



WEST AFRICA GOVERNANCE MONITORING PROJECT

LIBERIA

By

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About the CODESRIA-OSIWA Joint Regional Governance Monitoring Initiative

This report is the result of a regional governance monitoring initiative carried out by CODESRIA, the Dakar-based research institute, with funding from OSIWA, the Open Society Institute's West Africa Office. The overall purpose of the initiative is to advance governance in the region, and in particular, to restore African agency in monitoring governance in the participating countries. The initiative aims to include issues that are relevant on the ground and to feature the perspectives of in-country stakeholders, including people who are affected by governance practices and policies.

About this Report

In preparing this report, the research team created an initial governance monitoring framework for Liberia, and populated this template with data that would serve as a baseline against which the country's advancement in the area of governance can be monitored and assessed in future years on an ongoing basis.

The report is divided into three sections:

1. Women's political inclusion and socio-economic development;
2. Constitutionalism, the rule of law and citizenship; and
3. Corporate governance.

These topics were determined to be the most relevant and pressing in terms of national priorities. It is envisioned that future governance monitoring efforts in Liberia will broaden the scope to deal with additional issues concerning democracy and political governance as well as socio-economic development and economic governance and management.

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LIBERIA: SOME CHARACTERISTICS

Population:	3,476,608 persons (LISGIS Census Report)
Area:	111,370 sq. km or 43,000 sq. miles (2005 World Fact book)
Main Languages:	English
Political System:	Republican (Presidential)
President:	Ellen Johnson Sirleaf (elected Nov. 8, 2005)
Human Development Index:	0.300 (2010 Human Development Report)
Overall Ranking Ibrahim African Governance Index (IIAG) 2010:	38
Safety and Rule of law:	32
Participation and human rights:	20
Sustainable Economic opportunity:	48
Human Development:	35
Overall Ranking Report on Governance in Africa (RGA) 2011:	45
Overall Ranking Transparency International (2010):	3.3 (87 th)
Main Sectors of the Economy:	Mining, agriculture and forestry
Main natural resources:	Iron ore, rubber, timber, diamond, gold and possibly crude oil
Growth Rate (2010):	6.3% (Central Bank of Liberia)

GOVERNANCE MONITORING PROJECT: LIBERIA

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SECTION 1: WOMEN'S POLITICAL INCLUSION AND SOCIOECONOMIC DEVELOPMENT

1.1 Introduction

Liberia is a signatory to the major global agreements on women's rights and has not only ratified a significant proportion of these instruments but translated them into domestic laws. Yet despite these and other efforts to empower women, numerous issues remain in cultural, political and economic spheres of life and gains for women have been sporadic. Women often work more than men yet are paid less; gender discrimination affects girls and women throughout their lifetime; and women and girls often bear the brunt of poverty.

For many years, a range of barriers prevented women's full participation in Liberia's political process. For example, during the Tubman regime, women who had never owned property were not eligible to vote. The situation did not change during the Doe regime. Still, a select number of women found their way to top-level government positions.

In early 2011, when 1.7 million Liberians signed up to vote in upcoming elections, half were women. Dozens of national organizations and international agencies laid the groundwork for this progress.¹

The post-conflict period offered an opportunity to reform political institutions and processes in a way increases opportunities for women to participate in decision-making. It is recognized, for example, that gender equality has a positive impact on child survival and economic development. Indeed, much of the international peacebuilding and national development effort has focused on women's empowerment. As Tim Kellow observed in a 2010 report for International Alert:

Elections, for example, offer women the chance to translate the new roles they assumed out of necessity during conflict into formal political representation. However, elections also expose women to lingering discriminatory mindsets and cultural practices that are considerable barriers to their greater political participation. Despite notable positive developments in post-conflict Liberia, women's representation in the parliaments remains low.²

In the first post-conflict elections in Liberia, noted Kellow, women won less than 15 percent of parliamentary seats because they lacked the capacity to challenge their male rivals. Even so, he asserts:

The election of Africa's first female president has created a positive 'demonstration effect' that has significantly improved conditions for women's future political participation. [However] [a]ttempts to establish new structures and mechanisms that

¹ <http://content.undp.org/go/newsroom/2011/march/liberia-17-million-sign-up-to-vote-with-undp-support.en>.

² Kellow, Tim (2010). Women, Elections and Violence in West Africa: Assessing women's political participation in Liberia and Sierra Leone. International Alert, p. 5. <http://www.international-alert.org/sites/default/files/publications/201012WomenElectionsViolenceWestAfrica.pdf>.

would expand women's participation in decision-making in Liberia have had mixed results.³

President Ellen Johnson Sirleaf, the chief executive of Liberia, is committed to affirmative action to guarantee a minimum level of women's political representation, wrote Kellow:

However, steps in this direction have not actually been taken, due largely to resistance from male-dominated political parties and a lack of political will. The main parties¹ have failed to meet their own voluntary commitments for 30 percent of their candidates to be women. Ongoing constitutional review processes² present an opportunity to establish formal quotas but may not be concluded before this year's elections.

The nature of national political structures has a major bearing on the opportunities for women to access and participate in governance structures outside the capital³. [t]he inspiration provided by an effective female president has created a sense that women can now strive for any position in society. On the other hand, opportunities for women to participate in politics are limited by the country's centralized political structure.⁴

Women are now emerging as political leaders after decades of slow progress. In the 1950s and early 1960s, women did not have the right to vote nor were any elected to public office. Toward the end of the Tubman administration, women who were property owners were eligible to vote. During the Tolbert regime women's participation in politics was still rare, though it was during that time that the first African female, Angie Brooks-Randall, was appointed as the UN representative for Liberia. Also, Dr. Florence Chenoweth was appointed as minister of Agriculture and Her Excellency Madam Ellen Johnson Sirleaf was appointed as assistant minister of finance. During the Doe regime a significant number of women emerged as notable leaders, including Madam Ellen Johnson Sirleaf who was the first woman to be elected as senator in the history of the republic (from Montserrado county).

Since the Liberian civil wars, women's participation in public service has been on the rise, with women serving in capacities ranging from cabinet minister to senior executive positions (in autonomous, diplomatic, corporate and social economic developmental bodies) both in national politics and regional affairs. Although many women ran for office in the 1997 and 2005 presidential and general elections, it wasn't until 2005 that women won in significant numbers.

1.2 Barriers and Challenges to Women's Political Participation

A great barrier to women's political participation is cultural marginalization, which restricts women's rights and opportunities and undervalues their potential role in society. This has often translated into a lack of self-confidence among women in terms of their ability to aspire to and succeed in leadership positions. In his report for International Alert, Kellow identified a number of issues:

³ Ibid.

⁴ Ibid., p. 5.

Traditional and religious practices: Cultural and traditional practices, although more extreme in rural and isolated areas in the country, essentially block women from actively participating in political decision-making. Women are relegated to traditional household roles as care-givers, often resulting in arranged marriages and pregnancy at a young age, which leave women feeling trapped with few rights. This is reinforced by women's fear of rejection or even violence from husband and family if they strive to enter politics. ⁵

Limited education and literacy: Structural barriers of poverty and class and the cultural marginalization of women have severely limited their educational opportunities. As a result, high levels of illiteracy among women and their lack of qualifications and skills serve as a major barrier for their political participation – both formally and informally. ⁶

Ignorance of rights and opportunities: Despite ongoing civic education programmes, many women still lack a basic understanding of their political system and the role of government. This prevents women from knowing their rights and how to claim them, and from appreciating how much elections can help them to seize the available opportunities. ⁷

Limits to leadership: Women who have overcome these internal barriers and aspire to greater political involvement face discriminatory attitudes of social and political powerbrokers. Male-dominated political parties control the formal political sphere in both countries. Despite their public commitments to promote women's participation in party structures and as candidates for election, women regularly find their ambitions frustrated. ⁸

Cultural marginalization has severely limited women's educational opportunities, resulting in high illiteracy levels and a lack of qualifications and skills. These factors block women's participation, both formally and informally. Traditional and religious practices relegate women to traditional household roles, often leaving them in fear of rejection or even a violent reaction from their families if they attempt to enter politics. Women who do try to enter politics face discriminatory attitudes from male-dominated political parties that control the formal political sphere. Despite their public commitments on the subject, parties have done little to promote women's participation in party structures and as candidates for elections. ⁹

Lack of Finance: The first-past-the-post electoral system employed is widely considered to restrict women's chances of getting elected. Women lack the finances to run effective constituency campaigns and to compete with established strongmen in their communities. Female candidates and their supporters are routinely confronted with gender-based intimidation that creates an aggressive climate and pushes some women to abandon their campaigns. ¹⁰

⁵ Ibid., p. 19.

⁶ Ibid., p. 20.

⁷ Ibid.

⁸ Ibid, p. 21.

⁹ Ibid., p. 6.

¹⁰ Ibid.

Lack of unified Solidarity among women: A recent survey by the Coalition of Political Party Women of Liberia identified lack of solidarity among women as the biggest challenge to their increased political participation. In an environment that has become more conducive to their participation since 2005, women are demonstrating a more individualistic nature and acting more along party lines than in concert with each other. This is creating competition between women's groups, which undermines the potential strength of their joint action and engenders mutual mistrust. This means that women's chances at the next election are likely to be restricted, as they will not receive the support of other women.¹¹

Poor training, skills and political knowledge: Women who have been elected to office often lack the political knowledge, experience and skills required to influence decision-making on issues of importance to women in male-dominated parliaments. Nonetheless, women's lack of independent wealth and political skills continue to act as major impediments to progress.¹²

Additional challenges identified in this report include:

The current male-dominated legislature: Implementation of policies for enhancing women participation in political processes remains problematic due to a obstruction by the male-dominated legislature. For example, most men in the current House of Representatives of the 52nd Legislature opposed the Gender Equity in Politics Act when it was introduced in June 2010.

Traditional leaders and structures: Traditional leaders, including chiefs, elders and some religious leaders often use their positions to intimidate and even threaten female political aspirants whose ascension to high posts in government is perceived as an affront to the male-driven tradition. An official of the Women's Peace Network¹³ explained how a popular legislative aspirant from Bong County was made to fear for the safety of her family should she run; she subsequently withdrew from the race and gave way to a male aspirant.

Male political opponents and their supporters: Often male opponents of female aspirants use intimidating tactics to drive women from the political race. An example is the use of profanities and obscenities during campaign activities, which often leads women to withdraw in order to maintain their respect in the public. An incumbent male candidate in Montserrado, for example, referred to his female opponent in the 2012 general elections as the "baby-ma" of a popular presidential aspirant.

Social relationships of spouses: Men often advise their wives against getting in the political contest to avoid the above-mentioned kind of verbal attacks. Others, perhaps fearing a lack of control from having politically powerful wife, will withhold financial and other support needed for campaigns and other activities.

¹¹ Ibid., p. 17.

¹² Ibid., p. 6.

¹³ Interview with Bernice Freeman, Program Officer, Women's Peace Network, WIPNET, 19th Street, Sinkor, Monrovia, August 31, 2011.

1.3 International and Regional Covenants

On the issue of some questions pertaining to women's rights and political participation, it is important to note that Liberia became a member of the United Nations on 2 November 1945, and was one of the first African nations to do so. Since then the country has signed, ratified or instituted the following conventions and policies:

- É The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), ratified by Liberia in 17 July 1984
- É The Convention on the Rights of the Child (1990)
- É Convention on the Rights of Persons with disabilities (2006)
- É International Convention on Civil and Political Rights (1996)
- É UN Security Council Resolution 1325 (2000) (the role of women in peace and security)
- É UN Security Council Resolution 1820 (2008) (sexual violence in conflict and post-conflict situations)
- É UN Security Council Resolution 1612 (2005) (children and armed conflict)
- É UN Beijing Declaration and Platform for Action was signed in 1995
- É UN International Conference on Population and Development in 1994
- É UN Declaration on Violence against Women (1993)
- É UN Millennium Declaration (2000), which calls for equal rights for women and women's empowerment
- É The Solemn Declaration on Gender Equality in Africa (SOGEA), signed in 2004
- É Liberia signed and ratified the African Charter on Human and People's Rights and its protocol on the Rights of Women in Africa (2005)
- É AU protocols on children
- É The New Partnership for African Development (NEPAD)
- É The Convention Against Torture (CAT) and other cruel inhumane or degrading treatment or punishment
- É The International Convention on the Elimination of all forms of Racial Discrimination (CERD)
- É International Covenant on Civil and Political rights (CCPR)
- É The International Covenant on Economic, Social and Cultural Rights (CESCR)
- É The National Gender Policy (NGP) was developed to implement the commitments made at the United Nations conferences, including the 1993 Vienna Declaration and program for action on human rights and the 1995 Beijing platform for action on women's rights, as well as AU charters.

1.4 Existing Policies and Programmes to Advance Women's Status

At the national level, the government of Liberia has enacted laws and adopted policies and programs towards enhancing the equality of men and women in Liberia. These laws include:

- É The National Gender Policy, which aims to 'eliminate all gender-related problems in Liberia.' (NGP, 2009, p.6)
- É The domestic relations law

- É Inheritance Act of 1998, which specifies equal rights in marriage and inheritance under customary and statutory laws
- É The rape law of 2005, which outlaws gang rape and stipulates a life-term sentence for particularly aggressive forms of rape
- É The Anti-Human Trafficking Act of 2005 prohibiting trafficking in persons

The National Gender Policy for Liberia is a key instrument for change demonstrating the government's bold step to breaking with the past. The policy states:

[D]espite progress made since the end of the civil war, in many sectors of the Liberian society, women and girls continue to have limited access to education and health services and the formal economy. With notable few exceptions including the Presidency, women have been missing out on opportunities and participation in management and decision-making positions at all levels of the society.

The policy provides an overall context for mainstreaming a gender perspective into the national development agenda. Importantly, the policy provides a mechanism for accountability within the government itself and also for other stakeholders. The National Gender Policy (p. 6) states the government's commitment:

Gender disparities and imbalances are common in every sphere of life in Liberia. In most cases, women are disproportionately and unfairly represented. This leads to a variety of social problems that can be associated with gender inequality and imbalance such as unequal gender relations and power relations, lack of access to basic services, economic disempowerment, low participation in decision making, lack of access to legal and judicial services as well as vulnerability to HIV and AIDS.

However, progress toward reducing these disparities is difficult to track because of a subpar information management system. There is little to no synchronized data available to inform empirical findings. In an interview, Mr. James Karwah of the Ministry of Gender and Development acknowledged that it is not currently possible to get aggregated data on women's political participation. Nonetheless, the National Gender Policy is able to point to some key statistics in its report on women's status in a number of areas.

1.4.1 Women's Employment and Labor Participation

According to the National Gender Policy, women make up 54% of the labor force in formal and informal sectors:

Yet women and men are not equally distributed across the productive sectors, nor are they equally remunerated. Due to the gendered division of labor at home, where they carry out a larger share of unpaid family work, more women are less able to remain in full-time employment. Men are more than three times likely than women to be employed by the civil service, NGOs, international organizations or public corporations. The manufacturing sector hires men at a rate of 2 men for every 1 woman. In mining, the ratio of men to women is more than 9 to 1. In forestry the ratio of men to women is 4 to 1 and in the services sector it is 3 men to 2 women.

Women are major players in the agriculture sector, providing 80% of agricultural labor force, 76% of cash crop production, 93% of food crop production, 85% of all marketing and trading, a vital complement to crop production for income generation, and playing a vital role in linking rural and urban markets through their informal networks. They are responsible for household food security; fetching wood and water, transport and marketing activities, and shouldering greater responsibility for care of the family. (National Gender Policy of Liberia 2009, p. 8).

As Table 1.1 shows, the employment status of Liberians by gender shows that female workers lead in the categories of self-employed without employees and unpaid family workers. Male counterparts lead for paid employment and self-employment with employees, suggesting that females are yet to meet the level and quality of employment enjoyed by their male counterparts. The good news is that these gaps are being narrowed gradually since the end of the Liberian civil war.

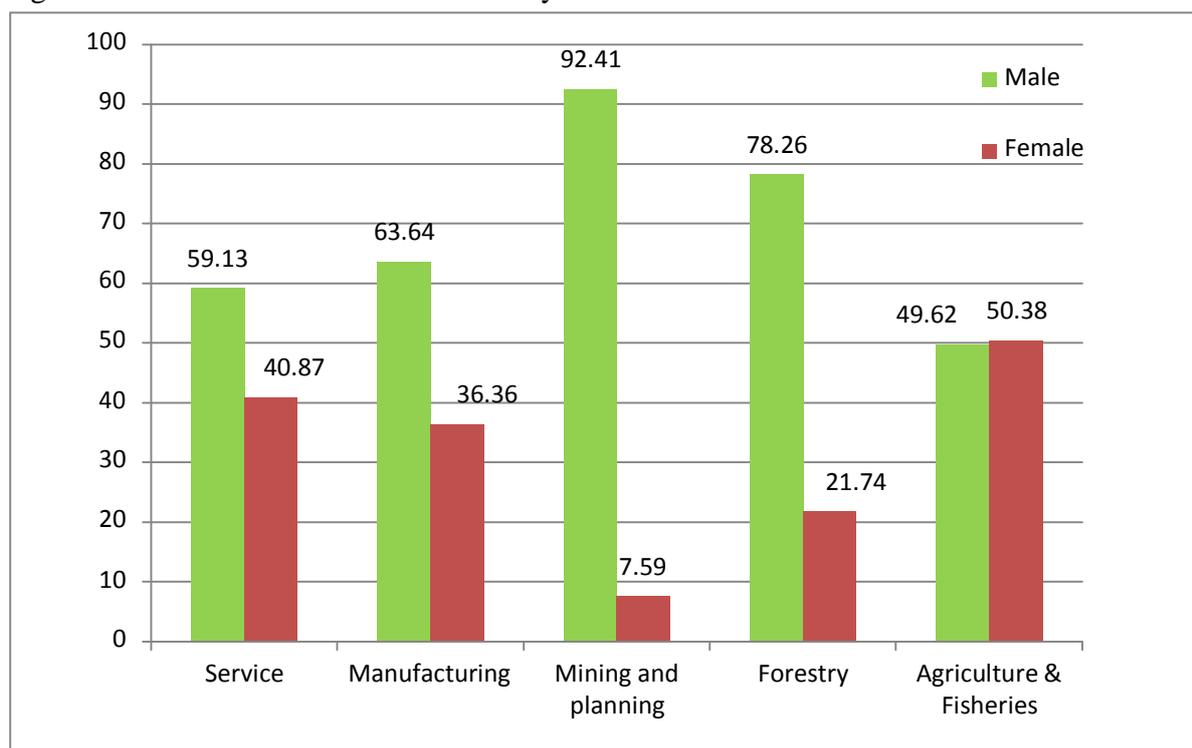
Table 1.1 Existing Gaps in Employment Status by Gender

Employment Status	Male	Female	Gaps
Unpaid family workers	37.49	55.57	-18.08
Paid family workers	29.16	8.53	20.63
Self-employed without employees	29.11	33.27	-4.16
Self-employed with employees	2.65	1.65	1
Domestic	1.12	0.9	0.22
Apprenticeship	0.49	0.09	0.4

Source: National Gender Policy, 2009

In terms of labor by sector, the gender breakdown in Figure 1.1 shows that females actually have a little edge over males in the agriculture sectors. Women make up over half of crop farmers and less than one third of the workers in livestock, poultry and fishing. The rest of the sectors are dominated by males. Although women make up over two thirds of workers in wholesale or retail trade sectors, they however, are less than one third of service workers in electricity, gas, water, construction, transport, storage, communication, financial and community services. The high gaps between males and females indicate that government will need to work hard if it is realize gender equity.

Figure 1.1 Gender Breakdown of Labor by Sector



Source: National Gender Policy, 2009

1.4.2 Women's Political Participation

As mentioned above, after decades of slow progress, women are beginning to enter public office, through electoral process as well as through political appointments. Yet advances have been slow in coming. Again from the National Gender Policy:

Gender inequality and women's marginalization in Liberia is maintained and sustained by traditional and religious perceptions of women as subordinate and men as superior. Girls and boys, women and men are socialized and culturally ascribed different and rigid roles, duties and responsibilities with regard to division of labor, access and control over resources and decision-making positions. In turn, these are transferred to schools, the community and the work places. They, subsequently translate into gender inequalities, gender biases and discrimination in the society, some of which are projected in high incidences of GBV against women and girls; persistent abuse of the rights of women; sexual abuse of the girl child and teenage pregnancy; girls dropping out of school; women's excessive poverty and dependency on men; and over-burden of workload on women. All of these limit women's effective participation in society and benefiting from development (National Gender Policy of Liberia 2009, p. 6).

For more information, see the statistical framework on political participation at the end of this section.

Table 1.2 Representation of Women and Men in Public Service

	Total	Males	Females	% Female
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Cabinet	21	15	6	28.5%
Legislature	94	81	13	13.8%
Supreme Court	5	3	2	40%
Civil Service Directors	318	266	52	16%
CSA Directors and above	16	15	1	6%
LIPA Directors and above	8	7	1	12.5%

Source: National Gender Policy, 2009

Table 1.3 Distribution of Women Appointed by the President

Positions	Total Appointed		Male		Female	
	#	%	#	%	#	%
Minister	23	100.0	17	73.9	6	26.1
County Superintendent	15	100.0	10	66.7	5	33.3
Development Superintendent	15	100.0	12	80.0	3	20.0
Chief Justice	1	100.0	1	100.0	0	0.0
Associate Justices	4	100.0	2	50.0	2	50.0
Ambassadors	22	100.0	16	72.7	6	27.3
Total	80	100.0	58	72.5	22	27.5

Source: National Gender Policy, 2009

1.4.3 Women in Local Government

Liberia does not have elected local governmental structures. Instead, counties are administered by government appointed bureaucrats such as cabinet ministers, superintendents and mayors. The vast majority appointees are ruling party stalwarts and in many cases are not well known in the counties they administer. This system creates a feeling of disconnect between the people and their government and severely restricts political accountability and representation. Although not acting as a barrier per se to women's political participation, in practice the preponderance of government representatives at county level are men.

In an attempt to ameliorate these issues, President Johnson-Sirleaf has introduced consultative appointment process by which a list of five candidates for each position is submitted by county representatives prior to each appointment, stipulating that at least two of these must be suitable women. However, the county representatives are predominantly male and many people question the process. In some cases, appointments [of men] have been met with demonstrations by local communities [both men and women] who feel they have not been consulted and are unwilling to accept officials they do not know. Civil society groups are lobbying the government to open up the county representative posts for public election ahead of 2011, as the Constitution allows for them to be elected.

Local opportunities for women's participation are further restricted by the conspicuous absence of elections for chieftaincy posts, which are heavily dominated by men. Only one paramount chief is currently a woman. Paramount chiefs sit on a council of elders that is consulted by the president on all major decisions and therefore has significant political influence. Although the Constitution stipulates that chieftaincy elections should be held, it does not specify a time-scale, and these have not occurred in 20 years. Civil society is advocating for elections to be held and for a fixed six-year term for paramount chiefs to be established, but there is little sign of progress in this area.

The election of a female president continues to have a considerable and positive "demonstration effect" on women's participation in all aspects of society. The appointments made by the president have helped to alter traditional perceptions of women as poor leaders – especially among men. Significantly more women now hold appointed political decision-making positions than ever before. For example, women make up a third of county superintendents, a quarter of cabinet posts and hold two of five seats on the Supreme Court. An overriding view, less commonly held outside of the capital, holds that the majority of women have done a good job and demonstrated to the electorate that women are just as capable as men, if not more so. According to one female politician: "Men have started to understand that women have a stake in politics – and some are even encouraging them to participate."

Civil society continues to play a vital role in furthering women's participation in politics and elections. Much of this work is conducted by national women's groups, often in partnership, or with technical assistance from international actors. However, the nature of competing for international support has in some cases served to undermine the unity of civil society.

1.4.4 Training and Empowerment Programs

A number of nationwide initiatives have dramatically increased Liberian women's leadership capacity, advocacy skills and civic participation as well as their financial management and business skills. These efforts have been supported by a wide array of donors, including the United Nations Development Program and many international agencies. Following is a small sample of recent training and empowerment programs to advance women's status in Liberia:

- É The 2009 landmark International Colloquium for Women's Empowerment, Leadership, Development, International Peace and Security in Monrovia, which set many efforts in motion, including campaign skills training for more than 100 women leaders; a comprehensive database of 186 women's organizations throughout Liberia and a series of regionally broadcast radio programs featuring prominent women leaders in various fields.
- É The Ministry of Gender Development (MoGD) and Women's Campaign International (WCI) designed a program to strengthen women's networks and build the leadership

capacity of over 700 rural men and women through the National Rural Women's Program (NRWP).¹⁴

- É Strategic campaigning skills training in 2009, supported by Goldman Sachs, CHF International, in coordination with the MoGD, which aimed at building the capacity of women to advocate for improvements to the marketplace and contest elections of the marketing association and other national leadership agendas.
- É Skills training conducted by WCI for 300 women and adolescent girls on computer literacy, soap making, literacy and numeracy and community peace building in 2008 aimed at generating income and fostering leadership skills for women.
- É Community-based gender-based violence awareness trainings carried out by national and local organizations with support from the UN and US-based donors. These programs employed skits, songs, and community-trained educators to discuss domestic conflict mediation skills, ways to prevent violence against women and HIV/AIDS identification, prevention and care.
- É The Women's Peace Network in Liberia established 19 "peace huts" in rural areas across the country to encourage women's participation in community decision-making, strengthen their peacebuilding capacity, and to identify and encourage women to run for office.

1.5 Concluding Recommendations

The context in Liberia regarding women's equality is very dynamic, with many initiatives anchored by the framework of the National Gender Policy. The growing number of women in political life, including the president herself, is cause for optimism. Yet a review of available statistics – in the census, in schools, colleges, churches, markets, industries, administration and in the work place – reveals a still-sobering picture of women's representation.

Significant obstacles remain in the way of ensuring that the electoral process is not undermined by political violence and that women have the chance to expand on the opportunities that have been created. Women's Campaign International sums up the situation on its website:

Since the election of Johnson-Sirleaf, unprecedented numbers of women have assumed leadership positions. Liberian women have demonstrated strong leadership in civil society. Historically, women's grassroots organizations were instrumental in bringing peace to the country. Sustaining women's public roles and increasing the number of women in leadership positions is critical to ensure that Liberia rebuilds the country after fourteen years of conflict to become a vibrant, inclusive, and effective democracy.¹⁵

Over the past decade, Liberia has overcome great difficulty to forge a new path toward social justice, motivated by a spectacular horizon. Great gains have been made in terms of planning and building capacity and leadership. In coming years it will be critical to solidify this work

¹⁴ Women's Campaign International: <http://www.womenscampaigninternational.org/countries/liberia/>.

¹⁵ <http://www.womenscampaigninternational.org/countries/liberia/>.

by monitoring the outcomes of the policies, programs and approaches, and to deepen and expand those that yield the best results.

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Appendix: Summary of key indicators

Political participation statistical framework (excerpt adopted from NGPD, 2009, p. 15).

INDICATOR	FINDINGS
Fulfillment of Women's Rights as Candidates and Voters	
Percentage of candidates by gender and educational status	90.1% were male (20 candidates) and 9.9 % were female (3 candidates) in the first round of the 2005 presidential election; 6 candidates had doctorate or Ph. D., 11 candidates had MA/MSc, one BA, 3 high school graduates and one high school student. However, in the run off, one female and one male; one with MA and one high school student.
Voters turn out rate by gender	1,012,673 (74.9 percent) of voters voted during the First round on October 11, 2005. On November 8, 2005, 825,716 (61.0 percent) of voters voted during the second round.
Women's Participation in Political Decision Making at all levels of the State Apparatus	
Percentage of occupation of political decision making positions by gender	71.5% male (15) and 28.5% female (6) (Source: Civil Service Reform Strategy, 2008)
Percentage of occupation of political decision making by branch	Legislature: 86.2% male (81) and 13.8% female (13); Executive: 71.5% male (5) and 28.5% (6) female; Judiciary: 60% male and 40% female (Source: Civil Service Reform Strategy, 2008)
Making positions by levels of the state apparatus	
Women's participation in the design of Government Policies	
Percentage of occupation of public service top brass positions by gender	84.2% (288) male and 15.8% (54) female (Source: Civil Service Reform Strategy, 2008)
Percentage of occupation of public service to brass positions by brunch (executive)	Executive: 71.5% male and 28.5% female (Source: Civil Service Reform Strategy, 2008)
Percentage of occupation of public service to brass positions by levels of the state apparatus	83.8% male (387) and 16.2% female (75) (Source: Civil Service Reform Strategy, 2008)

SECTION 2: CONSTITUTIONALISM, RULE OF LAW AND CITIZENSHIP

2.1 Introduction

The Constitution of the Republic of Liberia sets the parameters regarding constitutionalism, rule of law and citizenship. Since independence on 26 July 1847, Liberia has had two constitutions. The first was adopted in 1847 but was suspended after the coup d'état of 12 April 1980. The second one was adopted in 1986 in an effort to transform the military regime of Master Sergeant Samuel K. Doe into a civilian government. Article of the 1986 Constitution states that the "Constitution is the supreme and fundamental law of Liberia and its provisions shall have binding force and effect on all authorities and persons throughout the Republic."¹⁶ The Preamble to the Constitution states a commitment to promoting "equality, justice and human rights under the rule of law" for all. Articles 11 to 26 in Chapter III deal explicitly with the issue of fundamental rights, including equal protection before the law; discrimination is denounced, irrespective of race, ethnic background, sex, creed, place of origin or political opinion.¹⁷

Thus, the framers of the Constitution were fully aware that constitutionalism, rule of law and status of citizens were of cardinal significance with regard to good governance and democracy. Nonetheless, as is the case elsewhere in the world, implementation remains a major challenge inside the country. Over the years, leaders who assumed power through the barrel of the gun and others who were elected have undermined the basic tenets of these foundational laws. In theory, the country adheres to constitutionalism and rule of law and is bound to protect its citizens against abuse. But in reality, the Constitution has often been ignored or breached. The independence of the judiciary has been tampered with, including the removal of judges through Joint Resolution of the Senate and the House of Representatives and the establishment of autocracy, and what Liberians often refer to as the "imperial presidency".

Although the Constitution calls for separation of powers and a system of "checks and balances", this principle has been undermined by the supreme role of the president in Liberian politics. In the Constitution, Article 3 stipulates that "Liberia is a unitary sovereign state divided into counties for administrative purposes. The form of government is Republican with three separate coordinate branches: the Legislative, the Executive and Judiciary. Consistent with the separation of powers and checks and balances, no person holding office in one of these branches shall hold office in or exercise any of the powers assigned to either of the other two branches excepts as otherwise provided in this

¹⁶ See Article 2, Constitution of Liberia, 1986.

¹⁷ See Articles 11 to 26, Constitution of Liberia, 1986.

Constitution; and no person holding office in one of the said branches shall serve on any autonomous public agency.¹⁸

2.1.1 The Legislature

J. Gus Liebenow wrote in 1987:

[D]etracting from the benefits to be derived from the extension to the tribal hinterland of suffrage and representation in the Legislature was the fact that elections had actually become almost meaningless exercises within the single party state. Real power had gravitated even more effectively from the Legislature to the President and to those influential Americo-Liberians who surrounded him.¹⁹

Under the rule of the True Whig Party (TWP) from the 1880s until it was toppled by the military coup d'état in 1980, elections for the Legislature were considered to be a mockery because the candidates were often either handpicked by the President or by powerful individuals through the local TWP caucuses. During the 1950s and 1960s certain principles evolved in order to limit intra-party struggles over legislative seats. According to Liebenow:

[I]n the case of senators, there was, until the mid-1960s, a fairly rigid rule that each side of the river within the county was to be represented. Secondly, there was an unwritten rule that each senator and representative was entitled to a second term, so that the issue of succession was foreclosed for eight or four years, respectively.²⁰

However, there were senators and members of the House of Representatives who bent this rule, remaining in office for more than three or four terms. A classic example was Richard Henries, speaker of the House of Representatives who held on to his membership of the House from 1944 to 1980 when the TWP was deposed by the military.²¹

Single party rule therefore undermined the independence of the Legislature. As individuals, a few of the key legislators, like the Speaker of the House, President Pro-Tempore, managed to exercise as great an influence on the government as cabinet ministers. But as an institution the legislature was weak and became an appendage of the Executive. This was specifically true under President Tubman who exercised enormous political authority over every facet of the state. Nonetheless, there were few cases in which a President did not get his way under the TWP era. For example, there was a bill narrowly passed by the Legislature to legalise gambling in Liberia but was vetoed by the President under pressure from the emerging political movement (Movement for Justice in Africa ó MOJA) that was opposed to it. The clerics also opposed and condemned this bill. This forced President William R. Tolbert, Jr. into a retreat to veto his own bill. Under his predecessor, President William V.S. Tubman, a nominee for the Supreme Court was rejected by the Senate only to see that the Senator who led this opposition to the nomination was appointed by the President for the same post.²²

¹⁸ See Article 3 of the Constitution of Liberia, 1986

¹⁹ Liebenow, J. Gus (1987). *Liberia: The Quest for Democracy* (Bloomington and Indianapolis: Indiana University Press) p. 67.

²⁰ *Ibid.*, p. 99.

²¹ *Ibid.*, p. 99.

²² Liebenow, p. 127.

While the elections of 1985 offered an opportunity to change the situation, the preponderance of National Democratic Party of Liberia (NDPL) candidates defeated efforts to establish a truly independent Legislature. The NDPL was formed by Master Sergeant Samuel K. Doe and his close associates in a bid to transform his military regime into civilian rule. The few political parties that won seats were marginalised by the NDPL. In fact, some of those elected refused to take their seats on the grounds that the electoral process was flawed.

It was not until the war years that the various interim legislative assemblies began to exercise independent positions in the country. The composition was such that every political group and civil society group was represented in the assembly. By the elections of 2005, the political landscape regarding the Legislature had changed, because for the first time in its history, the ruling party did not enjoy a majority in both the Senate and House of Representatives. The relative independence of the Legislature during this period was undermined by the frequent switch to the ruling Unity Party (UP) by members of the Legislature. A similar trend continued with the 2011 elections because the ruling party does not have majority in both houses. For example, out of the fifteen senators elected, four are from the UP; four from Charles Taylor's NPP; one from NDC; two from the CDC; one from NUDP; one from APD; one from LDP; and one independent.²³ While such results seem to suggest that this could help with the independence of the Legislature, a lot depends on the political will of its members. If members of the Legislature begin to switch to the ruling party before the next presidential elections of 2018, this could certainly undermine the independence of the legislature.

2.1.2 The Judiciary

One of the issues of concern in Liberian politics has to do with the President's extensive powers to appoint. Under Article 54 of the Constitution, the President appoints, with the advice and consent of the Liberian Senate, cabinet ministers, their deputies and assistant ministers, ambassadors, consuls, the Chief Justice and Associate Justices of the Supreme Court and judges of subordinate courts. Under Article 55, the President also appoints Justices of the Peace, which effectively constitute the lowest courts in the country.²⁴

During long years of single party rule, various presidents have used the powers to appoint in a way that has violated the principles separation of powers and check and balances as deemed necessary since 1847. They have interfered in judicial processes and been behind the removal of judges who exercise the independence assigned them under the Constitution. Since independence, about eight judges have met this fate through so-called Joint Resolutions, which occurred from 1913 to 1967 without any hearings on the validity of the action.²⁵

²³ National Elections Commission, *11 October 2011 Presidential and Legislative Final Elections Results*, 25 October 2011.

²⁴ Articles 54 and 55, Constitution of Liberia, 1986.

²⁵ International Crisis Group, *Liberia: Restructuring the Justice System*, Africa Report No. 107 – 6 April 2006, p. 19.

Presidents have also used the justice system to oppress political opponents. For example, President Doe disregarded due process by detaining his political opponents without charges.²⁶

The war years also compromised the effectiveness of the judiciary. According to Philip Banks, one of Liberia's leading legal practitioners who has twice served as Minister of Justice and is now a Supreme Court Judge, the judicial system became dysfunctional and was in shambles during the war:

[I]n the past and present times, it has been plagued by allegations of corruption, lack of independence and integrity, incompetence and inefficiency, unethical behaviour, and the recipient of political patronage rather than merit.²⁷

The other issue is that most of the laws are obsolete and many have never undergone any serious or comprehensive reviews.²⁸ The establishment of the Law Reform Commission in Liberia may help to address this gap.

In terms of structure, the judicial system in Liberia is divided into several courts, including the Supreme Court, circuit courts, criminal courts, magistrate courts and juvenile courts. While there is a provision for Justice of Peace courts, none has been commissioned under this administration. However, some of the JPCs continue to operate illegally.²⁹

In terms of functions, the Supreme Court is the final arbiter and no appeal can be made to another court after its decision has been reached. Then there are the courts of record such as the Circuit Courts, Criminal Courts (A-D) and Civil Court. These courts deal with criminal and civil matters and appeals from the lower courts can be heard and cases from Circuit Courts can go to the Supreme Court.³⁰ Article 34(e) of the Constitution provides for a Claims Court, but this is not functional. They are supposed to deal with minor civil disputes. Similarly, there is provision for Revenue and Traffic Courts, which are located in Montserrado.³¹ The magistrates' courts are the courts of first instance, and are also courts of no record. They are led by a Stipendiary Magistrate with two associate magistrates.

2.2 Implications and Indicators

2.2.1 Independence of the Judiciary

As indicated above, while the Constitution provides for an independent judiciary, it has not always been so in practice. In addition to the factors cited above, one of the things that undermines the independence and effectiveness of the judicial system is the issue of

²⁶ Ibid., p. 20.

²⁷ Banks, Philip A.Z. (2006). Reforming Liberia's Legal and Judicial System: Towards Enhancing the Rule of Law, Governance Reform Commission Issue Paper, December 2006, p. 1.

²⁸ Banks (2006), p. 12.

²⁹ Universal Periodic Review of Liberia. Joint Submission by the UN Country Team (UNCT) in Liberia for the UPR Working Group, 1-12 November 2010, p. 3.

³⁰ Universal Period Review of Liberia, 1-12 November 2010, p. 23.

³¹ Universal Period Review of Liberia, 1-12 November 2010, p. 22.

corruption. The level of competence of judges has also come under serious scrutiny. Aside from the requirement that appointees be lawyers, Banks asserts that, over the years, the appointment of judicial personnel was driven by patronage, political party affiliation, family ties, friendship, financial considerations and like criteria.³²

According to Banks, the situation has since improved, and by 2006, the country had the best Supreme Court in three decades. But he also sounds the caveat:

[W]hile the recent appointments have shown tremendous improvement in the quality of the justices of the Court and will render removal of justices more difficult, the process of judicial selection remains within the discretion of the Executive leadership and hence, therefore volatile and unpredictable with the emergence of any new Executive leadership not disposed to seeing a vibrant judiciary committed to the protection of justice system and rule of law.³³

In 2006 the Financial Autonomy Act was passed by Legislature and this has strengthened the independence of the judiciary in some ways. Under this Act, the judiciary controls its financial allotment in the national budget and does not have to make repeated requests to the Executive for its allotment.

But the issue of corruption has to some extent tarnished the image of the judiciary. This is particularly true in the lower courts, with magistrates and justices of the peace. Some charge fees above their limitations and some judges do not meet legal requirements for these posts (ie. not all magistrates hold the required law degree).

Several cases of summary proceedings have been filed against some of these magistrates over the years. For example, in Criminal Court A, two cases were heard of summary proceedings against magistrates. The Court ordered that the magistrates resume their duties in accordance with law. Similarly, in Criminal Court B, one summary proceeding was conducted against a magistrate and a sheriff of the magistrate court. Both the magistrate and sheriff were ordered to reconstitute the petitioner's money. Also, in Criminal Court C, three summary proceedings were heard against three magistrates. All were granted against the magistrates.³⁴

Finally, according to reports published in the *Frontpage Africa*, one of the leading Liberian newspapers, an Associate Magistrate, Peter Fayern of New Kru Town, presided over a case, which involved \$1.5m dollars and rendered final judgement in the absence of the defendants, despite several warnings from his colleagues, informing him that the court lacks trial jurisdiction over the subject matter.³⁵ Consequently, the defense lawyer, Cllr. T. Dempster Brown, did not only bring the matter to the attention of Justice Johnny Lewis of the Supreme Court, but also took the Magistrate on a summary proceeding before the Criminal Court A on the grounds that the court (magisterial) lacks jurisdiction in the case. Unfortunately, the

³² Banks (2006), p. 29.

³³ Banks (2006), p. 30.

³⁴ UNMIL, *The Judiciary of Liberia. August 2009 End of Term Report and Analysis of Circuit Courts, Monitoring Unit Quarterly Report, August 2009*, pp. 5-7.

³⁵ Ciapha, Wlemongai, *Corruption at Judiciary: Magistrate linked to two Cartons of Fish, L\$2,500 Bribery Allegations*, *Frontpage Africa*, 11 July 2011 p. 15.

õillegalö ruling of the magistrate was affirmed by the presiding judge, James W. Zota. As a result thereof, Cllr. Brown filed a writ of prohibition against judge Zota and magistrate Fayern before the Justice in Chambers, Francis S. Korkpor.³⁶

While the above cases illustrate that the judiciary exercises a degree of independence, the perspectives of ordinary Liberians both in the urban and rural areas indicate that there is dissatisfaction with the formal legal system in the country. For them, the major issues are affordability, accessibility and timeliness, and the formal justice system falls short of these core expectations. The courts tend to charge excessive fees such as registration fees, gas money for police investigators, cost of food for the detained and accused, lawyersø fees as well as outright bribery.³⁷

There may be more cases of magistrates being sanctioned and of undue interference in the court system, but the lack of accurate and accessible record systems make it difficult to capture a comprehensive picture of the existing challenges within the judiciary.

2.2.2 Freedom of Members of the Bar

The Liberian Bar Association of Liberia is an independent association of lawyers whose members are free to conduct legal activities throughout the country. Currently, there are approximately 400 trained lawyers in the country and about 90% of these reside and practice in Monrovia for a number of reasons. First, there are fewer cases in the rural areas and most rural people do not have money to hire lawyers for cases that go before the formal justice system.³⁸ Second, lawyers make more money in the capital than elsewhere in the country. Liberian lawyers are free to represent various clients, including treasonable cases.

In keeping with the Code of Conduct for lawyers, a lawyer can be sanctioned for misconduct. Currently, there is no record to show that a lawyer has been harassed or arbitrarily sanctioned.

2.2.3 State Commitment to Ensure its Populationø Needs and Services

One of the challenges facing post-conflict Liberia is addressing the socio-economic needs of the people. Despite a 5% growth rate and some foreign investment, the economy remains largely contracted and has not resulted in any appreciable improvements in the living condition of the people. There is pervasive poverty and people lack access to basic social needs like education and health care. Liberia has a population of about 3.62 million people, according to the 2008 population census. Life expectancy in the country is about 47 years; the illiteracy rate of people 10 years or older is 44.13; and about 31.46% of the population has access to education.³⁹ For a group of 100 students starting grade one, only 6 reach grade six.⁴⁰ Infant mortality is about 73 per 1,000 whereas under five mortality rate is about 114 per

³⁶ Ciapha, Wlemongai, Corruption, *Frontpage Africa*, July 11, 2011.

³⁷ Isser, Deborah, Stephen Lubkemann and Saah N'Tow (2009). *Looking for Justice: Liberian Experiences with and Perceptions of Local Justice Options*, USIP Publication, Washington DC, pp. 3-4.

³⁸ Interview with members of the Bar Association and staff of the Temple of Justice, July 2011.

³⁹ Republic of Liberia, *Millennium Development Goals 2010 Report, Progress, Challenges and Prospect towards achieving the MDGs*, UNDP and MPEA, 2010, p. 1.

⁴⁰ *Ibid.*, p. 3.

1,000, maternal mortality rate is 994 per 100,000; and those living below the poverty line (living less than a dollar per day) is 63.8%.⁴¹ This amounts to about 1.7 million people, and those living in extreme poverty constitute 48% (1.3 million people). The level of poverty in the rural areas (67.7%) is higher than those living in urban areas (55%).⁴²

The above illustrates that the country faces serious challenges in relation to the status of its citizens. Thus, the issue of economic recovery is vital for improving governance and rule of law in Liberia. Excessive reliance on intervention of development partners is not the way forward.

2.2.4 Principles of Constitutional Convergence

The role of citizens in Constitutional debates is very limited because of the lack of knowledge of the issues. The vast majority of the people cannot read or write simple English and this inhibits their participation in these debates. Even in situations in which there is interpretation in local languages, a lot depends on how the issues are being interpreted by the interpreters. However, citizens living in both in the urban and rural areas do exercise their full rights to vote.

On 23 August 2011, a referendum was held in Liberia on four constitutional issues. First, there is a proposal to amend Article 52(c), which has to do with the residency requirement for the presidency. Currently, it reads that anyone vying for the presidency should reside in the country 10 years prior to his or her election. The current proposal calls for a clause that reduces the residency requirement from 10 years to 5 consecutive years of living in the country. Second, there is also a proposal to amend Article 72(b) concerning the tenure of judges of the Supreme Court. Currently, they serve for life, but can be retired at the age of 70 years. The new proposal raises the retirement age to 75 years. Third, in keeping with Article 83(a), the date for election is the second Tuesday in each election year but there is now a proposal to change this to the second Tuesday in November of the election year. Finally, it is proposed that except for the President and Vice President, election for public officers should be held on the basis of a simple majority of valid votes cast in the election.

The political parties and electoral coalitions in the country were divided on these issues. The ruling Unity Party and the opposition Liberty Party favoured all of the above amendments. The Congress for Democratic Change did not think that there was a need to participate in such referendum but asked its members to exercise their constitutional right to participate, if they felt the need to do so. In the case of the National Democratic Coalition, it called for a NO vote on all of the issues. To a large extent, their local branches in the capital, urban and rural areas would have taken similar positions but there are no guarantees that all members of their parties and coalitions would toe the line.

Several civil society organisations were active in the debates on the referendum and the issues were widely covered in the press. Some legal practitioners like the former Chair of the Truth and Reconciliation Commission (TRC), Cllr Jerome Verdier, questioned the

⁴¹ Ibid., p. 1.

⁴² Ibid., p. 9.

constitutionality of the referendum. The issues were also covered on radio and TV throughout the country.

As of 30 June 2011, there were 29 political parties, coalitions and alliances registered with the National Elections Commission. Many of these political parties do not have representation throughout the country and the vast majority of them become relevant only on the eve of elections. However, a few of them have been very active in dealing with weaknesses in constitutionalism. The National Democratic Coalition (NDC), the Liberty Party (LP), and Congress for Democratic Change (CDC) and have played a critical role in the debate on the referendum issue.

Similarly, among the many civil society organisations across the country, very few have played any critical role on the debates concerning constitutionalism and citizenship. Those that have include the Liberia Democratic Institute (LDI), Catholic Justice and Peace Commission and FORDH.

2.2.5 Compliance with Presidential Terms Limit Clause

Although the presidential term of office in Liberia was originally for four years under President Tubman, there was no limit on how many times he could succeed himself. Thus, he served as President for Liberia for 27 consecutive years. This made him the longest serving president in the history of the country. After the military coup of 12 April 1980, President Doe changed the presidential term from four years to six years.

2.2.6 Credibility of the Justice System

- Number of lawsuits lost by people in power

While it has been difficult to establish the number of lawsuits lost by the government in power, there have high-profile cases in which the government has lost. For example, in the early days of the Ellen Johnson-Sirleaf administration, a treason case was brought against Charles Julu, one of the supporters and confidantes of President Samuel K. Doe. Julu once tried to overthrow the Interim Government led by Prof. Amos Sawyer in the 1990s and the attempt was aborted. When the Sirleaf government assumed office in 2006, Julu was accused of plotting an overthrow of the President, and after the trial he was acquitted. Similarly, former Chair of the National Transitional Government of Liberia (NTGL), Charles Gyude Bryant and close associates were charged with corruption and brought to court in another high-profile case which the Government lost.

As one lawyer indicated, there have been cases in the lower courts in which the Government has lost. It will take a considerable time to determine their number because of poor record keeping.

- Number of poor people benefiting from legal aid or assistance

Once again, it is difficult to establish the exact number of people benefiting from legal aid assistance throughout Liberia because of a lack of data. However, a number of non-governmental bodies provide legal assistance in the country. For example, the Association of

Female Lawyers (AFEL) provides free mediation legal services to assist women and children but they do not go to court. The Carter Center also supports free legal aid to community members in serious need in counties (political sub-divisions) such as Bong, Marghibi, Lofa, River Gee, Grand Gedeh, and Maryland. One must apply for this service. Similarly, the Catholic Justice and Peace Commission provides legal aid services including mediation and court proceedings. Finally, the Child Fund Liberia, International Rescue Committee and the American Refugee Committee provide legal aid to survivors of gender-based violence (GBV), particularly rape cases. In their work, they cooperate with the County Attorneys and the Ministry of Gender and Development. Thus, legal aid is provided to various groups of people for diverse purposes but the exact figures of people benefiting cannot be established at this time.

- Number of people per lawyer

In country of 3.6 million people there are about 400 to 425 lawyers, including 340 counsellors and 85 attorneys at law. This works out to be 8,471 to 9,000 people per lawyer in Liberia.

- Number of people per magistrate

The unofficial figure is that there are about 144 stipendiary magistrates as follow: Montserrado ó 10; Grand Bassa ó 6; Sinoe ó 33; Maryland ó 10; Grand Cape Mount ó 5; Grand Gedeh ó 8; Nimba ó 12; Bong ó 4; Lofa ó 8; Bomi ó 2; Grand Kru ó 28; Marghibi ó 4; River Cess ó 2; River Gee ó 8; and Gbarpolu ó 4.⁴³ While these are reflected in the records, there is every indication that the reality may be different on the ground. For example, in Bomi County, there is one magistrate as opposed to the 2 mentioned above.

- Number of magistrates sanctioned on corruption charges

As indicated above, the judicial system has come under scrutiny because of corruption charges. According to reports by the International Crisis Group (ICG) in 2006, the 300 Justices of the Peace in Liberia were notoriously corrupt and incompetent; they charged excessive fees and operated outside their jurisdiction.⁴⁴ One of the checks on behaviour of magistrates and other legal personnel in the country is the existence of a Code for Moral and Professional Ethics that was adopted by the Supreme Court in 1998, and there is also a Grievance Committee appointed by the Chief Justice⁴⁵ to also address questionable behaviour on the part of judges and other legal practitioners.

⁴³ Interview with Joseph Gibson, personal assistant, office of the personnel manager, Temple of Justice, 3 June 2011.

⁴⁴ International Crisis Group, *Liberia: Restructuring the Justice System*, Africa Report. No. 107, 6 April 2006.

⁴⁵ Universal Period Review of Liberia, 1-12 November 2010, p. 41.

2.3 CONCLUSION

In conclusion, it is clear that there are mixed results in relation to the issues of constitutionalism, rule of law and the status of citizens in Liberia. This has been true both for pre and post-war Liberia. In theory, the country adheres to constitutionalism, which is enshrined in its Constitution. Despite the clear stipulation that no one is above the constitution of the country, various presidents have abused these foundational laws.

Although the war years adversely affected the judicial system, more and more competent people have been appointed to the judiciary. Issues of the constitutionalism and rule of law are gradually being addressed in the post-conflict period, as can be seen in the fact that the government can lose high-profile cases. This is not to suggest that the challenges of poor infrastructure, incompetent legal practitioners, and corruption in the judiciary have been completely dealt with. Much needs to be done in order to deal with these challenges.

SECTION 3: CORPORATE GOVERNANCE IN LIBERIA

3.1 Introduction

A Corporation is a separate legal entity in which the owners enjoy limited liability; hence the separation of management and ownership in the modern corporation necessitates the need for corporate governance. Separation of management and ownership exist simply because the interest of those who have effective control (managerial control) over a firm differs from the interests of those who supply the firm with external finance (owners). This results into the principal-agent problem, which is reflected in management pursuing activities that may be unfavourable to the interest of the shareholders of the firm. This agency problem necessitates good and effective corporate governance.

Corporate governance can easily be defined as all the mechanisms through which corporations and their management are governed. It details the required level of relationships amongst a company's management, its board, its shareholders, and its other stakeholders and provides the structure through which the objectives and the monitoring of performance are determined.

Hence, effective and good corporate governance necessitates the pursuit of objectives by the board and management that represent the interests of a company and its shareholders, including effective monitoring and efficient use of resources. There are several factors that influence good corporate governance, prominent among which is the nature of the overall institutional and legal framework that has been established by governments to effect such good governance.

Focusing on the institutional framework, Dharwardkar et al. (2000) argued that in emerging economies, of which Liberia is no exception, effective corporate governance is critical to all economic transactions. He further argued that at different levels of agency interactions, market driven institutional conditions that reduce informational imperfections and expedite effective monitoring of agents have a bearing on the efficiency of investment.

Focusing on both the institutional and legal framework, Oman (2001) argued that corporate governance refers to the private and public institutions, including laws, regulations and accepted business practices, which in a market driven economy, govern the relationship between corporate managers and entrepreneurs ("corporate insiders") on one hand, and those who invest resources in corporations, on the other.

Owing to the existence of the agent-principal problem mentioned above, Mayer (1997) defined corporate governance as ways of bringing the interests of investors and managers into line and ensuring that firms are run for the benefit of investors.

Deakin and Hughes (1997) considered corporate governance to be concerned with the level of relationship between the internal governance mechanisms of corporations and society's notion of the breadth of corporate accountability. Keasey et al. (1997) argued that corporate governance includes "the structures, processes, cultures and systems that engender the successful operation of organizations".

A synthesis of the above definitions indicates that corporate governance is represented by the structures and processes formulated and established by a corporate entity in an attempt to mitigate the effect of the agency problems which arise as a result of the separation between ownership and control. It is concerned with creating an optimal balance between economic and social goals and between individual and communal goals while encouraging efficient use of resources, requiring accountability in the use of power and stewardship and aligning the interests of individuals, corporations and society. It also includes the creation of an appropriate legal, economic and institutional environment that enables companies to succeed as institutions for advancing long-term shareholder value and maximum human-centered development while remaining conscious of their other responsibilities to stakeholders, the environment and the society in general.

Corporate governance is concerned with the processes, systems, practices and procedures as well as the formal and informal rules that govern institutions, the manner in which these rules and regulations are applied and followed, the relationships that these rules and regulations determine or create, and the nature of those relationships. It also addresses the leadership role in the institutional framework. Corporate Governance, therefore, refers to the manner in which the power of a corporation is exercised in the stewardship of the corporation's total portfolio of assets and resources with the objective of maintaining and increasing shareholder value and satisfaction of other stakeholders in the context of its corporate mission.

Corporate governance implies that companies not only maximize shareholders wealth, but balance the interests of shareholders with those of other stakeholders, employees, customers, suppliers, and investors so as to achieve long-term sustainable value. From a public policy perspective, corporate governance is about managing an enterprise while ensuring accountability in the exercise of power and patronage by firms.

3.1.1 Objectives of the Study

The broad objective of this study is to determine the impact of corporate governance in Liberia. The specific objectives of this study are to determine:

- i. The level of efforts made towards promoting an enabling environment and effective regulatory framework for economic activities.
- ii. The level of efforts made in ensuring that corporations act as good corporate citizens with regard to human rights, social responsibility and environmental sustainability.
- iii. The level of efforts made towards promoting adoption of codes of good business ethics in achieving the objectives of the corporation.
- iv. The level of efforts made in providing for accountability of corporations, directors and officers.

3.1.2 Organization of the Study

The study is organized as follows: in the next section, we give a brief review of the theoretical and empirical literature on the effects of corporate governance. The following section outlines the methodology to be used in determining the impact of corporate governance in Liberia and the results thereof; while the paper concludes with recommendations and suggestions for further research.

3.1.3 Conceptual Framework

The findings in this paper are being structured in consonance with the requirements of the New Partnership for Africa's Development (NEPAD) which are intended to enhance sound economic and public financial management as well as corporate governance. These serve as preconditions for economic recovery and the mobilization of increased resources for reducing poverty and achieving higher levels of growth. In presenting our findings, we first state the objective and then probe the outcome of each objective.

3.1.4 The Importance of Corporate Governance in Liberia

The importance of corporate governance in Liberia is as follows:

- It will provide a source of competitive advantage by influencing the start-up and/or relocation of corporations into the country
- It will help the country create an enabling environment for all types of commercial entities to flourish within well-defined and predictable applications of rules
- It will help create predictable rules that will attract long-term private domestic and foreign investment.
- It will help in the creation of national institutions that contribute to good corporate governance that allows entrepreneurs to invest resources and create value, that is shared among the investors in a company, the managers, and employees.

3.2 Interpretation of Findings

3.2.1 Objective One

Corporate governance is a component of the larger economic context in which firms operate. That economic context includes, but not limited to, macroeconomic policies and the degree of competition in product and factor markets. The corporate governance framework to a larger extent depends on the legal, regulatory, and institutional environment affecting corporations. The objective of this section is to assess efforts being made to create and promote an enabling environment, which provides an effective regulatory framework for economic activities.

Probe One

Commercial enterprises are entities engaged in the trade of goods, services, or both, to consumers. Commercial enterprises are predominantly found in capitalist countries where they are privately owned and operated for the motive of generating profits for the owners. The objective of this sub-section is to assess the main categories of commercial enterprise and the role they play in the economy.

Findings:

1. With respect to the different types of enterprises in existence in the country (including cooperative societies, family owned enterprises, the informal sector enterprises, etc., their ownership structures, their role in the economy, the country is blessed with diverse business organizations. Liberia has a very large informal sector that is composed of mostly family-owned sole proprietorships that provide employment and income for entrepreneurs. The informal sector has swelled as a consequence of the civil war.
2. From independence up to present, the country is without a stock market; however, efforts are underway by the Central Bank of Liberia for the establishment of the country's first stock market.
3. Key financial institutions active in the economy (including but not limited to banks, investment schemes, government agencies, micro-finance institutions, building societies) are as follows:

Prior to the commencement of the Liberia civil crisis in 1989, the country's financial sector consisted of 14 commercial banks. However, the widespread looting of commercial banks that accompanied the civil war resulted into massive bank failures and eroded the public's confidence in the banking sector. At present, there are nine commercial banks operating in Liberia:

- The Liberian Bank for Development and Investment (LBDI) since 1965
- Eco-Bank Liberia Limited (EBLL) since 1999
- The International Bank Liberia Limited (IBLL) previously the International Trust Company (ITC) since 2000
- The Global Bank Liberia Limited (GBLL) since 2005
- The First International Bank Liberia Limited (FIBLL) since 2005
- The United Bank for Africa Liberia Limited (UBALL) since 2008

- The Access Bank Liberia since 2009
- The Guaranty and Trust Bank Liberia (GTBL) since 2009
- The Afriland Bank since 2011

The CBL, in its efforts to develop a strategy for financial inclusion in the country established the microfinance unit at the CBL in 2006 and subsequently launched the microfinance regulatory and supervisory framework⁴⁶. According to the CBL 2010 annual report, the number of microfinance institutions (MFIs) operating in the country, in addition to the specialized microfinance bank, Access Bank Liberia Limited, has increased from 2 institutions in 2006 to 7 institutions in 2010.

Additionally, there are a total of 26 branches in 8 counties with the number of microfinance clients rising from 8,200 to 51,489 accounting for about 1.5 percent of the country's population. The MFIs loan portfolio has also increased from US\$250,000 to US\$7.9 million. In 2010, the CBL developed Prudential Regulations for Microfinance Deposit taking institutions (MDIs) to bring about further inclusion of the poor into the financial sector by making it possible for low-income people to have opportunity to save as well as borrow. At present, the MFIs operating in the country are:

- Community Livelihood Assistance Program (CLAP)
- Liberian Entrepreneur Assistance Program (LEAP)
- Combined Effort to Aid Liberians (CEAL)
- Liberty Finance
- Building Resources Across Communities (BRAC)

Liberia has a very large informal enterprise sector; however, due to the mobile nature of their operations and the lack of physical and tangible infrastructures and offices, it is difficult to estimate the actual number of informal businesses operating in the country.

4. With respect to the domestic investment industry (including but not limited to pension funds, mutual funds, banks and insurance companies, foreign investors, their equity holdings and the extent of their involvement in the equity market), the country lacks an equity market and also a mutual funds market; however, there are plans underway to establish an equity market in the country. There are about 24 insurance companies, 9 commercial banks and a pension fund administered by the National Social Security and Welfare Corporation. Of the many investors that are present in the country, there is no information on their equity holdings simply because equity markets are non-existent in the country. However the required equity holdings for commercial banks is US\$10 million; for life insurance companies is US\$300,000.00; while for compulsory insurance is US\$450,000.00. For the fact that these financial institutions exist in the country, it means that they must have met the required threshold holdings.
5. There are many key professional and business organizations (like chambers of commerce; chambers of industry; manufacturers associations; institute of directors, institute of chartered accountants, etc.) existing in the country. They are as follow:
 - Liberia Institute of Certified Public Accountants

⁴⁶ The Microfinance Regulatory and Supervisory Framework for Liberia harmonizes operating standards and provides a strategic platform for the evolution of microfinance institutions, promote appropriate regulations, supervision and adoption of best practices.

- The Liberia Chamber of Commerce
- The Liberia Business Association
- Liberia Bankers Association
- Liberia Bar Association
- Liberia Medical and Dental Association
- Association of Female Lawyers of Liberia
- The Rubber Planters Association of Liberia

Probe Two

Commercial transactions should be governed by very detailed and well-established body of rules often referred to as regulatory framework. The main objective of this sub-section is to assess the regulatory framework for economic activities and extent to which it does facilitate commercial enterprise in the country.

Findings

6. The country's legal and regulatory framework governing business enterprise in the country are detailed in the inter-ministerial regulations developed and agreed upon by the Ministry of Commerce and Industry, the Ministry of Foreign Affairs, the Ministry of Finance, and the National Social Security and Welfare Corporation on the coordinated operation and management of the Liberia Business Registry which operates as a one-stop-shop to formalize and register all enterprises and provide information services to the public.
7. The country does not have a stock exchange and as such there are no requirements (initial and continuing obligations) for corporations to be listed on the stock exchange.
8. The Central Bank of Liberia (CBL) established in 1999 by an act of legislature is the only supervisory authority that has oversight over commercial activities in the country.
9. As mentioned earlier, the country lacks a capital market and even if it did have one, it would have fallen under regulations of the Central Bank of Liberia.
10. With the support from the International Finance Corporation (IFC), the country has approved a comprehensive commercial code, which will strengthen the country's business environment. The new code boosts investors' confidence by clearly setting out the provisions for sales, leases, financial leases, mortgages, secured transactions and commercial arbitration. In an attempt to facilitate doing business in Liberia, a significant amount of effort has been devoted to improving the efficiency and effectiveness of the regulatory framework in terms of corporate entities' registration, licensing and de-registration processes. Of recent, the country launched the Liberia Business Registry (LBR), which operates as a one-stop shop to formalize or register all enterprises and provide information services to the public. Thus anyone wishing to register a business will have only one interface with the GOL and it takes approximately 48 hours to register and begin doing business in Liberia. In addition, the country has cut the number of procedures required to open a business by 50 percent and the number of days required to open a business by over 66 percent.

11. The basic problem in Liberia is not the absence of laws but the implementation of the prevailing laws. It is impossible to enumerate all of the types of laws and regulations that impact on economic activities. Thus the country's regulatory framework is inefficient and ineffective with respect to clarity and coherence in the laws governing corporate behaviour (including but not limited to company law, labor laws, tax laws, bankruptcy and insolvency laws). The inefficiency and ineffectiveness of the regulatory framework could be attributed to capacity constraints faced by regulatory agencies, the weak judiciary system in the country, amongst others.

Probe Three

Businesses operate in an environment in which a combination of factors such as business ethics and corporate awareness of the environmental and societal interests of the communities in which a company operates can also have an impact on its reputation and its long-term success. The factors constitute both internal and external factors. The objective of this subsection is to assess the internal and external factors that impact on business activities in Liberia.

Findings:

12. The state of Liberia's available road and transportation infrastructure is a severe hindrance for economic and commercial activities that are pre-requisites for the revitalization of the economy. Poor roads and bridges, exacerbated by heavy seasonal rains, leave many rural areas in the country inaccessible. This situation affects the ability for communities to access markets and basic social services, thus delaying the revitalization of these communities and their prospects for self-sufficiency. Of recent, in an effort to improve the available road and transportation infrastructure and make the country accessible, the World Bank and other international development partners have committed significant funds in donor assistance. Significant amongst them are the World Bank committed US\$14 million⁴⁷ for the rehabilitation of the Buchanan road and the European Union has contributed US\$80 for the rehabilitation of the Red Light-Ganta road project. An analysis of the transport infrastructure reveals the following:
 - Railways: there are no passenger railways in the country, although mining companies owned around 500 km of single track lines which have not been operational for over 25 years. However, negotiations for rehabilitations are underway as part of plans to rehabilitate the iron ore industry, particularly between Yekepa in the north-east and the port of Buchanan.
 - Roads: as mentioned earlier, the country's road network is patchy and in extremely poor condition. The road network totals around 10,000 km of which 1,600 is paved. Many roads are impassable during the rainy season. However, a major road and bridge reconstruction is underway but progress has been slow owing to the lack of capacity and funding. Additionally, construction and maintenance is made difficult during the rainy season, when heavy flooding occurs.
 - Sea Ports: of the five ports which were operational before the war (Monrovia, Buchanan, Greenville, Harper and Robertsport) only the port of Monrovia is still fully operational and currently handles about 28 vessels per month. The

⁴⁷ <http://allafrica.com/stories/200909180393.html>

port of Buchanan is expected to undergo rehabilitation as part of efforts to revive the iron ore industry.

- Air Transport: the Roberts International Airport, also known as Robertsfield, is the country's only international airport however, there are five other domestic airports that have been repaired and used by UN forces only.

13. With respect to the country's available reliable energy supply, owing to the extensive damage to infrastructure during the civil war, no electricity was available for 15 years until mid-2006, when an emergency plan saw 2.7 megawatts (mw) installed for Monrovia. The restoration of the capital's old infrastructure (173 mw) is underway, but rural electrification is still a long way off. Only a few businesses can afford diesel generators and most people use firewood, charcoal, kerosene or palm oil thereby posing serious environmental challenges. All petroleum is imported and periodic foreign exchange shortages have resulted in disruption to supplies.

14. According to the UN World Statistics Pocketbook (2008)⁴⁸, telephone subscribers (total per 100 inhabitants) was 19.4 and internet users (per 100 inhabitants) was 0.5.

The Liberia Telecommunications Corporation (LTC) is the country's only public corporation providing fixed-line telephone services. Prior to the civil war, the LTC served 10,000 subscribers; by 2001 this had been reduced to just 6,800. Meanwhile, the demand for mobile phone services has exploded: mobile subscriptions have risen from 1,500 in 2001 to 563, 000 in 2007. There are four mobile network operators in the country. The increasing competition between Liberia's four mobile phone service providers has helped to reduce the costs of SIM cards and mobile phone calls. As of 2003, Liber-Cell was the country's biggest in terms of coverage, providing wide network availability outside the capital to cover a number of other towns and rural areas. In 2006, Liber-Cell launched a general packet radio signal (GPRS) in the country which replaced its previous analogue based network. This new service allows subscribers to access wireless internet and transmits text, picture and audio files. The speed with which users are able to access the internet through Liber-Cell is estimated to be three times faster than through any other service providers in Liberia. Internet access is otherwise restricted to the capital and large towns because of the poor or non-existent telecoms infrastructure in other areas.

15. The country has instituted sound economic management, which has created an improved business climate⁴⁹. The country reduced the number of procedures required to open a business by half and the number of days required to open a business by more than two thirds. This caused the country to move up 21 places in the World Bank's Doing Business 2010 report, thus designating the country one of the top 10 global reformers in 2010. Effort aimed at encouraging commercial enterprise through investor promotion are as follow:

- The establishment of a new investment incentive code which introduces a clear, standardized, and transparent system for awarding incentives.
- The establishment of a new revenue code thus lowering the maximum corporate and personal tax rate from 35 percent to 25 percent.

⁴⁸<http://data.un.org/CountryProfile.aspx?crName=Liberia>.

⁴⁹ The country successfully completed a set of 12 rigorous economic and governance reforms thus enabling the IMF, World Bank and other bilateral lenders to write-off the country's entire US\$4.6 billion debt.

- The enactment of the Investment Act of 2010, which strengthens investment protection by providing guarantees against unfair exploitation; ensuring the ability of investors to repatriate capital and profits; obliging the government to protect intellectual property; and providing access to internationally recognized dispute resolution mechanisms.
16. With respect to efforts aimed at encouraging commercial enterprise through small and medium size corporations, the National Investment Commission in its 2010 annual report claimed that between 2006 and 2007, the Small and medium Enterprises Department of the Commission negotiated a total of LD\$20 million from the LBDI and Eco-Bank to be lent out to small Liberian-owned businesses for short-term repayment specifically between one and a half year to three years. According to the same report, EcoBank contributed LD\$15 million and provided loans to 43 businesses while LBDI contributed LD\$5 million and provided loans to 14 businesses.
 17. Efforts at encouraging commercial enterprise through privatization of public sector entities or parts thereof in Liberia are still at the preparatory stages. The private sector, being the engine of growth and development, the GOL has committed significant efforts to increase this sector via the privatization of some state-owned enterprises (SOEs) where possible. However, the GOL is currently in the process of evaluating which SOE should be privatized and the economic impact of divestment.
 18. Since the country is without a capital market, there are no efforts aimed at encouraging commercial enterprise through capital market rules and over the counter share trading facilities.
 19. Most of the institutions in the informal sector are owned and operated by women who are mostly single mothers. These small and medium enterprises have significantly benefitted from microfinance services. According to the CBL 2010 annual report, the number of major microfinance institutions (MFIs) operating in the country now stands at 7, from a mere 2 in 2006, with the number of clients rising from under 8,200 to 51,489, which constitutes about 1.5 percent of the population, and total loan portfolio growing from US\$250,000 to US\$7.9 million for the same period.

3.2.2 Objective Two

Ensuring that corporations act as good corporate citizens with regard to human rights, social responsibility and environmental sustainability

Probe One

Legal and administrative measures in place in the country to meet human rights including adherence to labor obligations, social responsibility, and matters relating to the environment

Findings:

20. Prior to the election of President Sirleaf in 2006, the country had outdated labor laws and the labor market was characterized by antiunion activity and police repression. In 2006, the government repealed Decree 12 of 1980 that had banned all strikes. At present, a lot of labor reforms have been implemented following the establishment of the National Tripartite Committee (NTC) in 2008 as a framework for dialogue between government, workers and employers. With respect to employees' rights including rights to unionize, trade unions can be freely established in the country without government interference. Following the merger of two labor organizations, the Liberia Labor Congress (LLC) was established in 2008 as a national umbrella group for unions. However, civil servants and employees of state-run enterprises cannot form trade unions.
21. Of all the conventional dispute resolution methods (collective bargaining, negotiations, conciliation and mediation, arbitration and adjudication) in existence only collective bargaining has been used in the country. The Ministry of Labor's Labor Practices Review Board supervises union elections, attests to collective bargaining agreements, reviews union financial records and assists in cases of strike action. However, there been no specific guidelines and procedures for handling and settling labor disputes.
22. The term *fair* is relative. A study conducted to determine the minimum wage of Liberia found that up to 2008, there have been 62 wage demands being made by workers. That fact that there were wage demands means that workers felt unfair treated by their employers. A significant finding of that study was that most of the corporations surveyed were paying their employee above the minimum wage being set in 1971.
23. From our research, we found that corporations handle employee disputes by entering into collective bargaining agreements with unions that represent the employees' interests.
24. The country's labor law, which should specify corporations' handling of safety issues, is silent on employees' safety issues however it only specifies employee workplace injury related compensation claims.
25. There are about 12 national trade unions in the country consisting of 31 member organizations (affiliates) which perform the following services: advocacy, representation, training and education, signing of contractual agreements and negotiations and legal services.

26. According to the 2010 Labor Force Survey conducted by the Liberia Institute of Statistics and Geo-Information Services (LISGIS) in collaboration with the Ministry of Labor, of the 195,000 paid workers surveyed, about 20.1 percent claimed that they belong to trade unions.
27. Geegbae et al. (2008), in a survey to estimate the minimum wage of Liberia, found that trade unions have made significant gains in resolving labor disputes with corporations relating to wage demands. The study found that of the 62 wage demands made, 39 percent of the cases resulted in wage increment; 26 percent of the wage demand cases were pending while 35 percent were unsuccessful.
28. Citing the same report, the percentage yearly demand for wage increment for the four years prior to 2008 has been falling. The percentage yearly demands were 35, 26, 21, and 18 in years 1, 2, 3 and 4 respectively.

Probe Two

Extent to which corporations are responsive to the concerns of the communities in which they operate

Findings:

29. With respect to corporations' responsible behaviour with regard to the environment including environmental rehabilitation projects, environmental impact assessments, recycling and use of clean technology, analysis of the Environmental Protection Agency 2010 annual report, most of the funeral homes operating in the country are without EIA permits from the EPA; several established entities whose activities have significant negative impacts on the environment have not submitted their environmental management plan to the EPA to obtain the required permit for continued operations; and medical facilities operating in the country have no functional incinerators. Thus medical wastes are not being properly handled and disposal method very poor. Medical wastes are either burnt or buried.
30. With respect to the degree of corporations' responsiveness to community needs including focus on issues such as health (HIV/AIDS, malaria, tuberculosis (TB) and yellow fever), education and skills development, we found that most business enterprises provide medical benefits to their employees. Education and skills development are provided mostly by the public sector and it comes in the form of workshops and international scholarships. Most of the concessions build schools and medical centers for their employees and their employees beneficiaries.
31. There have been several multi-sector partnerships (involving corporations, government and civil society) in informing and developing public policy in the country. A prominent example is the Liberia Better Business Forum (LBBF) whose objectives are to:
 - Improve the business culture and ethics in Liberia through joint public and private sector working groups partnering to advocate based on technical analysis of viable options

- Ensure that the private sector is fully engaged as a responsible partner with government to contribute evidence-based recommendations and inputs into economic planning and policy in a regular and structured dialogue
 - Develop issue-specific public and private sector working groups that will focus on analyzing identified issues/challenges/obstacles/ and barriers to doing business in Liberia and will together, propose and champion viable recommendations for reform
 - Support the development of awareness creation, inclusion, consensus building and cooperation within a private sector that will be equally as accountable as the public sector for providing technical input into public policy
32. In Liberia most corporations provide medical, educational and housing benefits to their employees as part of their corporate social responsibility projects or programmes. Concessions have built roads to their areas of operation hence making the communities in which they operate accessible. Additionally, they have provided some basic utilities as electricity, safe drinking water, etc. Most corporations have even made cash contributions to communities in which they operate. A classic example is the Arcelor Mittal annual cash contributions to Bong, Grand Bassa, and Nimba Counties.
33. In Liberia, there are no codes detailing the standard of corporate social responsibility in the country. However, given the prevalence of multinational and foreign-owned companies in Liberia, most companies try to exercise some level of corporate social responsibility at their volition.

Probe Three

Measures put in place to ensure sustainable environmental management on the part of the corporation

Findings:

34. Environmental degradation severely affects the poor because these factors are directly related to household food security. Degradation of the resource base generally translates into decreases in production or income and thus availability of food. Declining soil fertility leads to lower crop yields while rangeland depletion reduces off-take and any deterioration in water quality adversely affects the fish catch. In Liberia, there has been significant environmental degradations caused by mining concessions, logging companies etc., but the magnitude of which cannot be established due to the unavailability of data.
35. With respect to legislation, regulation, policies, programmes, institutions and resources allocation to safeguard the environment, we found that there is a lack of policy framework on climate change mitigation and adaption.
36. With respect to the effectiveness of the legislation, regulation, policies, programmes, institutions and resources allocation to safeguard the environment we found the following challenges:
- Prevalence of uncoordinated land use policy and practice which hinders climate change as well as the sustainability of agriculture and food security.

- The existence of weak human and administrative capabilities within agencies responsible for climate change has limited their oversight and coordination of their response.
- The dependency of communities on unsustainable forest resources hinders climate change progress hence necessitating the need to advance clean energy and green development outcomes.
- Lack of commitment on the part of social and political leaders necessitates stronger commitment to implement the national REDD strategy, as well as to allocate funds for climate change adaptation.
- The existence of weak forestry management capacity in terms of skills, human resources and logistical support coupled with weak local participation, arrangements, and capacity in terms of skills and know-how to manage community forests poses serious threats to the environment.
- Lack of capacity to monitor agro-metrological information coupled with the weak extension capabilities within the agricultural sector limit agricultural research and makes the agricultural sector vulnerable to climate change phenomena hence affecting food security.
- The need to review and harmonize forest policies to support implementation and enforcement as well as to ensure funding mechanisms and benefit sharing with communities.
- Lack of comprehensive environmental policies to control the impact of infrastructure development, combined with unclear responsibilities for inter-sectoral collaboration to regulate infrastructure activities.
- Lack of emission standards

3.2.3 Objective Three

Promoting the adoption of codes of good business ethics in achieving the objectives of the corporation. The King II Report has defined business ethics as the "principles, norms and standards that guide an organization's conduct of its activities, internal relations and interactions with external stakeholders." Under this objective, self-regulation and the development of voluntary codes on business ethics by the public and private sector, the observance and enforcement of these codes by the concerned bodies, are some of the indicative criteria sought.

Probe One

Assessment of corporate integrity in the country

Findings:

37. Since emerging from a bloody civil crisis, there have been no measures taken to promote good business ethics through the development of codes of best practice in the private and public sectors. Regulatory agencies such as the Central Bank of Liberia and the country's commerce ministry have failed to formulate codes of business ethics.
38. The magnitude of corruption in the country is highly pervasive but actual data on such magnitude cannot be established due to the nature of secrecy associated with

corruption and the lack of political will to prosecute corrupt officials and protect whistle-blowers. Corruption is multi-dimensional and multi-faceted and it manifests itself in many forms. According to the 2010 Transparency International Corruption Index, which ranks countries from less corrupt to highly corrupt, Liberia ranked 87 out of 178 countries.

39. In Liberia, due to the absence of equity markets, insider trading is non-existent; furthermore, the country lacks laws to combat money laundering. Hence, there are no measures to combat insider trading and money laundering. However, the measures taken to combat corruption in the private and public sectors are as follows:

- The granting of an autonomy status to the General Auditing Commission by an act of national legislature
- The establishment of the Public Procurement and Concessions Commission by an act of national legislature
- The enactment of the Judiciary Financial Autonomy Act
- The adoption of the code of conduct for Liberian public servants
- The ratification of the African Union Convention on Preventing and Combating Corruption (AUCPCC) and the UN Convention Against Corruption (UNCAC)
- Regular periodic publication of government revenue and expenditure reports
- Removal of ghost names from civil service payroll
- Publication of a national budget on the ministry of Finance's website and in printed copies
- Adoption of a National Anti-Corruption Policy and the subsequent formation of the Liberia Anti-Corruption Commission coupled with the passage of the Whistle Blower and Freedom of Information Acts.
- Implementation of the recommendations contained in the 2005 ECOWAS and the EU audit reports.
- Reforming financial management with the public financial management law and ensuring a transparent budget process
- Assuring Liberia's compliance with the Extractive Industries Transparency Initiative (EITI).

Probe Two

Entities actively engaged in promoting adoption of codes of good business ethics in the country

Findings:

40. There are no institutes for directors in the country and the country also lacks centers or institutes for corporate governance.
41. As mentioned earlier, the country lacks an equity market; hence there are no associations of shareholders in the country.
42. Of recent, in an effort to promote good business ethics in the country, the GOL collaborated with the International Finance Corporation (IFC) to establish the Liberia

Better Business Forum (LBBF) whose objective is to improve the business culture and ethics in the country.

43. With respect to the prosecution of cases of corruption, the Liberia Anti-Corruption Commission between April 2009 and July 2011, received and accessed 60 cases. Of the total number of corruption cases, 7 cases were closed, corrective measures were taken for 5 cases, 6 cases were forwarded to Ministry of Justice, 1 case was retried, and trial is on-going for 18 cases while 23 cases are pending.
44. With respect to the prosecution of cases of money laundering in the country, our research has revealed that there are no laws in Liberia to combat money laundering. The only provision we have is the declaration of US\$10 thousand at all ports of entry into and out of the country.
45. As mentioned earlier, the country lacks a stock market hence insider trading is non-existent at the moment. Furthermore, there are no laws in Liberia to combat insider trading.
46. Analysis of the DEA annual reports revealed the following:
 - In 2006, 90 suspected drug offenders⁵⁰ were arrested and 33 of these cases were sent to court of which 17 were disposed of by the various courts.
 - In 2007, 179 suspected drug offenders were arrested. Out of the 179 suspects forwarded to the various magisterial courts during the period under review, nine (9) suspects were sentenced to prison terms ranging from three (3) to nine (9) months.
 - In 2008, 277 suspected drug offenders were arrested. Of that number, 11 cases were disposed of by various magisterial courts in the country.
 - In 2009, 361 suspected drug offenders were arrested out of which 323 were charged and forwarded to various magisterial courts in the country while 6 cases involved juvenile who were forwarded to the Women and Children Protection Unit.
 - In 2010, 504 suspected drug offenders were arrested out of which 490 of the suspected drug offenders arrested were investigated, charged and sent to court during this period. Out of the above figure of persons charged and forwarded to court, the DEA records revealed that about six drug cases were adjudicated with one accused convicted and sentenced to a jail term of three years while five suspects were tried, but acquitted due to tempering with the Juries by the defence and the poor presentation of evidence by the prosecution (DEA) during the respective trials.
47. The country lacks laws on ethics violations.

Probe Three

Access to information on corporations in the private and public sectors

⁵⁰ Drug offenders as per the DEA annual reports mean drug dealers, cultivators, distributors, traffickers etc.

Findings:

48. In an attempt to promote adherence to transparent public contracting ethical practices in the country, the GOL established the Public Procurement and Concessions Commission by an act of legislature.
49. It is difficult to determine the level of access to signed public contracts by judicial and regulatory authorities due to the dysfunctional judicial system in the country. But according to PPCC regulations, all contracts above US\$10,000.00 for services must be published. Similarly, for all contracts for goods and works above US\$25,000.00 and US\$50,000.00 respectively must be published.
50. The constitution of Liberia, modelled after that of the United States of America, guarantees freedom of speech and assembly provided it is done in an orderly manner without breaching the public peace. Of recent, one of the key measures taken to ensure independence and freedom of the media and other features that serve to look after the so-called "public interest" was the enactment and passage into law of the Freedom of Information Act by the 52nd National Legislature of the Republic of Liberia.

Probe Four

Existence of capacity and appropriate skills for regulatory oversight

Findings:

Due to the wanton destruction caused by the Liberian civil crises, statistics on the number of professional occupations is grossly missing. However, the Liberia Labor Force Survey, conducted by LISGIS which was expected to fill that gap fell short of enumerating the numbers of professional accountants, lawyers professional auditors and financial and investigative journalists.

2.4 Objective Four

Ensuring that corporations treat all their stakeholders including shareholders, employees, communities and suppliers fairly

Probe One

Corporate governance concepts of accountability to shareholders and responsibility to stakeholders including legal and administrative measures in place in the country to meet human rights

Findings:

51. As per the labor laws, all employees and employers are required to respect of labor obligations, failure to adhere to obligations, the aggrieved party can seek redress from the labor court.

Probe Two

Evidence of existence, compliance and enforcement of legislation or codes of conduct governing the direct relationship between stakeholders and corporations

Findings:

52. As per the country's labor laws, trade unions have the right to negotiate for favourable terms of employment for their members.
53. The country's laws guarantee creditors the right to receive just compensation for capital loaned out. The dysfunctional nature of the country's judiciary has a serious impact on the enforcement of such rights. The country lacks Consumer legislation.
54. According to the country's association's laws, in the event of bankruptcy, a person ceases to be a member of a limited liability company. In such event, the person makes an assignment for the benefit of the creditors and files a voluntary petition. Such person files a petition or answers seeking consent to or acquiesces in the appointment of a trustee, receiver or liquidator.

Probe Three

Shareholders rights

Findings:

55. According to the Business Corporations and Associations Laws of Liberia, *a restriction on the transfer of shares of a corporation may be imposed either by the articles of incorporation or by the bylaws or by an agreement among any number of shareholders or among such holders and the corporation.* Thus the law guarantees shareholder right to convey or transfer shares but due to the absence of an equity market and the existence of a dysfunctional judicial system, it is difficult to establish the degree of compliance with the laws. In addition, there is no monitoring mechanism through annual reports from relevant regulatory agencies to inform the public on the level of compliance.
56. Similarly, the Business Corporations and Associations Laws of Liberia, guarantees the shareholder the following rights: the rights to obtain relevant information on the corporation on a timely and regular basis, the rights to participate and vote in general shareholder meetings, the rights to elect members of the board, the right to share in the profits of the corporation. But the absence of monitoring mechanisms by relevant regulatory agencies poses a serious challenge in establishing the level of compliance with the laws.
57. The articles of incorporation, the bylaws or agreement among shareholders specify the mechanisms for shareholders to seek redress in case of violation of their rights.

Probe Four

Access to information and participation rights in relevant fora ensured for corporations's Stakeholders

Findings:

There are no documents in the country detailing or enumerating the number of product recalls. The same holds for false advertising in the country.

58. Price fixing and anti-trust suits are non-existent simply because the country lacks competition laws. There are no documents detailing and or enumerating labor strikes, the frequency of community protests and the frequency of corporate bankruptcies in the country.

3.2.5 Objective Five

Providing for accountability of corporations, directors and officers

Probe One

Extent to which corporate governance framework ensures that timely and accurate disclosure is made on all material matters regarding the corporation

Findings:

59. The Association Laws of Liberia require all corporations to keep correct and complete books and records of account and minutes of all shareholders meetings. Such records include names and addresses of all registered shareholders including the holders of un-certificated shares, the number and class of shares held by each and the dates when they became the owner's property amongst others. However, the Associations Laws is silent on the schedule of the requirements for disclosure of financial and non-financial information by corporations in the private and public sectors. Despite such limitation, once such requirement is stated in the article of incorporation, it becomes enforceable under the Associations Laws of Liberia. The country's Associations laws give shareholders and members of the board of directors the right to inspect the books and records of a corporation. According to the Associations Laws, *any shareholder and/or member of the board of directors, in person or by attorney or other agent, shall, upon written demand under oath stating the purpose thereof, have the right during the usual working hours of business to inspect, for any proper purpose the corporation's share register, a list of its shareholders, and its other books and records, and to make copies or extracts therefrom.* If the corporation refuses to grant inspection permission within five days to the issue of notice, the shareholder may apply to the court for an order to compel such inspection. The right to inspection may not be limited by neither the articles of incorporations nor the bylaws and other agreements. Most corporations, mainly in the banking sector, publish financial reports at their own volition.
60. The country lacks mechanisms for evaluating, supervising and monitoring of compliance with the requirements for disclosure of financial and non-financial information by corporations in the private and public sectors.

Probe Two

Sanctions against corporations for noncompliance with requirements for disclosure of financial and non-financial information by corporations in the private and public sectors

Findings:

61. As mentioned above, the country lacks a mechanism for evaluating, supervising and monitoring compliance with the requirements for disclosure of financial and non-financial information by corporations in the private and public sectors; hence there have been no warning and fines. Moreover, the absence of equity markets in the country means that there has been no suspension of trading for non-compliance. Besides, there have been no restatements, civil and criminal penalties and no evidence of enforcement over the past five years.
62. In an attempt to address sensitivity and commitment to matters relating to the environment over the past 5 years, the country by an act of national legislature, formulated the Environmental Protection Agency.
63. The major challenges encountered in efforts to address noncompliance with disclosure requirements are operational inefficiencies, limited stakeholder's participation, and lack of clarity of rights, amongst others.

Probe Three

Extent to which accounting and auditing standards and practices in line with international standards

Findings:

64. Of recent, the country adopted the international public sector accounting standards (IPSAS). However, the act establishing the General Auditing Commission gives the Auditor General the power to determine the appropriate way to conduct an audit with regard to the INTOSAI's auditing standards. The only material difference between the country's adopted accounting standard and that of the international accepted standard is the operating environment.
65. One of the crucial requirements regarding the audit of corporations' annual financial statements in the private sector and public sector is that the corporation must be using the accrual basis of accounting. In the event that the corporation uses the cash basis, that corporation financial statement will be converted to the accrual basis.
66. One of the regulation and qualification requirements of the audit profession is that the auditor must be a certified public account (CPA).
67. The auditors are required to inform the supervisory authorities and/or the shareholders about any involvement of board members or senior management in illegal activities, fraud or insider abuse which will be detail in the auditor's findings.

Probe Four

Extent to which the corporate governance framework ensures the strategic guidance of the corporation, effective monitoring of management by the board (governing or supervisory body) and the board's accountability to the corporation and the shareholders

Findings:

68. In Liberia, due to the absence of an equity market, there are no public listed companies. The Associations Laws cover all corporations (be it public listed or state owned) operating in the country. Subject to the limitations of the articles of incorporation, which falls under the authority of the Associations Laws of Liberia, all corporate powers shall be exercised by or under authority of, and the business and affairs of every corporation shall be managed by, a board of directors. The qualifications of the members of the board of directors are specified in the articles of incorporation. In the event that the articles of incorporation are silent, the members of the board of directors may be of any nationality and need not be residents of Liberia or shareholders of the corporations. The number of directors constituting the board shall not be less than one and may be fixed by the articles of incorporation, by the bylaws, by the shareholders, or by action of the board under the specific provisions of a bylaw. Such number may be increased or decreased by amendment of the bylaws, by the shareholders, or by action of the board under specific provisions of the bylaws. Additionally, the articles of incorporation may provide the classes into which the board of directors may be divided and may specify the rights of holders of any class or series of shares the right to elect one or more directors who shall serve for such term and have such voting powers as specified in the articles of incorporation.
69. In the Liberian Associations laws, there is no provision requiring small and medium enterprises to be governed and supervised by a board of directors.
70. The articles of incorporation and/or the bylaws specify the appointment or election process of board members, and detail the criteria to be used in determining the eligibility, composition and remuneration of directors, and the key responsibilities to be carried out by each member of the board.

Probe Five

Processes or procedures that ensure the board monitors compliance with the applicable Legislations

Findings:

71. In 2000, the country enacted a modern tax code to replace the act adopting the revenue and finance law of 1977. The new codes were formulated to remove or minimize financially stringent trade barriers. This new code specifies the type of taxes that can be levied in the country. The Ministry of Finance and the country's tax court ensure that all businesses pay taxes when due. Evasion of taxes is an offense and it is punishable under the country's tax laws.
72. Since independence, the country lack an anti-trust and competition and competition laws. Hence there is no mechanism or process to monitor board's compliance with the regulations.
73. The Country's labor laws specify the recruitment of labor, conditions for employment such as general, wages, hours of work and other conditions, and administration of the labor laws in terms of general, labor courts and violations. The existence of a labor

court to prosecute violators of labor laws ensures that the board complies with the country's labor laws. The act establishing the country environmental protection agency gives it the right to formulate and implement environmental regulations.

74. The frequency of board meetings are specified in the articles of incorporation, the bylaws and other agreements. The frequencies with which these meetings occur depend on the prevailing environment faced by the corporation. Meetings of the board (be it regular or special) may be held at any place within or without the Republic, unless otherwise provided by the articles of incorporation or the bylaws. The time and place for holding meetings of the board may be fixed by or under the bylaws, or if not so fixed, by the board.
75. Board decisionmaking processes are made at a quorum. Unless a greater proportion is required by the articles of incorporation, a majority of the entire board, present in person or by proxy at a meeting duly assembled, shall constitute a quorum for the transaction of business or of any specified item of business, except that the articles of incorporation or the bylaws may fix the quorum at less than a majority of the entire board. A decision reached by a majority of the board which constitutes a quorum represents the decision of the board. Board attendance may be in person, by proxy or attorney, and by conference telephone unless otherwise restricted by the articles of incorporation or bylaws.
76. According to the Associations Laws of Liberia, in the case of conflict of interest such as a contract or transaction between a corporation and one or more of its directors, or between a corporation and any other corporation, firm, association or other entity in which one or more of its directors are directors or officers, or have substantial financial interests, the legitimacy of such contract or transaction depends on good faith disclosure and the counting of votes leading to the award of the contract or transaction. The law states the following:
 - If the material facts as to such director's interest in such contract or transaction and as to any such common directorship, officership or financial interest are disclosed in good faith or known to the board or committee, and the board or committee approves such contract or transaction by a vote sufficient for such purpose without counting the vote of such interested director or, if the votes of the disinterested directors are insufficient to constitute an act of the board by unanimous vote of the disinterested directors.
 - If the material facts as to such director's interest in such contract or transaction and as to any such common directorship, officership or financial interests are disclosed in good faith or known to the shareholders entitled to vote thereon, and such contract or transaction is approved by vote of such shareholders.

Probe Six

Effectiveness of the country's boards to meet its commitments

Findings:

77. There is no measure of the effectiveness of the board in providing strategic direction to its corporation simply because corporations do not publish annual reports detailing the corporation's plans and direction which will enable analyst to compare the corporation's performance during the course of the year. There are no anti-trust laws in place in the country.

3.3 Conclusion

Generally, Liberia's governance and management process has undergone several decades of bad governance thus culminating in fifteen years of civil conflict. Since independence, poor governance and weak regulatory institutions and the ability to enforce policies have underpinned economic governance. For example, government's inability to put in place sound property rights regulations, institutions for macroeconomic management policy and public management, weak judiciary system, lack of institutional capacity, institutions of conflict management and resolution and most importantly an effective corporate governance framework, further accentuated poor governance practices.

Over years, the situation of poor governance at the macro level first and foremost created capacity deficit in the public sector which hindered attempts to design sound and responsive public policies and programs and to implement them in an efficient, effective, equitable and transparent manner.

However, the ushering in of the democratically elected government in 2005 brought about a post-conflict reconstruction drive and national renewal thus creating an avenue of numerous policy reforms resulting in the formulation and implementation of the Poverty Reduction strategy (PRS) coupled with the adherence to several protocols, agreements and codes of regional and continental dimensions by continental bodies, such as ECOWAS, AU, etc.

However, during the past two decades or more, the issue of good governance has come to the center stage thus becoming an agenda item in international development arena as a debate and policy dialogue, particularly in Africa.

Moreover, at the center of this policy debate is the concern for improving the governance environment; especially in the context of the New Partnership for Africa's development (NEPAD). The intended outcome of this initiative, which was formulated by African leaders, is to place the African continent on a path of sustainable development incorporating good governance and prosperity with a consolidation of peace, security, and stability (Nsouli, 2004). The NEPAD document outlines a number of prerequisites intended for African countries to enable them move forward in their pursuit of sustainable development. Central to the conditions to be met are the adherence to good political, economic and corporate governance.

The country is now experiencing a period of transition and renewal characterised by a major transformation in all spheres of its national life. The current growth level attained is fuelled by foreign direct investment as well as domestic investment, attributable to the improved enabling environment and, most importantly, the improved security situation in the country.

Accountability benchmarks through the adherence to public financial management practices such as the automation of payment systems made possible through the introduction of the IPSAS and IFMIS have all contributed immensely to the country's economic performance record. Moreover, the adherence to best practices in terms of corporate and economic policy reforms, as well as the adoption of various sub-region and continental protocols, continues to have an impact with regard to institutional strengthening and improved performance.

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