2008): 387–404; "Reverend Jailed for Granting Fake Degrees," *Liberian Observer*, December 11, 2008.