

**THE DIMENSIONS OF CORRUPTION IN POST WAR LIBERIA,
REBUILDING THE PILLARS OF INTEGRITY AND
STRENGTHENING CAPACITIES.**

COMMISSIONED BY UNDP -LIBERIA

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ABBREVIATIONS

S\NO	ABBREVIATION	FULL MEANING
1	CPA	COMPREHENSIVE PEACE ACCORD
2.	UNMIL	UNITED NATIONS MISSION IN LIBERIA
3.	NTGL	NATIONAL TRANSITION GOVERNMENT OF LIBERIA
4.	GEMAP	GOVERNANCE AND ECONOMIC MANAGEMENT ASSISTANCE PROGRAM
5	UNCAC	UNITED NATIONS CONVENTION AGAINST CORRUPTION
6	AU CONVENTION	AFRICAN UNION CONVENTION FOR COMBATING AND PREVENTING CORRUPTION
7.	NTLA	NATIONAL TRANSITIONAL LEGISLATIVE

		ASSEMBLY.
8.	CSA	CIVIL SERVICE AGENCY
9.	CMC	CONTRACT AND MONOPOLIES COMMISSION
10.	GRC	GOVERNANCE REFORM COMMISSION
11.	GOPAC	GLOBAL PARLIAMENTARIANS AGAINST CORRUPTION
12.	APNAC	AFRICAN PARLIAMENTARIANS AGAINST CORRUPTION
13.	APRM	AFRICAN PEER REVIEW MECHANISM
14.	NEC	NATIONAL ELECTORAL COMMISSION
15.	AU	AFRICAN UNION
16.	ECOWAS	ECONOMIC COMMUNITY OF WEST AFRICAN STATES

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PART A

EXECUTIVE SUMMARY

After fourteen years of civil war and armed conflict, Liberia is going through a process of reconciliation and reconstruction. As is usual in countries emerging from violent conflicts, there is a high level of vulnerability to corruption associated with Post War Reconstruction, in addition to the classic manifestations of corruption. Post war Reconstruction is made particularly onerous by the fact that Political and Economic structures as well as physical infrastructure are destroyed as a result of conflict. Populations are displaced and uprooted and there is massive unemployment and desperation which in turn feeds and reinforces the prevalence of corruption. It is therefore not strange that Liberia, after years of civil war has been described as “a country of endemic corruption”.¹

Liberia’s journey towards peace and reconciliation was consolidated in the Comprehensive Peace Agreement-CPA, of August 2003 which provided the road map for post conflict recovery and paved the way for the UN Mission in Liberia-UNMIL. The CPA led to the formation of Transitional Government which was inaugurated in October 2003.

Recently, the National Transitional Government of Liberia [NTGL] and International Partners signed the **Governance and Economic Management Assistance Program-[GEMAP]** on the 9th of September 2005. This document contains a preliminary road map for instituting accountability in revenue and fiscal management, and furthering economic reconstruction in Liberia. The agreement incorporates such components as Financial Management and Accountability; Improving Budgeting and Expenditure Management; Improving Procurement Practices and Granting Concessions;

¹ Michael Peel-“Liberians face challenge of rebuilding a nation left in ruins by years of abuse”-financial times 16th September 2003- “quoting a Foreign Government Official who monitors Liberia”

Establishing Effective Processes to Control Corruption; Supporting Key Institutions; and Capacity Building. The Corruption Control Component of GEMAP entails a wide range of activities based on the tripod mechanism for combating corruption-Prevention, Education, Deterrence\ Sanctions. Meanwhile, a new government has been elected in Liberia. This calls for a new beginning and the re-establishment of the Pillars of Integrity in order to ensure Transparency and Accountability. The UNDP has therefore commissioned the Needs Assessment Study as a process towards establishing an ethical, transparent, accountable, and corruption free governance in Liberia.

TERMS OF REFERENCE FOR THE ASSESSMENT

1. Conduct a scoping and mapping exercise of the prevalence, manifestations and dimensions of corruption in the country
2. Assess the existence or otherwise of the Pillars of Integrity.
3. Conduct a Needs Assessment of the existing Pillars of Integrity and Ethics with a view to identify the strengths, weaknesses and gaps.
4. Proffer recommendations which will respond to the UNDP programmatic frame work and feed into the GEMAP.

METHODOLOGY

- Analysis of the Legal and Institutional framework relating to anti-corruption and the Pillars of integrity.
- Identification of the availability or otherwise of the Pillars of integrity and associated frame works.
- An examination of recent initiatives and policies in the context of transition and GEMAP road map.
- Scoping of compliance of the laws and initiatives with International Instruments on anti-corruption-The United Nations Convention Against Corruption; the African Union Convention for Combating and Preventing Corruption and The Ecowas Protocol Against Corruption.
- Interactive Sessions with actors and stakeholders in the various sectors- **See Schedule 1 attached**
- Interactive sessions with Civil Society Organizations.
- Collaboration with DFID, USAID and UNMIL teams engaged in similar or cross cutting assessments and reviews.

In line with the above methodology, the team held consultations, meetings and interactive sessions with diverse groups in order to access their perceptions, opinions and inputs on the prevalence, manifestations, causes and effects of corruption in Liberia. The team also examined and analyzed the Pillars of Integrity, commencing from the Legal and Institutional framework, to issues such as capacity, resources, personnel and other socio-political factors which impact on their activities. This afforded the team the opportunity of evaluating the strengths and weaknesses of the various Pillars and harnessing views and opinions on what can be done to strengthen and reposition the Pillars in the context of the new governance structure. Further, the team identified the non-existent Pillars and analyzed the implications of the gap thus created.

The team also examined the GEMAP document, the International anti-corruption Conventions i.e. the UNCAC and the AU Convention, and evaluated the existing Pillars of Integrity for compliance with the provisions of these instruments.

KEY FINDINGS

After a comprehensive analysis of the Laws, International anti-corruption Instruments and best practices, in addition to the information gathered from the field, the following issues have emerged:

1. Corruption is prevalent, pervasive, endemic and systemic in Liberia and manifests both as grand and petty corruption.
2. There is a high degree of social consciousness on the prevalence, causes and effects of corruption in the society.
3. The Legal framework which supports the Pillars of Integrity and anti-corruption, are inadequate for the current expressions and manifestations of corruption.
4. The classic Pillars of Integrity such as the Judiciary, the office of the Attorney-General, the Legislature, The Civil Service and the office of the Auditor-General as presently constituted are substantially incapacitated by a dearth of infrastructure, resources and qualified personnel, and are therefore incapable of functioning at optimum capacity.
5. The wages and incentive for workers in the public sector are grossly insufficient and inadequate and is perceived to be a strong causative factor for corruption and low work ethics.

RECOMMENDATIONS

In the light of the above, the following are recommended as short and medium term measures to address the issue of corruption and promote good governance;

1. There is need to institute an anti-corruption regimen and strategy which will address the issue in a holistic and sustainable manner as follows:
 - i. Enactment of an anti-corruption Act and setting up of an independent anti-corruption Commission based on the tripod mechanism of prevention, education and deterrence.
 - ii. A team of technical experts drawn from the various government agencies, private sector and international institutions, shall drive the process of enacting an anti-corruption Law, setting up a Commission and developing and fashioning a National Action Plan against Corruption.
 - iii. The strategy must address the issue of Civil Service Reforms especially remuneration and incentives for workers in the Public Sector and professionalization of the Civil Service.
 - iv. Enacting an enabling law elaborating the structure, mandate, content and functions of, and setting up the Civil Service Commission provided for in the Constitution.
 - v. A review of the Justice Administration system with emphasis on the Criminal Justice System.
 - vi. Setting up of a body of judicial character i.e. a Judicial Service Commission to oversee and recommend the appointment, discipline and disengagement of Judicial Officers.
 - vii. Setting up a Parliamentary Service Commission to regulate the internal administrative issues and discipline within the Legislature and ensure proper separation of powers.
 - viii. Institute an Ethical Revival Regimen which will incorporate Codes of Conduct for Public Officers, including sectoral codes for the Judiciary and Prosecutors and Conflict of Interest and Asset Declaration rules for Public Officers.
 - ix. Set up a mechanism for enforcement of the Codes
 - x. Mass education and mobilization to sensitize the populace on the causes and effects of corruption with a view to stimulating zero-tolerance.
 - xi. Strengthening the office of the Attorney-General and building their capacity to prosecute crimes.

- xii. Immediate ratification of the Anti-Corruption Conventions i.e. the UNCAC and the AU Convention.
- 2. Establish a monitoring process on the platform of the APRM.
- 3. Embark on Constitutional Review as a long term measure to strengthen the Pillars of Integrity and enhance transparency and accountability.
- 4. Commence the process of introducing the non existing Pillars such as the Ombudsman, and tools for making existing Pillars more effective such as Access to Information and Whistle-Blower Protection Regimen
- 5. Institute a policy to ensure the participation of Civil Society in the governance process.
- 6. Institute a policy to encourage the involvement of the Organized Private Sector in governance and anti-corruption issues and facilitate the formation of a Private \Public Sector partnership against corruption.

ACTION PLAN- A work plan comprising specific activities and timelines is attached as APPENDIX C.

ANNEXES

1. SCHEDULE 1[List of groups met]

2. APPENDIX A [Reports of meetings and interactive sessions]

3. APPENDIX B [Bench marks and minimum standards for Pillars of Integrity]

4. APPENDIX C- WORK PLAN

BACKGROUND

THE CONCEPT OF PILLARS OF INTEGRITY

The concept of Pillars of Integrity is credited to a Tanzanian-Ibrahim Seushi a member of Transparency International, and popularized by the foundation Managing Director of TI-Jeremy Pope. This concept, which has gained wide acceptance globally, rests on the notion that combating corruption is a cross-cutting fight involving several institutions and processes. In effect the answer to corruption does not lie in a single institution or a single law but in a number of agencies, laws, practices and ethical Codes. The success of an anti-corruption campaign rests on the existence and vibrancy of a ***National Integrity System*** which comprises institutions of vertical and horizontal accountability, in which each is separately accountable and none has a monopoly, but all are mutually reinforcing. It has been observed that while these institutions are separate, with distinct channels of answerability, the resonance of their activities impact on the other institutions in a manner that can either strengthen or weaken those other institutions. An apt illustration of this scenario is in the area of law enforcement and sanctions. There is a connectivity between the existence of a Legal Framework which is a legislative function; effectiveness of enforcement institutions i.e. regulatory, policing and prosecution, which is an expression of Executive Political Will; and an Effective Sanction and Redress System, which is a judicial function. It has also been identified that the motivative power that over-arches and frames the activities of the above mentioned institutions is the peoples' power which may express itself either in tolerance or lack of same for the issue. The media as a matter of course plays a strategic role in co-ordinating and articulating public perceptions and opinions. A distortion in any of the links will weaken the effectiveness of the other Pillars and affect the overall strategy and output.

Therefore, a holistic conceptualization of a National Integrity System creates an environment where corruption is fought on many fronts- institutional, attitudinal, cultural, economic and political.

The following have been identified as the Pillars of Integrity:

1. Executive Political Will- which incorporates political and administrative accountability.
2. Effective and Independent Watch-dog agencies
3. Effective Parliamentary Oversight
4. Effective and Independent Judiciary

5. The Civil Society-This is broadly defined to include all sectors outside the governance structure.
6. Media
7. Civil Service Structure
8. The Office of the Attorney General and Public Prosecutor.*²

The concept not only requires the existence of these institutions but has minimum benchmarks which need to be in place for the effective operation of these Pillars. The minimum benchmarks are attached hereto as **Appendix B.**

PART B

LEGAL AND INSTITUTIONAL FRAME WORK ON THE PILLARS OF INTEGRITY IN LIBERIA

1. EXECUTIVE\POLITICAL WILL-[Institutions of political and administrative accountability]

A. THE CONSTITUTION AND THE PILLARS OF INTEGRITY

There are usually some Constitutional mechanisms for transparency and accountability and this includes the entrenchment of the key Pillars of Integrity, in the Constitution. The obvious advantage of Constitutional entrenchment of some Pillars of Integrity is the complexity of the process of amendment of the Constitution, which serves to preserve and protect issues embedded in it, and puts such issues outside the vagaries of politics. Further, the validity of ordinary laws are tested by reference to the Constitution. Consequently, measures instituted by ordinary laws stand the risk of being declared unconstitutional for being in conflict with constitutional provisions. It is imperative therefore that the core Pillars of Integrity should enjoy a Constitutional mandate.

² The Office of the Attorney General is sometimes not regarded as one of the classic Pillars of Integrity, but in Countries such as Liberia where the Attorney General is the Minister of Justice and the Chief Public Prosecutor, it is normally included as a Pillar.

Some of the Pillars of Integrity which are normally entrenched in the Constitution include an Independent Judiciary, the office of the Auditor-General or Supreme Audit Institution, the Public Service Commission, Freedom of the Media, and the Office of the Attorney-General.

The Liberian Constitution 1986 and compliance

i. The Judiciary.

The establishment of and the mandate of the Judiciary is provided for under Chapter VI of the Constitution. The method of appointment of Judges under S.54 of the Constitution does not enhance the independence of the judiciary. The President is empowered to appoint judges but there are no set criteria to guide the President in the exercise of this discretion, and there is no provision to ensure recommendation from a body with special competence in that sector.

Further, the immunity conferred on judges by S. 61 of the Constitution is couched in a language that may hamper disciplinary action against them, thereby encouraging corruption and highhandedness. There is also no provision in the Constitution for the financial independence of the Judiciary. The proposed ***Financial Autonomy Act***, when passed into law, ***will*** be an ordinary law which is susceptible to easy amendment.

ii. The Office of the Attorney-General and Minister of Justice.

In Common Law countries, the Attorney-General is the Chief Law Officer who should have the authority to exercise independent judgment on whether to prosecute an offence or not. The campaign against corruption will be hampered where political and other considerations determine the exercise of this discretion.

The Constitution is silent on the position of the Attorney-General and the office is established by another law. Experience has shown that in emerging democracies, ordinary laws are not sufficient to guarantee the independence of the Attorney-General. Further, the position of the Attorney-General is joined with that of the Minister of Justice. In addition, there is a cluster of divergent and variegated activities within the Ministry of Justice such as the Immigration, Fire Service, and The National Police.

iii. The ***General Auditing Commission***

The Constitution merely provided for the office of the ***General Auditing Commission*** and other commissions and went on to stipulate that the Legislature should make laws for the governance of these Commissions.³

This creates a situation where the General Auditing Commission and the other Commissions created, are governed and regulated by ordinary laws and not the Constitution itself. This fact substantially compromises their independence.

iv. The ***Public Service Commission***

It is important to insulate the Public Service of a country from politics to ensure its neutrality and prevent corruption. It is therefore undesirable when public servants may be hired and fired at the pleasure of the President. The Public Service Commission, like the General Auditing Commission, was provided for by the Constitution but the regulatory law will be an ordinary law passed by the legislature.

B. **The Governance and Reform Commission-GRC**: This is one of the agencies created under the Accra Comprehensive Peace Accord-CPA. The mandate of the GRC as set out in Article XV of the CPA include, to review and implement the program for good governance in Liberia; develop public sector management reforms; ensure transparency and accountability; execute the decentralization policy; ensure a national and regional balance in appointments; ensure an enabling environment which will attract foreign investments; and report to the NTGL. The Commission has a membership of seven persons. The mandate of the GRC lasts only till the end of 2005 unless extended by an Executive Order.

C. **The Contract and Monopolies Commission**: The Contract and Monopolies Commission-CMC was created under the CPA with the following mandate, ensuring transparency of all public financial and budgetary commitments; preventing illicit enrichment and abuse of office; ensuring the publication of tenders and records of commercial transactions; ensuring the formulation and implementation of sound macro economic principles; and collaboration with International Institutions with the aim of

³ S. 89 of the Liberian Constitution

sourcing funds to carry out its functions. The Commission has five members appointed by the Transition Chairman. The Commission has facilitated the enactment of The Public Procurement and Concessions Act 2005. ***This Act regulates all forms of public procurement and concessions and establishes The Public Procurement and Concessions Commission, provides for institutional structures for public procurement and concessions, stipulates methods and procedures for public procurement and concessions and for purposes related thereto.***

D. THE NATIONAL ELECTIONS COMMISSION-NEC:

The NEC is one of the agencies provided for in the CPA. Article XVIII of CPA provides for the creation of an independent National Elections Commission ***“in conformity with UN Standards.”***

An Electoral Law had been in existence prior to the CPA.⁴ Pursuant to the CPA, an Act was enacted to amend certain provisions of this law and in particular suspend some provisions of The Constitution of Liberia. The Act also approved some provisions relating to budget appropriations of The National Electoral Commission, which was created under the Act.

2. THE LEGISLATURE

The Legislature is created under Chapter V of the Constitution of Liberia with the powers to legislate and enact laws for the country. The Legislature also has the powers to appropriate money for running the affairs of the State upon presentation of a budget to that effect by the Executive.

The Legislature has powers under the Constitution to approve the appointment of certain public officers such as the Chief Justice and Associate Justices of the Supreme Court,⁵ and to approve treaties and Conventions and other international instruments negotiated and signed on

⁴ The New Elections Act 1986

* A draft Code has been prepared by the GRC and CSA

* a Provision for declaration of Assets is contained in the Draft Code

* The Anti-Corruption Task Force does not fit the criteria.

⁵ Article 68 of the Constitution of Liberia

behalf of the Republic.⁶ The Legislature is bicameral, consisting of the Senate and the House of Representative

3. THE JUDICIARY

The judiciary is set up under the Constitution of Liberia⁷ and the supreme power of adjudication is vested in the Supreme Court of the land. The judiciary has a multi-tier structure consisting of the Supreme Court at the apex, the Circuit Courts and special Courts, and the Magistrate Courts. The Constitution provides that judicial officers shall be appointed by the President with the consent of the Senate⁸ and may only be removed from office through impeachment by the Legislature for proved misconduct, gross breach of duty or inability to perform the duties of their office. These provisions are meant to guarantee security of tenure for judges.

Funding of the Judiciary

The judiciary is currently funded through the budget appropriation process approved by the Legislature. However their approved budget is disbursed through the Ministry of Finance which manages and disburses the funds. This fact raises critical issues of independence of the judiciary. It is as a result of the complexities raised by this situation that a draft bill seeking to grant financial autonomy to the judiciary has been prepared⁹. This Bill amends certain sections of The Judiciary Law and provides for financial autonomy for the judiciary

The Bill provides as follows:

- ***The Minister shall remit the quarterly allotment to the judiciary to the account of the judiciary within fifteen days of the beginning of each quarter. These monies shall be deposited into an account maintained by the judiciary under the exclusive supervision of the Chief Justice.***
- ***The Chief Justice shall appoint a Judicial Financial Supervisor who shall inform the judiciary when there has been a violation of the Act.***

⁶ Article 34[f] of the Constitution of Liberia

⁷ Chapter vii of the Constitution of Liberia.

⁸ Article 68 Liberian Constitution

⁹ The Financial Autonomy Bill

- *The judiciary is empowered to collect fees and other charges and deposit same into the Judiciary account. However monies so collected shall be published and declared to the Ministry of Finance and such sums shall be deducted from the quarterly allocation.*
- *A penalty is imposed for breach of the law by the Minister of Finance who may be held for contempt of court and sent to jail.*

CODE OF CONDUCT FOR JUDICIAL OFFICERS

There is a Judicial Cannon for the Moral and Ethical Conduct of Judges as well as a Code for the Moral and Ethical Conduct of Lawyers. The Judicial Cannon has copious provisions which prescribe the conduct of Judicial Officers in diverse situations. However this Cannon falls short of the standards outlined in the Bangalore Principles of Judicial Conduct which is considered the best practice in terms of Codes for Judicial officers.

4. ANTI-CORRUPTION AGENCY

The Anti-Corruption Task Force.

This agency was set up by the Executive Order-6 with the mandate to investigate and expose corrupt government officials.¹⁰ The Executive Order was made pursuant to Part VIII, Article XV CPA. The Commission has a membership of nine Commissioners drawn from a broad spectrum of the society as follows: The Director General of the Cabinet as the Chairman, Chairman Contract and Monopolies Commission, the Bar Association, Civil Society Organizations, Human Rights Organizations, Political Parties, An Eminent Person, Inter Religious Council, and The General Auditing Office. The functions of the task Force include; identifying Corruption; Conduct investigations; drafting anti-corruption laws and designing other anti-corruption strategies; to take necessary steps in drafting legislation leading to the establishment of an Anti-Corruption Agency and ensure ratification of International Instruments against Corruption. The mandate also includes Civic education, ensure the prosecution of offenders, and encourage the participation of the Civil Society in the campaign against corruption. The Task Force has no prosecutorial powers.

¹⁰ Executive Order 6 dated June 1 2005.

5. THE MEDIA

The country boasts of a vibrant media sector comprising about forty newspapers and a similar number of community radio stations. The radio stations are spread to all the regions of the country while the newspapers are mostly clustered in Monrovia.

6. CIVIL SOCIETY

There is a fledgling but enthusiastic NGO community with a passion to engage, in anti-corruption and other governance issues. The NGOS are engaged in diverse sectors ranging from human rights, to education and anti-corruption. However these groups appear handicapped by low capacity which they attribute to lack of funding and lack of access to information. More critical however is the seeming absence of co-ordinated activity of the broad Civil Society groups such as the Organized Labor movement, Organized private Sector, Professional groups and other similar movements.

7. THE CIVIL SERVICE AGENCY

The Constitution provides for the enactment of a law to set up a Civil Service Commission. However, the enabling law has not been enacted and therefore the Commission has not been set up. The functions of this Commission are at present carried out by the Civil Service Agency which was set up as a Ministerial Agency in 1973.

THE MISSING COMPONENTS OF PILLARS

While most of the classic Pillars of Integrity exist, albeit with problems and weaknesses, there are a number of components or adjuncts of Pillars of Integrity which are not in existence at all. The non-existent components are as follows:

- (a) The ombudsman/public complaint commission
- (b) Freedom of information law
- (c) Whistleblowers and witness protection laws
- (d) Policy on declaration of Assets
- (e) Code of Conduct for Public Officers
- (f) Independent Anti-Corruption Agency
- (g) Legislation on Money Laundering
- (h) Specific policy to engage the Civil Society.

THE SIGNIFICANCE OF THE OFFICE OF THE OMBUDSMAN OR PUBLIC COMPLAINTS COMMISSION

The office of the Ombudsman has been acknowledged as one of the Pillars of Integrity. The complexity of modern governments has led to numerous administrative injustices, which may not be conveniently redressed through the judicial system. The limitations of the judicial process which justify the establishment of the ombudsman include:

- The technical and formalized system of judicial settlement as opposed to the informal and flexible system of the ombudsman.
- Court processes are protracted and expensive, and victory may be pyrrhic. Judicial settlement is usually not amicable and may produce a victor and vanquished. In some cases the amount in dispute may be too small to justify instituting a court action.
- Administrative redress mechanisms may not always meet the aim of justice and fairness.

The establishment of the office of ombudsman has been perceived as imperative especially in developing countries with weak enforcement systems and low earnings. International best practices prescribe the following criteria for the office:

- Independence of the ombudsman from the organizations the ombudsman has power to investigate
- Effectiveness
- Fairness; and

- Public accountability

Recommendation

It is recommended that machinery be immediately set in motion for the establishment of the office of ombudsman

FINDINGS AND ANALYSIS

This section is an analysis of findings, deductions, opinions and conclusions garnered from desk research, and analysis of the Legal and Policy framework, interviews, discussions and interactions with actors in the various sectors listed in **Schedule 1**. These findings and deductions are measured against best practices as outlined in International Instruments such as the UNCAC, The AU CONVENTION, and other identified Best Practice Modules from around the sub-region and globally. The analysis deals with each Pillar of Integrity, or Sub-Pillar, separately for greater clarity.

1. PREVALENCE AND MANIFESTATIONS OF CORRUPTION

PREVALENCE:

In the course of the study, the team talked to about 23 different groups capturing all the diversities of social class, gender, and nationality. The team had interactive sessions with government officials, members of the Civil Society and members of the International Community. A list of the groups is outlined in **Schedule 1** and reports of those meetings and interactions are attached here under the Appendix section. The general consensus from those meetings is that corruption in Liberia is endemic, pervasive, permeates all sectors of the society and is perpetrated by and from all strata of society.

MANIFESTATIONS

The manifestations of corruption are divided into Grand and Petty corruption.

GRAND CORRUPTION

Corruption is described as grand when it involves the loss or misappropriation of a substantial sum of money \public resource or a systemic subversion capable of draining substantial resources even when the draining process manifests in trickles. Therefore some types of corruption which manifest in petty and individual pilfering of small sums of money may be classified as ‘grand’ when the aggregated drain on the system becomes enormous. A classic example of this scenario is the “Ghost worker Syndrome’ where names of non-existent or dead people remain on the government payroll for several years. A distinct example in Liberia is *the LPA or 5% Syndrome* described below.

Some cases of grand corruption discovered in the course of the study are as follows:

THE TRAVEL AUDIT CASE

The Anti-Corruption task force made a finding that it had become the practice for Public Officers to claim money for foreign travels which were never undertaken. As a result the General Audit Bureau undertook the Foreign Expenditure Travel Audit which uncovered massive fraud and embezzlement by public servants. As a result of the audit, several people were indicted and asked to make restitution. So far only five people have complied.

THE J.D. SLANGER CASE

Mr. J.D Slinger was a Commissioner in the Bureau of Maritime Affairs. He was suspended on charges of Financial Impropriety and charged with economic sabotage for embezzling about \$ 3.5 million dollars. He was granted a bail with a bond of US\$ 33,531 which was under written by Insurance Company. While on bail Slinger fled the country and is still at large.

THE LPA OR 5% SYNDROME

A standard 5% deduction is made from the salary of government workers at the county level. This arises as a result of the need to cash their salary cheques through middle men who take their cheques in exchange for cash. It is necessary to go into this peculiar arrangement because when they go to the Central Bank directly, they are informed that the bank has no cash and when the cash is available, the notes are usually in very poor condition and therefore unusable. In order to get immediate and usable cash, they have to go through these middle men who extort a minimum of 5% of their salaries. The workers alleged connivance between the Bank officials and the middlemen because the middle men stay right outside the Banks for this transaction. They wondered why the middle men are able to have ready and clean cash when the Banks do not have. They further identified the non availability of identity cards as part of the problem. The workers cannot present themselves at the bank to cash their cheques because they don't have valid identity cards.

PETTY CORRUPTION

Some manifestations of petty corruption discovered in the course of the study are as follows:

- *police extortion from motorists (the team observed this on the road)*
- *inflation of contracts*
- *fronting by Liberia citizens for non-nationals*
- *selling of grades and unauthorized levies in schools*
- *collection of illegal fees in schools*
- *sexual harassment in schools*
- *appropriation of fines paid to traditional chiefs*
- *stealing of drugs from public hospitals*
- *living of lifestyle not commensurate with official remuneration*
- *extortion from motorists by the Transport Workers Union*
- *refusal to involve the communities in project executions by NGOs*
- *stealing of government funds by revenue collectors*
- *illegal collection of money from complainants by prosecutors*
- *bribery of lower judicial officers*
- *extortion of litigants by court clerks*
- *selling and buying of votes*
- *refusal by banks to pay fractions reflected in cheques*
- *selling of school meals in the open market*
- *Extortion by paymasters*
- *Distortion of the system for appointing Justices of the Peace*

2. ANALYSING THE CONSTITUTIONAL MECHANISMS FOR FIGHTING CORRUPTION

After a critical study of the constitutional mechanisms for checking corruption, the team found as follows:

- The independence of the judiciary is not adequately provided for in the constitution
- The office and powers of the Attorney -General are not provided for in the constitution
- The powers of the Auditor General are not provided for in the constitution.
- The constitution merely mentions some key pillars of integrity and leaves the question of their creation and regulation to ordinary laws, thus subjecting them to the vagaries of politics.

- Some of the oversight functions of the legislature were not expressly provided for in the Constitution.
- The constitutional requirement of jury trial for certain categories of offences coupled with the principle of unanimity of verdict of jurors to secure a conviction will create problem of enforcement of anti-corruption criminal legislations.
- There is absence of legislation to activate and elaborate the constitutional provision for code of conduct for public officials.
- The headship of the Senate by the Vice-President is capable of undermining the independence of the legislature. Though this is the position in America it is likely to create problems in an emerging democracy.

RECOMMENDATION

There is need to embark on Constitutional Review as a long term measure with a view to strengthening the legal framework for the Pillars of integrity and enhance Transparency and Accountability.

3. THE GENERAL AUDITING OFFICE

Prior to the enacting of the current Constitution, The General Auditing Office was provided for under Chapter 53 of The Executive Law of 1972. By virtue of that law, the office was reporting to the Executive arm of the government, a fact which was identified as undermining transparency and accountability. As a result, an amendment to that Act was made by the National Transitional Legislative Assembly-NTLA.¹¹

The Amendment also provided as follows:

- ***Creation of an “Independent Public Autonomous Agency” of government pursuant to S.89 of the Constitution to be called The General Auditing Commission.***

¹¹ An Act To Repeal S. 53[2] of Chapter 53 of the Executive Order 1972, dated June 16th 2005.

- *Stipulating the method of appointment of the Auditor-General which states that*
 - i. *He shall be appointed for a renewable term of four years.*
 - ii. *The appointment shall be with the advice and consent of the Senate*
 - iii. *He may be removed by the President [without recourse to the Senate] for gross malfeasance, mental or physical disability or incompetence*

The import of the above provisions is that despite the amendment, the Auditor-General's office has no security of tenure. Further, the office does not have the right of direct appropriation of funds from the Legislature. In effect, the office does not have independence in practical terms.

In some countries such as Nigeria, the Auditor-General has a secure tenure under the Constitution which stipulates his powers and duties. He is required to report to the Public Accounts Committee of the National Assembly after conducting an audit survey of government ministries and agencies including the judiciary and legislature. The Public Accounts Committee will then take up issues and queries raised by the report with the relevant ministries.

RECOMMENDATIONS

Short Term

Need for follow-up action on Audit Reports.

The findings show that the major achievement of the General Audit Bureau under the Transitional Government was the *Foreign Travel Expenditure Audit* which exposed the fraudulent practices of some public servants who received money for official trips which they did not make. The audit report made certain recommendations which are yet to be fully implemented. For example, several public officials who were asked to make restitution are yet to comply.

There are also other audit reports in respect of the following public institutions:

- The Central Bank of Liberia,
- Roberts International Airport
- National Port Authority
- Bureau of Maritime Affairs

- **Petroleum Refining Company**
- **National Ports Authority;**
- **Billing and Collection of Import Levy by the Ministry of Finance at the Freeport of Monrovia.**

The Audit Reports made several recommendations which have not been implemented. There is need to revisit the issues raised and commence implementation.

Long Term

Constitutional Review to guarantee the following:

- i. Security of Tenure for the Auditor-General**
- ii. Direct accessing of funding through the budget and appropriation process from the Legislature.**

4. THE NATIONAL ELECTORAL COMMISSION

The findings show that the NEC is presently well funded and adequately resourced in terms of personnel and infrastructure. The legal framework for election and adjunct issues are also adequate. For instance there is a comprehensive law regulating Campaign Financing.¹²

Further, the Commission has the right of direct appropriation for election expenses from the Legislature.¹³ However, there is the apprehension that the Commission may not be so well resourced when the international partners currently supporting the Commission fully or partially withdraw their support. This concern has been expressed by the Chairperson of NEC, [Please see Appendix 12].

A further issue is the judicial functions granted to NEC by the New Elections Law.¹⁴ By virtue of this section, the Chairperson of the Commission acts as a sole judge in cases of contests relating to election results and accreditation of successful candidates. This amounts to a usurping of the functions of the judiciary and breaches the principles of fair hearing.

¹² Campaign Finance Regulations of July 8th 2005

¹³ S. 28 of the Electoral Reform Law.

¹⁴ S 2[9] [q] of the New Elections LAW 1986

Some of the immediate needs and concerns raised by the Commission are as follows:

- Vehicles provided for the Election Magistrates by ECOWAS will be withdrawn in January and Chieftaincy elections are still pending
- A lot of the equipments currently in use by the Commission belong to donors who may withdraw them with time.
- The Commission is housed in a rented building and needs to build its own complex.

RECOMMENDATIONS

Medium Term

Review of the New Election Laws which give powers of adjudication on electoral disputes to the Chair of the Commission. The Electoral Commission is a necessary though passive party in electoral disputes and therefore cannot sit as judges in their own case.

5. PUBLIC PROCUREMENT

Public procurement is regarded as a sector which is vulnerable to corruption due to the volume of transaction and the amount of monies expended therein. Therefore the need for transparency within the sector is usually underscored. The Government policy on Public Procurement was created under the CPA which enabled the set up of the Contract and Monopolies Commission. Subsequently a law on public procurement was enacted.¹⁵ The findings show that the Public Procurement Law is comprehensive and in tandem with the provisions of the UNCAC on the issue. The Act has the following components which are prescribed within UNCAC:

- Public distribution of information relating to contracts and tendering procedures
- Establishment of advance procedures for participation
- Pre- determined procedure for participation
- An effective system of domestic review
- Conflict of interest rules for procurement personnel

¹⁵ An Act creating the Public Procurement and Concessions Commission- 2005

The findings show that the CMC has been active in educating and providing oversight to Ministries on procurement issues. However the mandate of the CMC will expire in April 2005. It is hoped that the incoming government will continue to drive the process.

6. THE JUDICIARY

a. Customary Courts

Article 65 of Chapter VII of The Constitution of the Republic of Liberia vests judicial power in the Supreme Court and such subordinate Courts as the Legislature may from time to time establish. The Constitution empowers the Courts to apply both Statutory and Customary Laws. However, findings and discussions with the office of the Chief Justice disclosed that there is specie of Courts, i.e. The Customary Courts which are not under the Judiciary. The mandate of the Customary Courts, are, to adjudicate on issues of Customary Law amongst people who subscribe to such Customary Practices. These Courts are supervised by the Ministry of Internal Affairs even though the regular Courts have appellate jurisdiction over issues decided by those Courts.

This Scenario is not only a breach of the Constitution, but has serious implications on the Fundamental Human Rights of the Citizens who are constrained to commence the enforcement of their Rights at that level as follows:

- Breach of Fundamental Rights may occur in such manners that are irredressable on appeal.
- Majority of such breaches may not get to the appeal Courts due to financial and other constraints.

b. Independence of the Judiciary:

Some principles have been identified as determinants to guarantee the independence of the Judiciary. These principles are the Appointment Process; Security of Tenure; Disengagement or Dismissal Process; and Funding. There is also the requirement that these principles be embedded in the Constitution of the Country to raise it above the vagaries of politics. This is due to the fact that the process of Constitutional amendment is much more rigorous than ordinary laws. This requirement is particularly critical in emerging and fledgling democracies.

i. Appointment Process: Article 68 and 69 of the Constitution of the Republic of Liberia provides that the President shall appoint Judges with the consent of the Senate. In effect, the President has absolute discretion subject to criteria of qualifications and good character prescribed under the sections. The absence of the requirement for prior recommendation by a body of judicial character may lead to injudicious use of the presidential discretion and the possibility of compromising integrity.

The Peer Assessment and Review Mechanism has long been recognized as a tool for the proper assessment in various kinds of issues. It is especially applicable in the context of the Judiciary due to the specialized and often closed nature of the activities therein. In various countries, there is an in built mechanism to ensure that the First Line screening of judicial officers is done by a body of Judicial Character. Further the role of the Bar Association in assessing and screening appointments to judicial offices is increasingly being acknowledged. The appointment of the current justices of the Supreme Court under the Transition government was done on the recommendation of the Bar Association in application of this Peer Assessment Principle. This will not only ensure the appointment of people of requisite knowledge, experience and Integrity, it will also raise judicial appointments above the vagaries of politics.

In Nigeria for instance, The President or Governor as the case may be appoints judicial officers to superior Courts on the recommendation of the National Judicial Council and the Federal Judicial Service Commission or the State Judicial Service Commissions\ Committees . In other words the President proceeds to seek the consent of the Senate after he has exercised his discretion based on the recommendation of the Judicial Service Commission.¹⁶ These bodies are created by the Constitution and therefore enjoy independence both in terms of their mandate and funding.¹⁷

This system serves to substantially reduce mischief and mediocrity.

ii. Dismissal and Disengagement: The same Peer Assessment and Review Mechanism is also applicable in the disciplinary and dismissal

¹⁶ Sections 231[1] and 238[1] of the Constitution of the Federal Republic of Nigeria 1999.

¹⁷ S. 153 and Part 1 of the Third Schedule of the Constitution of the Federal Republic of Nigeria 1999

process. It is desirable that a body of judicial character deliberates on the issue in the context of the Code of Ethics and Judicial Cannon, and makes recommendations to the President and Legislature. Article 71 of the Constitution of the Republic of Liberia provides for Legislative impeachment for proven misconduct etc. It is desirable that alleged misconduct\breach of duty be examined by a body of judicial character which will make recommendation to the Legislature. This will serve to ensure and safeguard judicial independence and prevent victimization and witch-hunting

iii. *Funding of the Judiciary*: Currently, the Judiciary accesses it's funding through the budgetary and appropriation process from the Legislature. However, the appropriated funds are channeled through the Ministry of Finance which is an organ of the Executive. This is contrary to the democratic Principle of Separation of Powers and also impacts on the independence of the judiciary. The impact of this practice on the operations and efficiency of the Judicial Arm is outlined in Appendix 6 herein.

However in recognition of this anomaly, The Financial Autonomy Bill which will give the Judiciary control of their Finances has been drafted and presented to the Legislature. There is an urgent need to pass this Legislation into Law.

c. CAPACITY OF THE JUDICIARY

i. *Manpower*: The Findings show that the judiciary is under-resourced in terms of manpower. The Justices of the Supreme Court and Circuit Judges do not have law clerks and research assistants. [Please see Appendix 6.] This has the possibility of impacting on the speed and quality of judicial outputs. More critical however is the fact that a large number of Magistrate Courts are manned by personnel who are not trained as lawyers. This has implications for access to justice in terms of the quality of the adjudication.

The major reasons adduced for the lack of personnel are as follows

- Poor remuneration for judicial officers
- Poor infrastructure and logistics. [Please see Appendix 6]

There is an urgent need to redress this situation.

ii. Infrastructure: The findings also show that the judiciary lacks basic infrastructures as follows:

- Adequate Court Rooms
- Residential accommodation for judicial officers in the Counties
- Transportation
- Libraries for Research and Reference
- Facilities for Recording Proceedings

The findings also show that a large number of the Courts are located in rented accommodation. While this is undesirable for all arms of government, it is particularly distasteful for the judiciary as it has the possibility of impacting on the impartiality of judicial officers. Further, in some cases Courts are located within government institutions which are part of the Executive Arm. This also has implications for Separation of Powers and Independence of the Judiciary.

The extent of the decay in the infrastructure of the judiciary was highlighted by a visit to the circuit court in Bong County. Below is an extract from the report of that visit.

Visit to Bong County Circuit Court

The team visited the circuit court within Bong County and interacted with the Court Registrar. The condition of the court was appalling. The building was in a state of dilapidation and disrepair. The roof was almost caving in. The windows gaped open and had no shutters. There were very few seats in the court room raising concerns about where the lawyers and litigants sat when the court is in session. The clerks' offices had no tables and filing cabinets. Case files were kept on the floor. The Court Registrar informed the team that when it rains the roof leaks and water comes in from the windows.

d. Code of Conduct for Judicial Officers

Article 11 of the UNCAC provides that State Parties should take measures to strengthen Integrity of the Judiciary and prevent corruption, subject to the Independence of the Judiciary and Domestic Laws. The section goes further

to provide that such measures may include rules with respect to Conduct of members of the Judiciary. There is a Judicial Cannon for the Moral and Ethical Conduct of Judges which was amended and revised in January 1999. This Code has copious provisions contained in forty paragraphs, which deals with issues traversing Judicial Integrity, Independence, Social Relations, Public Conduct, Political Affiliations and Acceptance of Gifts.

The UNCAC does not prescribe specific criteria or content for the Code of Conduct. However as a result of years of deliberations and consultations by Chief Justices of several countries across the globe traversing diverse legal systems, a set of Principles have been developed which is recognized as the Best Practice in respect of Code of Conduct for Judicial officers. The major advantage of these set of Principles is that it was developed by Judicial Officers themselves and accepted by them as being capable of diverse application. These set of Principles are known as ***The Bangalore Principles of Judicial Conduct 2002***.

In comparison with the Judicial Cannon of Liberia, The Bangalore Principles captures and incorporates several emerging issues which impact on the Integrity of Judicial Officers and the Administration of Justice. The principles incorporate certain basic values and also itemize the methods of application of those values. It therefore provides a comprehensive framework for integrity which enhances transparency and accountability and serves to check corruption. The values of the ***The Bangalore Principles*** are Independence; Impartiality; Integrity; Propriety; Equality; Competence and Diligence.

It is advisable therefore that the Judicial Cannons for Liberia be revised to accord as much as possible with the globally accepted template of the Bangalore Principles.

The Jury System

The principle behind the Jury system is the Peer Assessment Mechanism. A person on trial is afforded the opportunity of being evaluated by his peers who are deemed to have an understanding of his circumstances. In developing countries with the attendant low literacy and poverty level, there is a high risk of this process being corrupted and distorted. In that event, it could become an impediment to justice instead of facilitating it. Please see APPENDIX 2 for the comments of the Attorney- General on the Jury System in Liberia.

RECOMMENDATIONS

Short Term

- *There is need to enhance the conditions of service within the Judiciary to attract qualified personnel and improve the performance of existing personnel.*
- *Refurbish structures and improve facilities*
- *Enact the draft Bill on Financial Autonomy for the Judiciary*
- *Build integrity within the judiciary. An entry point will be harmonizing the Judicial Canon with the best practice on Code for judicial officers i.e. The Bangalore Principles on Judicial Conduct.*
- *Creation of a body of judicial character to oversee the appointment, conditions of service, discipline and dismissal of judicial officers.*

Medium Term

- *Affirmative action to give scholarships to more law students on the condition that they work within the judiciary on graduation.*
- *Review of the Conditions of service for public officers.*
- *Constitutional review with particular reference to the independence of the judiciary and the jury system and embedding the supervisory and regulatory body for Judicial Officers in the Constitution.*

7. PROSECUTION

THE OFFICE OF THE ATTORNEY-GENERAL AND MINISTER OF JUSTICE.

The Attorney General and Minister of Justice is the Chief Law Officer of the Country with exclusive powers to prosecute all criminal offences. In addition to the issues raised in respect of the Independence of the Office of the Attorney General, there is the issue of the capacity to fulfill its obligations under the law. Some of the issues of capacity are as follows:

- **Personnel:** The Attorney –General prosecutes all offences under the Law. No other establishment legally has prosecutorial powers. The findings show that there are about four prosecutors in the Office of the Attorney-General who prosecute all cases in the country. As a result only two out of the sixteen Counties have qualified prosecutors. In effect, there is an acute shortage of man power to prosecute offences. This fact impact drastically on the Criminal Justice System and by

implication on Access to Justice and Fundamental Rights. It also has implications for any future anti-corruption regimen.

- **Remuneration of Personnel**: The acute shortage of personnel is not unconnected with the low wages paid to the legal officers in the Ministry of Justice. This makes it difficult to attract qualified personnel to work in the Ministry.
- **Problems of Centralization**: The findings show that the following Institutions are clustered under the Ministry of Justice with the Attorney –General and Minister of Justice exercising supervisory powers over them i.e. –Immigration Services; The National Bureau on Investigation; The National Police; The Fire Service; The Drug Enforcement Agency; and the Correctional Systems such as the Prisons. This over centralization has the probability of impacting on efficiency. In addition to the administrative demands made on the Ministry by this arrangement, the prosecution of all offences from these agencies is mandatorily undertaken by the Ministry of justice. Further, the numerous agencies create a situation of overlap with the attendant impact on funding.

A further issue identified in relation to the office of the Attorney-General is the fact that the Attorney General is also the Minister of Justice as well as the Chief Prosecutor for the country. The clustering of these three activities has implications for transparency and the campaign against corruption. The office of the Minister of Justice is political and depends on the pleasure of the President. The Attorney –General is the Chief Law Officer of the country who has the mandate to advise the President, and should have the political will to take a position in protection of the Constitution and the laws of the land even when this position conflicts with the position of the President. The Public Prosecutor on the other hand should be a career Civil Servant insulated from the vagaries of politics and acting only according to the stipulations of the law in the execution of his functions. The merging of these three functions presents a scenario of constant conflict and making of choices which may sometimes not be judicious.

In Nigeria, where a similar situation exists, there have been instances of exercise of the discretion to stop the prosecution of an offence in circumstances which are perceived as injudicious as follows:

Makanjuola, a one time Permanent Secretary in the Ministry of Defense was arraigned in Court for embezzling huge sums of money. Inexplicably, the Attorney-General entered a nolle prosequi which effectively terminated

the prosecution. This raised a lot of furore and there were caustic criticisms of the decision to stop prosecution. The said Makanjuola is alleged to be a relation of the President. Despite the public outcry the case has not been revived. The perception is that the Attorney-General and Minister of Justice was influenced in the exercise of discretion in that instance.

Code of Conduct for Prosecutors

By virtue of the Legal Framework, the Office of the Attorney-General and Public Prosecutor is separate from the Judiciary. As a result, the Judicial Cannon applicable to Judicial Officers does not extend to Prosecutors. Therefore, it is necessary to adopt a Code of Conduct as stipulated by **Article 11 of UNCAC**

RECOMMENDATIONS

Short Term

- **Review of the Conditions of Service within the sector to attract qualified personnel.**
- **Ceding of Prosecutorial powers to other agencies**
- **Code of conduct for prosecutors.**
- **Decentralization of the agencies under the Ministry of Justice**

Medium Term

- **Affirmative action policy to train more lawyers on terms**
- **Reviewing the current situation where the Attorney-General is also the Minister of Justice as well as the Chief Prosecutor**

8. THE LEGISLATURE

The present legislature, the National Transition Legislative Assembly-NTLA was created under the CPA. While the NTLA carried out its constitutional responsibilities of law making, it appeared that some of its adjunct functions such as the activities of the Public Accounts Committee were not effectively carried out. The findings show that the Public Accounts Committee was in existence but was not active in carrying out its duties.

Further, the Constitution failed to outline the oversight functions of the Legislature on the Executive arm of the government. Ideally, the legislature should have oversight powers over issues in which it has powers to make laws. This will empower it to carry out enquiries and raise issues over Executive conduct which does not meet with its approval.

For instance S. 88 of the Nigerian Constitution gives the Legislature powers of oversight over all issues in which it has the authority to make laws. The broad scope provided under this section, gives the Legislature wide powers to enquire into major issues and policies within the polity. As a result, there are constant Legislative enquiries into cases of misappropriation and injudicious use of public resources.

The Constitution also failed to provide for the submission of the Report of the Auditor-General to the Legislature for the consideration of the Public Accounts Committee. However this issue has been corrected by the enactment of a law which stipulates that the General Audit Office shall report to the Legislature.¹⁸ However, it must be emphasized that even with the enactment of this law, the situation is still less than satisfactory. This is because the provisions of an ordinary law cannot compare with the potency given to an issue which is entrenched in the Constitution.

A critical finding in relation to the Legislature is the dearth of infrastructure and equipments within the offices of the Legislators.

Even though the Constitution of Liberia does not provide for the creation of a Parliamentary Service Commission, it is desirable to have such a body which will in relation to the Parliament play a similar role as the Civil Service Commission and the recommended Judicial Service Commission. This body will serve to fashion out and enforce the Code of Conduct for Legislators and regulate their affairs. This will ensure proper separation of powers as internal governance and disciplinary issues of the Legislature will be regulated by this body.

RECOMMENDATIONS

Short Term

- **Capacity building to activate the Committees of the house and make them functional.**
- **Codes of conduct for the Legislature**

¹⁸ An Act To Repeal S. 53[2] of Chapter 53 of the Executive Order 1972, dated June 16th 2005

- **Encourage involvement in regional and global initiatives such as African Parliamentarians Network Against Corruption- APNAC and Global Parliamentarians Against Corruption- GOPAC**

9. THE MEDIA

There is no doubt that the media is a powerful counter face to corruption in public life.

Article 15 of the Liberian Constitution guarantees the right to Freedom of Expression. Information gathered from interaction with the members of the Press Union of Liberia, is to the effect that there is no prior censorship and no harassment of journalists in the course of their work. Further the country has a vibrant media sector with about forty independent Newspapers and also forty independent private community radio stations.

However it was observed that Decrees 88A and 46 constitute a curtailment of the freedom of expression guaranteed in the Constitution. ***[Decree 88A bans broadcasting or printing anything relating to government officials while Decree 46 gives the Ministry of Information control over the accreditation of newspapers. The Ministry has the power to issue licenses before Newspaper Houses can be set up.]***

Secondly there is the question of independence of the public media which is perceived to focus mainly on and report news from government and public officers.

As a result of this fact, the media Policy Reform working Group under the auspices of the Press Union of Liberia is working on a Bill to redefine the role of the Public Media as a Public Service Agency.

A further constraint on the media is the non existence of a Freedom of Information Law. However, the Media Policy Reform Working Group is working on a Bill to that effect.

Also, the provision of the Penal Code in sections 11.12 [1] [c] [d] impacts on the Right to Freedom of Expression. Under these sections which deal with the offence of Sedition, incitement to violence is not an ingredient to the offence of sedition. In effect constructive criticism of government without intent to incite violence may be criminalized under these sections. This will impact on the freedom of the media to engage government on issues of corruption and governance.

It is noted however that the Constitution of the Republic of Liberia went further than most Constitutions in guaranteeing Freedom of Information. Article 15[c] of the Constitution reads as follows: ***‘In pursuance of this***

right, there shall be no limitation in the public right to be informed about the government and its functionaries'

While a Freedom of Information Law is desirable to elaborate the Constitutional guarantee, Liberian citizens are urged to in the meantime, assert their right to freedom of information as guaranteed in the Constitution. Some of the needs of the Liberian media as outlined by the PUL include:

- Infrastructure and working tools
- Training facilities e.g. the Mass Communication department of the University of Liberia is ill equipped to train journalists
- Adequate training for personnel at the Community Radio Stations.

RECOMMENDATIONS

Medium Term

- **Repeal of Decrees 46 and 88A**
- **Institute policy to make public media independent**
- **Enact a Freedom of Information Law**

10. THE CIVIL SERVICE AGENCY

The findings show that the Civil Service Commission provided for under the Constitution is yet to be created. However, the Civil Service Agency [CSA] which was created as a Ministerial Agency in 1973 has been fulfilling the duties of the Civil Service Commission. Prior to 1980, this agency was responsible for all recruitment and employment in the Civil Service.

However, the confusion in the system which heightened about 1980 eroded the authority of the Agency.

Under the Transitional Government, the CSA has done a lot of work. In collaboration with the GRC, the Agency has produced a draft Code of Conduct for Public Servants and a Civil Service Manual comprising the rules and regulations within the sector. The CSA has also undertaken an audit of Civil Servants in the Country.

The findings show that this sector is plagued with enormous problems such as:

- Low and irregular salaries.

- Poor conditions of service
- Low capacity of staff
- Poor infrastructure and poor work environment
- Ghost worker syndrome
- There is lack of motivation and low moral in the public service;
- There are no clear guidelines on the methods of appointment and promotion of public servants. Much depends on partisan connections and nepotism;
- The relationship between political office holders (including ministers) and public servants are not clearly defined;
- As a result of low wages and other factors, there is lack of professionalism in the public service;
- The public service is over-bloated in terms of staff strength
- The constitution allows public servants to belong to political parties.

With particular reference to the capacity of the staff, a recent survey disclosed as follows;

Employees of thirty-three agencies and institutions were interviewed.
Out of those interviewed,
-8.3% were illiterate,
-47.3% attained high school education,
-12.5% are graduates.
Although the law requires that all civil servants be recruited through
the CSA, only
-29.4% were employed through the CSA,
-52% were employed directly by the agencies and
-18% were employed through special recommendations.
-92.1% expressed dissatisfaction on the job while
-7.9% were satisfied.

The table above shows a systemic subversion of the processes, an indicator of the need for urgent review.

In order to create and institutionalize a professional Civil Service, it will be necessary to create the Civil Service Commission provided by the Constitution. This will be accomplished by enacting a law which will create the Commission, provide guidelines which will regulate the appointment of key staff of the Commission and specify the mandate and functions. It is important to assign the job of drafting the enabling law and constituting the Commission to experts who will be able to access and analyze best practices from the Global arena. A properly constituted Civil Service Commission should contain the following regulations which will ensure the independence and impartiality of the Civil Service as well enhance transparency and accountability:

- Specific and enforceable guidelines on recruitments and appointments.
- Specific guidelines on discipline and dismissals
- Comprehensive provisions on conditions of service
- Enforceable Codes of Conduct for Public Servants incorporating Declaration of Assets regimen and Conflict of Interest Rules.
- Ethics Provisions.
- Merit System and Related provisions
- Insulation from partisan politics.
- Provisions for the protection of reporting persons, witnesses and Whistle-Blowers.
- Continuing education programs to impact contemporary and emerging principles in the areas of democracy, good governance, transparency and accountability among other issues.

In order to ensure the professionalization of the Public Service in the Local Government Structure, it is also important to replicate or extend the activities of the Commission to the local level.

It is desirable to stipulate the mandate and functions of the Commission in the Constitution of the country. This will ensure independence of the Public Service and protect public servants from the vagaries of politics. Some countries around the sub-region who have established a viable Civil or Public Service Commission are Ghana, Kenya, Nigeria and South-Africa. In

these countries the creation, powers and function of the Commission are embedded in the Constitution of the Countries.¹⁹

RECOMMENDATIONS

Short term

- **Review of conditions of service for public servants**
- **Enactment of the enabling law setting up and elaborating the role and functions of the Civil Service Commission**
- **Adoption and implementation of the draft Civil service Manual**
- **Code of conduct, asset declaration and conflict of interest rules for public servants.**
- **Capacity building**

Medium Term

- **Measures to check the ghost worker syndrome**
- **Constitutional Review to incorporate the mandate and powers of the Civil Service Commission**

11. THE NEED FOR INDEPENDENT ANTI-CORRUPTION AGENCIES

Rational for an empowered dedicated agency

The concept of having dedicated agencies has been recognized as a critical tool for fighting corruption. This concept, which has been sanctioned by Transparency International, is also strongly reflected in most International Instruments and Conventions against Corruption. Both the AU Convention²⁰ and the UNCAC²¹ require State Parties to take measures to establish

¹⁹ S153 and Part 1 of the 3rd Schedule of the 1999 Constitution –Nigeria, Chapter VIII of the Kenyan Constitution, the Constitution of the Republic of Ghana 1992 and Sections 195 and 196 of the South African Constitution .

²⁰ Article 5[3] AU CONVENTION

²¹ Articles 5 and 6 UNCAC

agencies and bodies that prevent corruption. The Instruments go further to prescribe the character of such bodies as follows:

- Ability to increase and disseminate knowledge about corruption
- Ability to coordinate anti-corruption policies which promote the rule of law, participation of society, proper management of public affairs and public property and promote transparency, accountability and integrity.²²
- Independence, i.e., political and financial independence.

In addition, some of the best practices identified in this area are the granting of investigative and prosecutorial powers to these agencies.

A dedicated anti-corruption agency is particularly beneficial because it is a strong expression of the political will to combat corruption and sends out a strong message to that effect.

Interrogating Causative Factors for Corruption.

However, an effective anti-corruption regimen has to be located within the context of the causative factors of corruption in each environment. While the phenomenon of corruption is global, the manifestation, causative, and aggravating factors which encourage elastic tolerance for corruption may be located in remote issues such as ethnicity and religion, like the case of Nigeria.²³ As variant as the factors may be, some commonalities have been identified by studies carried out around the globe. Some of the frequently recurring causative factors are:

- Weak Ethical Culture
- Weak and ineffective integrity systems
- Weak and ineffective combative systems
- Poverty
- Greed and Impunity.

In addition an effective anti-corruption regimen has to be based on the Tripod Mechanism of Prevention, Education and Deterrence.

²² UNCAC article 5

²³ Nigerian National Integrity System Study published in the TI website www.transparency.org [Country studies]

POVERTY AS A CAUSATIVE FACTOR

The team observed through interactions with NGOS and other members of the Civil Society that in addition to the ridiculously low wages in the public service, there is a prevalence of poverty in the country. Though poverty is not the root cause of grand corruption, [the converse is true], petty corruption is accentuated by poverty. The logic of survival and subsistence may impel the stealing of public property, graft, or engagement in other forms of unethical conduct.²⁴ **In the circumstance, the country should develop and implement a poverty reduction strategy in the context of the UN Millennium Development Goals [MDG]. As an interim measure, there is an urgent need for wage review in the public service.**

The Findings in the current study show that the minimum wage in Liberia is about \$20 while the average wage even for high ranking public servants is about \$50. The findings also show that even these low salaries are not paid regularly and also subject to illicit deductions.²⁵

In addition, years of conflict has weakened the ethical structure and debilitated the classic Pillars of Integrity such as the Judiciary, the Police, and the Office of the Attorney-General. The capacity of the judiciary in terms of infrastructure and personnel is weak, the Attorney-General and Public Prosecutor has only four qualified Prosecutors. The law libraries are bereft of reference materials. The public service structure is fraught with problems and the local governance structure at the county level is in a dismal state. In the face of all these findings, an effective anti-corruption regimen has to simultaneously address some or all of these issues. That is the only way to ensure sustainability.

ESTABLISHING AN ANTI-CORRUPTION REGIMEN

Under the Liberian legal system, there is no legislation dealing exclusively with corruption and related issues. The offence of corruption is provided for in the Penal Code Law of 19th July 1976 (as subsequently amended). The Code criminalizes the following acts and omissions:

- Bribery (s.12.50) – second degree felony

²⁴ See Appendix 14-Meeting with Bong County Officials.

²⁵ See LPA SYNDROME Under Grand Corruption.

- Unlawful reward of public servants (2.12.5) – 1st Degree misdemeanor
- Trading in Public Office and Political Endorsement (S.12.53) – first degree misdemeanor
- Misapplication of entrusted property (S.15.56) – first degree misdemeanor

The offences of larceny, defrauding and cheating, obtaining money under false pretence, embezzlement, extortion, blackmailing, receiving stolen goods, were consolidated in section 15.50 of the Penal Code and the punishment ranges from felony of the 2nd degree to misdemeanor of the 2nd degree.

By section 50.5(1) of the Penal Code, a felony of the 2nd degree carries a maximum prison term of five years; felony of the third degree carries a maximum prison term of three years.

By section 50.7, misdemeanor of the first degree carries a maximum prison term of one year; misdemeanor of the second degree carries a maximum prison term of 30 days.

There is also the Anti-Sabotage Law which criminalizes certain matters relating to corruption.

The defects of the existing criminal legislations on corruption can be summarized as follows:

- the scope of the offences relating to corruption does not capture the present manifestations and ramifications of corruption;
- the punishments for the offences are not sufficiently severe;
- there is no provision for restitution for the victims;
- They fail to meet the obligations of states under the UNCAC and AU Conventions.

A new anti-corruption legislation has therefore become imperative. The law should cover such issues as:

- Gratification by an official
- Corrupt offers to public officers
- Corrupt demand by persons
- Fraudulent acquisition of property
- Making of false statement or return
- Gratification by and through agents
- Bribery of public or private officers
- Using position for gratification
- Illicit enrichment
- Bribery for giving assistance etc. in regard to contracts
- Duty to report corruption
- Dealing with, using, holding or concealing gratification
- Money laundering
- Whistleblowers protection

- Witness protection
- Forfeiture of property
- Retention of proceeds of criminal conduct
- Forfeiture of property after conviction
- Restitution for the victim
- Seizure of property
- Seizure of passport
- Investigation of assets and properties of a person arrested of an offence
- Stringent bail terms where prima facie case has been made.
- International Co-operation and mutual legal assistance.

The recommended processes are as follows:

1. ACCESSING INPUT

In order to produce a document which can stand the test of time, it is important to consult as widely as possible prior to and in the process of drafting the Law. This will assist in capturing not only the prevalence and perceptions of people, the expressions and manifestations will also be articulated and incorporated.

Further, the accessed input will feed into the development of the strategy and formulating a National Action Plan against Corruption.

DRAFTING THE ANTI-CORRUPTION LAW

Legal drafting is a technical and specialized field of Law which requires expertise. It is desirable that the group which should draft such an important Legislation should not only possess the requisite expertise, but needs to have an overview and database of all the National Legislations. It is therefore important that the office of the Ministry of Justice should take charge of this process. In addition, the group drafting the law should be familiar with the International anti-corruption instruments to ensure the incorporation of the current issues reflected in those instruments. It must be emphasized that an anti-corruption law will necessarily target a group of people who have the resources to challenge and litigate the concept, process and provisions of the law. It is therefore important that the document does not contain loopholes which can provide an opening for a structured attack.

Case Study Nigeria

The Corrupt Practices and Other Related Offences Act was passed in 2000, shortly after the Obasanjo government came into office. Flowing from that, the Independent Corrupt practices and other Related Offences Commission was set up in June 2000. An accused person in one of the first cases investigated and prosecuted by the Commission challenged the legality of the Act and the Commission vis a vis the Constitution.²⁶ The said accused person hired one of the best and the most expensive law firm in the country. The issue was litigated up to the highest court in Nigeria- The Supreme Court in a case that lasted almost two years. While the case was pending the Commission was rendered inactive due to the uncertainty surrounding their status. The case was eventually decided in favor of the legality of the Commission and its enabling law, in a decision lawyers still believe was more of Judicial Activism to sustain the anti-corruption campaign, than on strict legal principles.

IMPLEMENTING THE ANTI-CORRUPTION REGIMEN

It has long been recognized that the ideal anti-corruption regimen is the one based on the tripod mechanism of prevention, education and deterrence. The success of each of the components of the tripod requires an analysis of the causes and effects to ensure the successful delivery of each tripod. It is also clear that effective delivery can only be achieved through the channels of the Pillars of Integrity. For instance, Prevention can only be achieved through the channels of the structures for accountability, which when effective, closes the doors to illicit activities. Further, prevention includes putting in place processes which will diffuse the root causes of corruption such as the desperation which comes from acute need. Education can also be achieved through strategic partnership between government, the Civil society, the media and other similar institutions. Deterrence and sanctions can only be achieved through the instruments for law enforcement such as the Police, Prosecutors and the Judiciary. All these channels are located within the Pillars of Integrity. It is for this

²⁶ .G. Ondo State v A.G. Federation & 35 ors (2002)9 NWLR (Pt. 772)222

reason that the need to build and sustain the Pillars of Integrity has been acknowledged as an effective and holistic approach to combat corruption.

DRIVING THE ANTI-CORRUPTIO PROCESS

In the course of meetings and interaction with diverse actors and key stakeholders, the team met with several government agencies engaged in driving one aspect of the reform and transitional process or the other. The team met institutions such as the GRC, Anti-Corruption Task office, CMC, The Attorney General and Minister of Justice and The Transition Governance Team, among several others. These various agencies have diverse competencies in the area of governance. However, the team is of the view that no single agency possesses the competence to formulate and drive the anti-corruption process which will necessarily comprise the drafting of an anti-corruption Law and setting up a commission based on the tripod mechanism. There is also a need for harnessing and articulating input for the development of a National Strategy and an Action Plan against corruption.

It is our humble view that this process should be driven by a highly professional team whose aggregated competencies should embrace the components of the tripod mechanism as follows:

1. Education- Professionals in developing advocacy strategies based on the perceptions and challenges of the particular environment. In a post war environment with endemic poverty the “Rational Self Interest Strategy” should be explored.
2. Prevention- Competencies in building integrity systems and institutions of transparency and accountability.
3. Deterrence-Competencies in law enforcement embracing policing, prosecution, sanctions and redress mechanisms.

RECOMMENDATIONS ON DRIVING THE PROCESS

- Due to the difficulty in accessing these competencies within any one of the identified organizations, it will be necessary to pool the resources from the various Agencies of GRC, CMC,

CSA, Anti-Corruption Task Force, the Transition Governance Team, Police, Judiciary, and Office of the Attorney –General, the private sector and Civil Society.

- Additional competencies can be accessed from international agencies such as UNMIL and other identified experts.
- Inclusion of the APRM through the ECOWAS and African Union country offices as an over-arching monitoring body. This will have the added advantage of enabling access to best practices from the sub-region at no substantial cost to the country.
- This team will work with, and act as an advisory body to the legal drafting team for the Anti-Corruption Act.
- The team will also implement the process of accessing, articulating and analyzing input in order to develop the National Anti-Corruption Strategy.
- The mandate of the team will cease upon the inauguration of the Anti-Corruption Commission.

KEY ISSUES

1. There is an urgent need to establish a dedicated anti-corruption agency as an expression of the political will to fight corruption and to address the culture of impunity which has gained ground in the system
2. The current laws dealing with anti-corruption issues can no longer act as deterrence; the current manifestations of corruption are not captured; the prescribed sanctions are inadequate.
3. There is also an urgent need to rebuild and reconstruct the Pillars of Integrity which will support the anti-corruption regimen.
4. There is an urgent need to involve and stimulate participation of the people in the campaign against corruption. Corruption in Liberia has been identified as endemic and pervasive. Therefore any measures to address it must be holistic and sustained.

ENTRY POINT FOR THE CIVIL SOCIETY

The Civil Society has been recognized and acknowledged as a critical Pillar of Integrity. It is however important to define and identify Civil Society in an inclusive manner. This incorporates all groupings outside the vertical governance structure. In effect it includes groups such as organized labor, organized private sector, NGOS; Community based Organizations, Professional groups, faith-based groups, and some amorphous aggregations or individuals who cannot fit into particular groupings. With this broad definition, the need for their participation is further underscored because they constitute a huge segment of the society. Further, corruption has sectoral manifestations and actors within a particular sector are in the best position to identify and articulate issues relating to corruption in that area. It is in recognition of their importance that the International anti-corruption Instruments such as UNCAC and the AU Convention provide for the participation of Civil Society in the campaign against corruption.²⁷ However for these groups to engage constructively there is need to do the following:

1. Provide an entry point and platform for engagement for each sector and each grouping.
2. Institute a structured policy to build the capacity of the Civil society and ensure constructive engagement.
3. Provide access to information and encourage freedom of expression.

These issues are necessary in all fledgling democracies and critical in countries emerging from conflict. A transparent platform for engagement will discourage the dredging up and festering of old resentments. The findings show that the NGOS in Liberia are passionate about governance and are willing to engage. However, they are hampered by low capacity, lack of access to resources and lack of access to information. It is therefore necessary to encourage and nurture a structured policy of engagement as enunciated above. It is also necessary to encourage the emergence of a broad Civil Society Structure.

RECOMMENDATIONS

²⁷ Article 13 UNCAC and Article 12 AU Convention

Short Term

- **Capacity building for NGOS and other organized groups within civil society**
- **Access to funding and other resources**
- **Propagation of monitoring and other anti-corruption tools as a strategy for engagement.**
- **Incorporating a CSO component into every donor funded project to improve their capacity to monitor and engage on issues**

Medium Term

- **Institute an articulated policy for the participation of Civil Society in major governance issues.**

ENTRY POINT FOR THE ORGANIZED PRIVATE SECTOR

The Organized Private Sector is recognized as a key player in stimulating the economy and promoting good governance. The Organized Private Sector such as Banks, manufacturing and trading companies both indigenous and international, the Chambers of Commerce, Professional Bodies such as the Bar Association, Medical and Pharmaceutical Associations etc are usually at the supply side of graft and other corrupt practices. Therefore they complete the vicious cycle of corruption and lack of transparency in governance. A successful anti-corruption regimen must necessarily envisage strategies to engage this group in order to discourage unethical business practices and unfair competition.

It is in recognition of the potential damage capacities of an unconverted Private Sector that both the AU Convention²⁸ and the UNCAC²⁹ have made elaborate provisions to sanction corruption and ensure transparency in the areas of interface between the public and private sector. Some specific provisions outlined in the two conventions include the following: measures to enhance accounting and auditing standards; stipulating and maintaining standards and procedures; ensuring proper identification of natural and legal persons; enforcing procedures for granting of licenses; establishing conflict of interest rules; preventing bribery in the tender process; preventing tax

²⁸ Article 11 AU Convention

²⁹ Article 12 UNCAC

deductibility of expenses constituting bribery. In addition to the provisions of the Conventions, there are a number of other measures such as the ***Business Practices for Combating Bribery*** formulated and promoted by Transparency International [TI] ³⁰. There is also the ***Integrity Pact Principles*** being propagated by TI³¹ which is based on the principle of getting competing companies to enter into a pact to refrain from paying graft in order to ensure fair competition. The enforcement mechanism is based on peer pressure and mutual monitoring. The Integrity Pact Principle is in operation in Nigeria and a number of South American countries.

In the course of this study, there was very limited interaction with the business and organized private sector. The findings show that this sector is still inchoate probably as a result of the prolonged armed conflict. There are banks in operation but they are comparatively small and clustered in the capital city of Monrovia. However, it is critical to commence the propagation of best practices immediately to prevent the emerging business community from developing along distorted lines.

It is also critical to review and energize enforcement mechanisms for the professional codes of such bodies as the Bar Association and other professional bodies. In addition it will be beneficial to encourage the creation of non existent professional bodies.

RECOMMENDATIONS

- Commence the propagation of transparency and accountability measures outlined in the AU Convention and UNCAC for the Private Sector.
- Commence the sensitization process and propagation of anti-Corruption tools such as the Business Principles for Combating Bribery and Integrity Pacts.
- Facilitate the building of Public\Private Sector partnerships in combating corruption.

³⁰ **[Business Principles for Countering Bribery: TI Six Step Process – www.transparency.org](http://www.transparency.org)**

³¹ Details are available in www.transparency.org.

COMPREHENSIVE RECOMMENDATIONS AND CONCLUSION

Recommendations have been made on sectoral basis on each of the Pillars or Components of Pillars evaluated and analyzed. However the following have emerged as comprehensive recommendations for immediate prioritization.

In the light of the above, the following are recommended as short, medium and long term measures to address the issue of corruption and promote good governance;

1. There is need to institute an anti-corruption regimen and strategy which will address the issue in a holistic and sustainable manner as follows:
 - i. Enactment of an anti-corruption Act and setting up of an independent anti-corruption Commission based on the tripod mechanism of prevention, education and deterrence.
 - ii. A team of technical experts drawn from the various agencies, private sector, international institutions, shall drive the process of setting up the Commission and developing and fashioning a National Action Plan against Corruption until the Commission is in place.
 - iii. The strategy must address the issue of Civil Service Reforms especially remuneration and incentives for workers in the Public Sector and professionalization of the Civil Service.
 - iv. Enacting an enabling law elaborating the structure, mandate, content and functions of, and setting up the Civil Service Commission provided for in the Constitution
 - v. A review of the Justice Administration system with emphasis on the Criminal Justice System.
 - vi. Setting up of a body of judicial character i.e. a Judicial Service Commission to oversee and recommend the appointment, discipline and disengagement of Judicial Officers.

- vii. Setting up a Parliamentary Service Commission to regulate the internal administrative issues and discipline within the Legislature and ensure proper separation of powers
- viii. Institute an Ethical Revival Regimen which will incorporate Codes of Conduct for Public Officers, including sectoral codes for the Judiciary and Prosecutors and Conflict of Interest and Asset Declaration rules for Public Officers.
- ix. Set up a mechanism for enforcement of the Codes
- x. Mass education and mobilization to sensitize the populace on the causes and effects of corruption with a view to stimulating zero-tolerance.
- xi. Strengthening the office of the Attorney-General and building their capacity to prosecute crimes.
- xii. Immediate ratification of the Anti-Corruption Conventions i.e. the UNCAC and the AU Convention.

2. Establish a monitoring process on the platform of the APRM in line with GEMAP document.
3. Embark on Constitutional Review as a long term measure to strengthen the Pillars of Integrity and enhance transparency and accountability.
4. Commence the process of introducing the non existing Pillars such as the Ombudsman, and tools for making existing Pillars more effective such as Access to Information and Whistle-Blower Protection Regimen.
5. Introduce a policy to ensure the participation of “Civil Society” as broadly defined.
6. Institute a policy to encourage the involvement of the Organized Private Sector in governance and anti-corruption issues and facilitate the formation of a Private \Public Sector partnership against corruption

WORKPLAN AND SEQUENCING

A recommended work plan which structures the recommendations and prescribes timelines and sequencing is attached hereto as **Appendix C**. It must however be emphasized that in formulating the work plan, the authors were conscious of the fact that any recommendation on governance to a sovereign nation may only be persuasive.

The work plan therefore addresses possible areas of UNDP and other donor intervention based on their programmatic framework. It is hoped that these interventions will facilitate the process of rebuilding and restructuring existing institutions of accountability and the emergence of

new ones. The specific activities outlined in the work plan are aimed at the following objectives:

1. Build capacities of various stakeholders to engender the appreciation of basic anti-corruption issues and enable the appropriation of tools and methodologies to combat corruption.
2. Create a demand for transparency and accountability in the polity.

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4. The Draft Financial Autonomy Bill
5. Executive Order 6
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11. The Constitution of the Federal Republic of Nigeria 1999
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2. The United Nations Convention Against Corruption
3. The ECOWAS Protocol
4. The African Peer Review Mechanism Document-APRM
- 5. Business Principles for Countering Bribery: TI Six Step Process**

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2. The TI-National Integrity Systems Study-Nigeria www.transparency.org
3. The TI-National Integrity Systems Study- Australia www.transparency.org

POLICY PAPERS, MATERIALS AND REPORTS

1. The GEMAP DOCUMENT
2. Audit Report on Foreign Travel Expenditure
3. Audit Report of the Forestry Development Authority
4. Audit Report of the National Ports Authority
5. Audit Report of The Central Bank of Liberia
6. Audit Report of The Liberia Petroleum Refining Company
7. Audit Report of the Roberts International Airport.
8. Draft Civil service Rules
9. Draft Code of Conduct for Public Servants-Liberia
10. Audit Report on Civil Servants Payrolls as at June 30, 2005.

ANNEXES

SCHEDULE 1-LIST OF GROUPS MET

S\NO	AGENCY\ GROUP	DATE OF MEETING
1.	ANTI-CORRUPTION TASK FORCE	22 ND NOVEMBER 2005
2.	ATTORNEY-GENERAL\MINISTER OF JUSTICE	22 ND AND 24 TH NOVEMBER 2005
3.	AUDITOR GENERAL	23 RD NOVEMBER 2005
4.	PRIVATE SECTOR-[TAZ CONSULTANTS]- <u>JAFAIN CONSORTIUM INC</u>	23 RD NOVEMBER 2005
5.	GOVERNANCE REFORM COMMISSION-GRC	24 TH NOVEMBER 2005
6.	OFFICE OF THE CHIEF JUSTICE OF THE SUPREME COURT	24 TH NOVEMBER 2005
7.	DEPUTY GOVERNOR CENTRAL BANK OF LIBERIA	25 TH NOVEMBER 2005
8.	ECOWAS AND AFRICAN UNION	25 TH NOVEMBER 2005
9.	CSO-CENTER FOR TRANSPARENCY	26 TH NOVEMBER 2005
10.	DEPUTY SPEAKER-HOUSE OF REPRESENTATIVES OF THE NATIONAL TRANSITION LEGISLATIVE ASSEMBLY-NTLA	28 TH NOVEMBER 2005
11.	CHAIRPERSON NATIONAL ELECTORAL COMMISSION	28 TH NOVEMBER 2005
12.	PRESS UNION OF LIBERIA	28 TH NOVEMBER 2005
13.	MEETING AT USIS WITH ADHOC CSO COMMITTEE, UNMIL, DFID AND USAID TEAM	29 TH NOVEMBER 2005
14.	USAID COUNTRY DIRECTOR AND USAID TEAM	30 TH NOVEMBER 2005
15.	CIVIL AFFAIRS UNIT-UNMIL	30 TH NOVEMBER 2005
16.	TRANSITION GOVERNANCE TEAM	30 TH NOVEMBER 2005
17.	CIVIL SERVICE AGENCY	30 TH NOVEMBER 2005
18.	MINISTRY OF FINANCE	30 TH NOVEMBER 2005
19.	CONTRACTS AND MONOPOLIES COMMISSION	30 TH NOVEMBER 2005
20.	MEETING WITH THE SUPRITENDENT, COMMISSIONERS AND PARAMOUNT CHIEFS AT BONG COUNTY	1ST DECEMBER 2005
21.	GEMAP TECHNICAL TEAM	2 ND DECEMBER 2005
22.	CIVIL SOCIETY GROUPS	2 ND DECEMBER 2005
23.	WORLD BANK COUNTRY OFFICE	2 ND DECEMBER 2005

APPENDIX A

1**INTERACTION WITH MEMBERS OF THE ANTI-CORRUPTION TASK FORCE.****DATE: 22ND NOVEMBER 2005**

Together with the team from DFID and two officials of UNMIL, we held a meeting with The Chair and members of the Anti-Corruption Task Force at The Mansion. The Chair informed the meeting that the task force was set up by an Executive Order with a mandate to expose corrupt officials within government. He complained that they are constrained to operate on an executive order which lacks certain kinds of authority and was of the view that their activities will be enhanced by the passage of passing an anti-corruption law. According to him they are engaged in the process of drafting an Anti-Corruption Law and the Chair of the Drafting Committee is the President of the Liberian Bar Association.

The task force executes its mandate by sourcing for best practices in other countries. The members of the Task Force requested to know the mission of the DFID and UNDP team in Liberia. In their view the TOR of the two teams which is to conduct a Needs Assessment is unnecessary. According to them, the work of the Task Force is on course but they are seriously hampered by the lack of funds. They wanted to know how the mission of the team will assist them in accessing funds to complete the critical assignments which they are engaged in. They expressed regret that donors who have failed to give funds to them are bringing in foreigners as consultants who are paid while they are not adequately funded. They articulated their needs and concerns as follows:

- They have put in a request to travel to some other countries such as Sierra Leone, Nigeria, Ghana, South Africa and Hong Kong to examine the anti-corruption models in the countries but the funds for the trips have not been approved.
- The Legal Drafting have done about 85% of the assignment but there is the critical need to pay the lawyers who have to leave their legal practice to work on the Drafting sub-committee.
- They lack money for other necessary logistics.
- They are upset that the donor agencies have commenced the implementation of the without involving the LIBERIAN GEMAP TECHNICAL TEAM. According to them, the technical team is not aware of the visit of the assessment team. The Liberian people feel side-lined.
- They expressed the view that if the assessment team cannot help them access funding, then they don't consider the meeting useful.
- They questioned the rationale of bringing foreigners into Liberia for jobs they perceive they could do better.

After some explanations aimed at easing tension, the following questions were put to the members of the Task Force:

1. Q. What level of consultation has the task force made with the people prior to commencing the drafting of the Anti-Corruption Act? Has input been sought from the people to access their conceptualization of corruption, the causative factors and the effect? These views should feed into and shape the drafting of the document.
 - A. The Commission wants to produce an initial draft which will then be taken to the people through stakeholder workshops and forums. The steps they envisage are as follows:
 - i. Produce a draft
 - ii. Do massive dissemination and access inputs
 - iii. Re-draft and fine tune

According to them, the Task Force has produced work plan and costing for these activities but they have been unable to get funding.

2. Q. Is it proper to have a draft document before going to the people?
 - A. They do not see anything wrong in doing that. The GRC followed a similar process with the Procurement Law.

3. Q. Is the Drafting Committee taking into consideration the ongoing reform process and some initiatives which have been put in place under the process to avoid producing a document which is behind the times?
A. Yes.
4. Q. Have you done any work to develop a National Anti-Corruption Strategy?
A. No because GRC is working on the issue.

APPENDIX 2

MEETING WITH THE ATTORNEY –GENERAL AND MINISTER OF JUSTICE

DATE: 22ND AND 24TH NOVEMBER 2005

The team met and interacted with the Attorney-General and Minister of Justice, and the Deputy Minister-Economic Affairs, Ministry of Justice.

The Minister of Justice said that a few years back, Liberia was declared failed State-all institutions of governance having ceased to function. He observed that the security sector has been strengthened even though there is the need to deal with the questions of their number and overlapping of functions which also impacts on the budget and funding. According to him, efforts are being made to streamline the agencies.

He observed that the judiciary is weak and needs to be strengthened. This weakness stems from the conditions of service and capacity of personnel. According to him, the Judges work under very harsh and difficult conditions. There are also some problems associated with the jury system. A unanimous decision is required for a conviction and some persons have become professional jurors. According to him, the system has been corrupted. The Ministry is currently working on the majoritarian rule with the unanimous verdict requirement being reserved only for offences that carry the death penalty. Also, the laws are being reviewed to ensure speedy trial without compromising the fairness of the trials.

According to him, they have commenced the process of enacting a law on financial autonomy of the Judiciary to ensure complete independence.

He advocated for a survey of anti-corruption legislations in countries across West Africa for purposes of comparative experience.

He also observed that as a result of gaps in the Constitution, a Constitutional review is imperative. He noted that there is an immediate and urgent need to activate mechanisms for an anti-corruption legislation without waiting for the Constitutional Review.

He however called for caution and advised against setting up an anti-corruption Commission hastily. He identified the following issues which will be a process towards developing an anti-corruption strategy:

1. There is need to have a Task Force in place
2. There is need to carefully identify the appropriate type of Legal framework and other related issues.
3. There is need to involve and consult all sectors of the populace in developing a strategy.

In response to a question, he commented that it is not wise to produce a draft anti-corruption law before talking to the people. He stated that the government had adopted that procedure in the past and it has resulted in problems later on.

In further response to a question on why the Ministry of Justice is not involved in the drafting of a strategic legislation such as the Anti-Corruption Act, he stated that the Ministry was sidelined in the processes of setting up the Task Force and other related processes.

The agencies under the supervision of the Ministry of Justice are:

- a. Immigration
- b. National Bureau of Investigation
- c. The National Police

- d. The Fire Service
- e. The Drug Enforcement Agency
- f. The Correctional Institutions.

The Attorney –General said that ideally each of the fifteen counties should have prosecutors but at present there are only four qualified prosecutors. However when the need arises private prosecutors are sometimes hired by the Ministry of Justice. The Ministry of Justice also lacks a well equipped library.

In response to a question, he said there is a place for the Truth and Reconciliation Commission. When asked to suggest an interim measure which will satisfy the yearnings of the people to tackle the issue of corruption, he said the statute books have enough laws to deal with the issue in the interim. There is an ***Economic Sabotage Act*** which deals with the issue of corruption. Some of the sanctions prescribed under the Act are prevention from holding public office upon conviction as well as life imprisonment in certain cases. There have been high level prosecutions of corruption under this Act including a former Commissioner of Maritime Affairs, a Deputy Commissioner for Financial Affairs and a former Liberian Permanent Representative to the International Maritime Affairs.

He observed however, that part of the problem with prosecution of offenders is the fact that every offence is bailable save those specified in the Constitution.

APPENDIX 3

MEETING WITH THE AUDITOR-GENERAL

Date: 23rd November 2005

The team met with the Auditor-General and a senior member of the General Audit office Office-GAO. We were informed that the office was set up in 1953. The current Director was appointed under the National Transition Government of Liberia-NTGL. Prior to his appointment the office existed only in name and auditing was almost extinct. He outlined the statutory mandate of the office as follows:

- Conducting Post Audit of all government Ministries and Parastatals including the counties
- Investigation and compliance audit of these institutions
- Deployment of audit staff to these ministries and parastatals
- Making annual reports to the appropriate authorities on Statutory Audits and timely reports on ***Special and Investigative Audits***.

However as a result of financial and other constraints, they have not been able to fulfill their mandate for a long time. Under the NTLG, they have been able to work with the ***Governance Reform Commission*** to revive some of these activities. They have also been able to get some support from the EU and UNDP. One of the remarkable outputs from the agency is the ***Foreign Travel Expenditure Audit*** which disclosed massive fraud on the part of public servants. This report which was published in August 2004, disclosed that a number of Public Servants received money for foreign trips which were never undertaken. As a result of the audit, several people were asked to make restitution. So far five persons have complied. The office has also audited the account of the Liberian Embassy in Washington DC, The Social Security Office and Telecommunications.

PRIORITIES AND NEEDS

Personnel: The office has staff strength of about 109 persons out of which about 66 are in auditing and the rest are support staff. In their view the office is grossly understaffed considering the magnitude of the work they need to do. They are unable to deploy staff to the ministries and parastatals and have been unable to audit the counties for along time. Out of the core staff of 66 persons, 35 have university degrees or equivalent. About 50% of the staff are computer literate.

Capacity Building for Staff: They are unable to have regular trainings and capacity building for staff due to financial constraints. Only newly recruited staff are given formal training in the form of workshops. The rest of the training is done on the job.

Infrastructure: The office has no operation vehicles. Only the director has an official vehicle. There is no provision for transportation for field staff.

Office Space: The office is cramped into offices given to them within the Ministry of Finance. This is perceived as being detrimental to their autonomy and independence. They identified the lack of office space as an endemic problem for government establishments in the country. A lot of government offices are operating from rented spaces, and buildings owned by government are few.

APPENDIX 4

MEETING WITH JAFAIN CONSORTIUM INC-AN INVESTMENT CONSULTANCY ADVISERS AND TAX EXPERTS

Date: 23rd November 2005

The team met with **Mrs. Juanita Neal and Mr. Charles Collins** of the above firm to get an overview of the Tax system in the country as well as the strengths and weaknesses of the system. Mrs. Neal is a Former Deputy Minister for Revenue and a Former Commissioner of Income Tax in the Ministry of Finance and Mr. Collins is a Former deputy Minister of Administration, Ministry of Finance and Former Deputy Minister for Economic Planning and Policy, Ministry of Planning and Economic Affairs.

The group informed the team about the New Revenue Code which they were instrumental to introducing and implementing while they were in office. The Code which was designed to be revenue-generating friendly, was supposed to be implemented in two phases. Implementation of the first phase had already commenced while they were still in office. The main features of the New Revenue Code are as follows;

1. Introduction of sales tax on goods and services. This was a middle course to the introduction of VAT which they felt the system was not ready for yet.
2. Personal Income Tax was lowered to access a broader range of people
3. Tariffs were designed to have uniformity with applicable rates in other ECOWAS countries
4. Excise Tax was limited to goods which were perceived as having detrimental effects such as tobacco and alcohol as opposed to the earlier practice of taxing all locally manufactured goods.
5. In place of having Protective Tariff for local manufacturing industries, special tariff was imposed on imported goods whose local counterparts are subject to Excise Tariff.

However, it appears that some of these provisions were reversed after they left office. In particular the ***National Investment Commission*** –NIC reduced the minimum amount to be invested by a foreign company in order to qualify for tax waivers and incentives to \$150,000. These waivers and incentives are renewed year after year at the discretion of NIC. This is perceived as a loop hole capable of impeding transparency and accountability.

WEAKNESSES AND LOOPHOLES

1. ***Collection Systems-Need for Centralization:*** There is need to centralize the collection of all revenue with responsibility lying with the Ministry of Finance. All payment to government should go to the Ministry of Finance as opposed to the present system of several Ministries collecting payments for diverse issues relating to their operations. This system creates loopholes which encourages corruption and leakages in the system.
2. ***Collection of Revenue in the Counties:*** This was identified as a major source of leakage due to the fact that there are no banks in the counties. There is massive under declaration of collected revenues and fraud. It is necessary to put systems in place to check these anomalies.

3. **Clarity on Tax Exemptions:** There should be a clearly defined policy on import tax exemptions for charitable organizations and churches.
4. The Judiciary was identified as an impediment to bringing culprits to justice. A lot of persons accused of fraud and embezzlement in the Ministry of Finance were able to subvert the court process. People, who are dismissed for fraud, use the court process to find their way back into government establishments. There is an urgent need for capacity building for judges to enhance their appreciation of Economic and Financial Crimes.

In response to a question, they felt it will be beneficial to establish a separate agency which will deal with Economic and Financial Crimes. The technical skills needed to investigate such crimes requires specialization. However they stressed the need to have an anti-corruption framework and commission in place as soon as possible in order to meet the expectations of the people. They also considered the EITI a very good process which will bring benefit to the country.

APPENDIX 5

MEETING WITH THE GOVERNANCE REFORM COMMISSION-GRC

DATE: 24TH November 2005

The GRC is one of the agencies created by the **Accra Comprehensive Peace Agreement-ACPA**. Its mandate is outlined in **Article XVI of the ACPA**. The mandates are, to review and implement the program for good governance in Liberia; develop public sector management reforms; ensure transparency and accountability; execute the decentralization policy; ensure a national and regional balance in appointments; ensure an enabling environment which will attract foreign investments; and report to the NTGL. The Commission has a membership of seven persons. The mandate of the GRC lasts only till the end of 2005 unless extended by an Executive Order.

The team, together with the DFID team, met with the Chair and some members of the GRC. We were informed that the GRC has focused mainly on the following areas:

1. Systemic ramifications of the reforms
2. Developing a Code of Conduct for Public Officers
3. Developing the Civil Service Rules

They have refrained from doing work in the security and judicial sector to avoid overlap with UNMIL and other agencies. The GRC has identified the following areas for its activities:

1. Public Sector Reform
2. Decentralization
3. Land Reform
4. Constitutional Reform

METHODOLOGY

The GRC has focused on the performance in the Public Sector Systems, structures and practices and has tried to re-structure, re-organize and refocus these entities to make them respond to public need. A lot of emphasis has been given to the public servants who man these institutions. The Commission intends to achieve a better-trained and committed Civil Service. The Commission has undertaken the following activities:

- Drafted new Civil Service Rules
- Has commenced a Civil Service Census to determine the number of civil servants; age; gender; and distribution to enable the government implement Civil Service Reform. The envisaged reform will include proper remuneration, adequate pensions and other incentives for civil servants.
- Drafted a description of the mandate, functions and focus of existing Civil Service Structures and prescribed reforms.
- Collaborated with **the Contract and Monopolies Commission** in producing the Public Procurement Law.
- Collaborated with **the General Audit Office** to make a law enabling the agency to report to the Legislature as opposed to the earlier practice of reporting to the Executive.

- About to commence work on the Decentralization process
- Working to rebuild leadership abilities and developing a ***National Shared Vision***.

A management and evaluation report of the GRC is currently going on to determine if the mandate of the Commission should be extended.

PRIORITIES AND NEEDS

Personnel: The Commission is understaffed and Liberian participation within the overall agenda is limited. The Chair and members are of the view that comprehensive capacity building is of urgent necessity. Currently, the Commission is unable to attract highly qualified and knowledgeable people due to poor wages. Further they can only hire people on short contracts of two-three months. As a result they cannot attract good Liberian professionals. The Commission has no operational vehicles and support staff have not been paid for three months.

APPENDIX 6

DATE: 24TH NOVEMBER 2005

MEETING WITH THE OFFICE OF THE CHIEF JUSTICE OF LIBERIA

The team, together with the DFID team, met with Supreme Court Justices at the Supreme Court. The Chief Justice had gone for a meeting in Ghana.

Hon Justice k----- gave the team an overview of the Court structure.

The judiciary is set up under the Constitution of Liberia with the supreme power of adjudication vested in the Supreme Court of the land. The judiciary has a multi-tier structure consisting of the Supreme Court at the apex, the Circuit Courts and special Courts and the Magistrate Courts. The Constitution provides that judicial officers shall be appointed by the President with the consent of the Senate³² and may only be removed from office through impeachment by the Legislature for proved misconduct, gross breach of duty or inability to perform the duties of their office. These provisions guarantee security of tenure for judges.

FUNDING OF THE JUDICIARY

The judiciary is currently funded through the budget appropriation process approved by the Legislature. However their approved budget is disbursed through the Ministry of Finance, which manages and disburses the funds. This fact raises critical issues of independence for the judiciary. It is as a result of the complexities raised by this situation that a draft bill has been prepared seeking to grant financial autonomy to the judiciary. This Bill amends certain sections of The Judiciary Law in order to provide for financial autonomy for the judiciary. The Bill provides as follows:

- The Minister shall remit the quarterly allotment to the account of the judiciary within fifteen days of the beginning of each quarter. These monies shall be deposited into an account maintained by the judiciary under the exclusive supervision of the Chief Justice.

³² Article 68 Liberian Constitution

- The Chief Justice shall appoint a Judicial Financial Supervisor who shall inform the judiciary when there has been a violation of the Act.
- The judiciary is empowered to collect fees and other charges and deposit same into the Judiciary account. However monies so collected shall be published and declared to the Ministry of Finance and such sums shall be deducted from the quarterly allocation.
- A penalty is imposed for breach of the law by the Minister of Finance, who may be held for contempt of court and sent to jail.

In response to a question on whether the Judiciary presently has the capacity to deal with a possible influx of cases that may flow from a serious anti-corruption regimen the Justices responded as follows:

- There is need for a holistic reform of the entire Criminal Justice System e.g. The Prosecution Services and the Prison Systems. At present, there are only about five prosecutors in the Ministry of Justice.
- There is need to for rehabilitation of the Courts and provision of basic infrastructure and manpower.
- There is an urgent need for in-depth assessment of the judiciary to identify the specific problems and engage in a holistic reform.

CORRUPTION IN THE JUDICIARY

According to the Hon Justice, there is a strong perception that the judiciary is corrupt. This is not surprising since the judiciary is a reflection of the larger society. The present team of Supreme Court Justices came in under the ACPA. They were selected by the Bar for tenure of two years, which will expire at the end of the year. Since they came into office, they have observed certain anomalies, which encourage corruption and inefficiency within the judiciary. The anomalies were catalogued as follows:

1. **Low Salary of Judicial officers:** When they came into office, judges were on a monthly salary of \$300 [Three Hundred American Dollars] which has been raised to \$1000 now. The salaries of Lawyer Magistrates have also been raised to \$700 while non Lawyer Magistrates receive \$400. Despite these raises in salary, Judges still earn much less than the lawyers in practice or in the private sector. As a result it has been difficult to attract qualified personnel to the Judiciary. A number of Magistrates in the counties are non –lawyers. There is a policy, which enables the judiciary to grant scholarship to up to 120 pupil lawyers a year on the condition that they work for the judiciary for a certain period after graduation. However, they are unable to retain these lawyers beyond the period of mandatory service, due to poor salary. In addition, often judges are owed salaries. Currently, the Supreme Court justices and other judges are owed two months salary.
2. **Infrastructure:** Circuit judges do not have vehicles and those posted to the counties have no accommodation. This has the potential of compromising their independence. This is because sometimes, they are constrained to accept rides or take accommodation from people who may have cases in their courts. The libraries were destroyed and looted during the war. There is a scarcity of reference materials. A large number of Courts are located in rented buildings and there is acute shortage of accommodation. In some cases, courtrooms are located in establishments within the Executive, which raises issues of possible compromise of independence.
3. **Lack of Supportive Staff:** The judges take their records long hand and by themselves and do not have research assistants attached to them. The Supreme Court justices and other Judges do not have law clerks. This unduly increases their workload and may impact on efficiency.

APPENDIX 7

MEETING WITH OFFICERS OF THE CENTRAL BANK OF LIBERIA.

DATE: 25TH NOVEMBER 2005

The team met with the deputy governor and another management staff of the Central Bank of Liberia. The Deputy Governor gave an overview of the activities of the bank as follows;

1. Fiduciary duties –receiving revenues and paying out on instructions subject to certain criteria such as; availability of funds; correct signature; provided for in the Cash Management Approved List.
2. Centralization of revenue collection for the country
3. Oversight functions on Commercial Banks and other Financial Institutions.-This is rigorously carried out at least twice a year. The Bank ensures that Commercial banks comply with regulations to check money laundering.

The Central Bank was by the Central Bank Act which provided for its autonomy and independence. The Bank also derives powers from the Financial Institutions Act which gives it supervisory power over other Financial Institutions.

Even prior to GEMAP the bank had achieved about 96% success in centralizing revenue collection. It is expected that with the implementation of GEMAP, the Cash Management Committee will be further strengthened. However it is still problematic to collect revenue from the counties under the centralized system. It is hoped however that with the provision of basic infrastructure in those areas, Commercial Banks will be encouraged to open branches there and ease the problem of revenue collection. Currently three regional Collection Centers have been opened outside Monrovia.

The Central Bank operates under very strict principles. For instance, there is no extension of credit to the government.

The major problem identified by the bank is that of lack of co-operation from other stakeholders in abiding by regulations. In addition the bank has problems with infrastructure in the following areas:

- Accommodation: The Central Bank Building is still uncompleted and there are constraints of space at the present offices.
- Building staff capacity by trainings and recruitment.

In response to questions, the Deputy Governor favored a holistic anti-corruption strategy for the country. He was of the view that the strategy should be developed using the bottom-top approach using consultative methods such as Town Hall meetings. Two critical issues that need urgent attention are salary increases and provision of basic utilities such as water and electricity. He was of the view that if these are implemented, the yearnings of the people will be satisfied while the anti-corruption strategy is being developed.

APPENDIX 8

MEETING WITH ECOWAS AND AFRICAN UNION OFFICIALS

DATE: November 25th 2005

The team met officials from the ECOWAS and the African Union. We were informed that ECOWAS had done a limited investigation of corruption within the country. The report is yet to be released. In their view, corruption in Liberia is entrenched and requires a long term holistic strategy. However, this will not preclude carrying out some quick interventions in the interim. Some critical issues which need to be urgently addressed are as follows:

- Salary increases and improvement of wages.
- Reform of the judiciary and Criminal Justice system
- Comprehensive Law Reforms
- Review of the Constitution.
- Decentralization.
- Building the Pillars of Integrity
- Wide consultations to develop a long term strategy.

They observed that Liberia has not yet committed to the **APRM**. If and when it does it will be a useful tool to stimulate pro-activity.

In response to a question on the way forward in the interim while a holistic strategy is being developed, the following suggestions were made;

- The new government should pay attention to the caliber of people to appoint into public offices. This will be a definite signal of the direction it needs to take.
- It may be necessary to support the existing anti-corruption task force by bringing in qualified people to take over the drafting of the Legislation.
- Encourage the participation of Liberians in Diaspora.
- Consider working with the GRC

APPENDIX 9

MEETING WITH THE CENTER FOR TRANSPARENCY

DATE: 26TH NOVEMBER 2005

The team met with the **Center for Transparency**, an NGO working in the area of anti-corruption. The NGO also acts as a secretariat for **The Coalition Against Corruption** which is an association of CSOS concerned about corruption.

The Executive Director of the Center-Mr. Joshua Cumme, informed the team that initially CSOS were reluctant to participate in the GEMAP initiative on the grounds that CSOS were not involved at the consultation and development process. However, the initial reluctance has now been overcome. There is CSO representation in ECSG which is one of the operative organs created under the GEMAP. CSOS, by agreement are represented on a rotational basis, with relevant CSO sitting on the committee depending on the thematic area being addressed at each stage.

There is an ongoing process to form a National Coalition of CSOS. This process is driven by the **Liberian National law Enforcement Association**. In response to a question on whether CSOS have tried to develop a Code of Ethics in view of the prevalent opinion that there is a proliferation of NGOS, Mr. Cummeh responded that he envisages sectoral Codes as opposed to a holistic Code for CSOS. According to him, CSOS working in a particular sector can come together and adopt a Code of Ethics. For instance, the ***Coalition Against Corruption*** has a Code of Ethics and the Center for Transparency also has a Code for its members.

Combating Corruption in Liberia

In his view, the anti-corruption agenda is flawed because there has been very little involvement of the general public. Public education and information is critical to drive and sustain the effort. Public Education should be intensified to create a demand for accountability and information. Currently, the supply side of the anti-corruption effort is active because it is driven by the International Community. In distinction, the demand side is weak. There is need to provide literacy to the public on certain issues to empower them to create the demand for transparency.

The Anti-Corruption Strategy

An anti-corruption Commission is necessary, but there is need to define the entry point i.e. the period to which their mandate should extend in terms of investigating the past. Further, in view of the fact that corruption in the Country is pervasive and systemic, it is critical to develop a holistic strategy. The first step will be consultation with the people. In particular, Legislation should come after consultation with the people and a scoping and assessment study. It is important to know the manifestations and prevalence before drafting any Legislation. There is also a need to do in-depth sectoral assessments.

The Role of CSOS

He sees the role of CSOS as Monitoring and Awareness Creation. However, the CSOS do not have the capacity to effectively engage in these activities. They will benefit greatly from training and capacity building.

APPENDIX 10

MEETING WITH THE DEPUTY SPEAKER OF THE HOUSE OF REPRESENTATIVES OF THE TRANSITIONAL GOVERNMENT

DATE: 28TH NOVEMBER 2005

The team met with the Deputy Speaker of the House of Representatives of the Transitional Government who stood in for the Speaker of the House of Representatives. The deputy Speaker informed the Team that the Transition Legislature has 76 members. Four members have been suspended for corrupt practices. They were investigated by a Committee of the House and found liable.

The Legislature always approved then budget. All government expenditure passes through this appropriation process. There is a Public Accounts Committee which is supposed to monitor and ensure Executive with the budgetary guidelines after appropriation. However, this Committee has not been functional.

There is no Freedom of Information law in Liberia.

The Legislators have Rules of Conduct. It is under these rules that the suspended members were investigated and suspended. The rules include provisions on Conflict of Interest. However, there are no rules on gifts and hospitality.

The major need of the Legislature is infrastructure.

- The offices are poorly furnished. The furniture are run down and shabby
- There is no electricity in the offices.

APPENDIX 11

MEETING WITH THE CHAIRPERSON OF THE NATIONAL ELECTORAL COMMISSION

DATE: 28TH NOVEMBER 2005

The team met with the Chairperson of the National Electoral Commission. The major discussion was the concept of independence of the Commission. According to the Chair, the Commission is independent because the Accra peace Agreement specifically recommends for an Independent Agency.

The first problem the Commission encountered with independence is in relation to funding of Commission. Funds for the Commission were remitted through the Ministry of Finance which then releases it to the Commission. However the Electoral Law has been amended to enable the Commission's fund to be paid into an account controlled by them after appropriation. That problem has now been resolved.

There have been incidences of attempted interference from the Legislature however these attempts were successfully revisited. The first challenge the Commissioners faced was down sizing the work force which was bloated with a lot of staff being the redundant. This was successfully achieved despite protests from the staff and Legislature.

The Commissioners have security of tenure. They are appointed for seven years and they can only be impeached by Parliament. Members who belong to Political parties are required to resign their membership of those immediately they are appointed.

Campaign Financing

There are laws on campaign financing which requires Political parties to submit their financial reports. There is also a ceiling on campaign spending.

The NEC has the authority to call parties to order in certain respects. Donations to Parties are required to be made public. Specifically they are required to declare donations from outside the Country even though such donations can only be made by Liberians in Diaspora. The law also provides for the audit of Party accounts. The accounts are published on the Commissions website and the public have access to them.

NEEDS

The Commission is well funded at the moment by the International Community. However, there are concerns about the sustainability of the activities of the Commission when the funds are withdrawn. An evaluation is currently going on to fashion a plan for the sustenance of the activities of the Commission. Some areas of concern are as follows:

- Vehicles provided for the Election Magistrates by ECOWAS will be withdrawn in January and Chieftaincy elections are still pending
- A lot of the equipments currently in use by the Commission belong to donors who may withdraw them with time.
- The Commission is housed in a rented building and needs to build its own complex.

APPENDIX 12

MEETING WITH THE PRESS UNION OF LIBERIA-[PUL]

DATE: 28TH NOVEMBER 2005

The team met with the President of the Press Union of Liberia-Ms Elizabeth Hoff. She informed the team there are both independent and government media in the Country. There are both independent newspapers and about 40 Community Radios around the country.

The Constitution guarantees Freedom of Expression. However, there are two Legislations which seek to muzzle the press. These Laws are

1. Decree 88A which bans broadcasting or printing anything relating to government officials
 2. Decree 46 which gives the Ministry of Information control over the accreditation of newspapers.
- The Ministry has the power to issue licenses before Newspapers can be set up.

The PUL co-ordinates a Media Policy Reform Working group which is working to effect the repeal of these two laws. Bills to repeal these laws have been drafted.'

The media covers corruption intensively. A CSO –CENTAL monitors coverage of corruption and roundtables are held with the media to evaluate their coverage of corruption issues. So far three of such roundtables have been held.

There have been no instances of harassment of media practitioners and no direct censorship of the media. The PUL seeks to regulate its members by insisting on ethical conduct.

PUL is not very comfortable with the present regulatory framework for media practitioners because it feels that people without the requisite qualifications are awarded licenses to set up media houses. The Union is now trying to enter into an MOU with the Ministry of Information to prescribe criteria and lay down standards for licensing media houses.

There is collaboration between PUL and the Ministry of Finance to pass the Freedom of Information Law.

Currently radio stations are spread round the Country while Newspapers are clustered around Monrovia.

NEEDS

Some of the critical needs of the media in Liberia are

- Infrastructure and working tools
- Training facilities e.g. the Mass Communication department of the University of Liberia is ill equipped to train journalists
- Personnel at the Community Radio Stations are not well trained

APPENDIX 13

MEETING WITH ADHOC CIVIL SOCIETY COMMITTEE ON GEMAP

The team met the group of CSOS at the USIS office and gave them a briefing on the findings of the scoping study so far. The DFID team also gave a similar briefing.

The group advised the two teams to advert their minds to the fact that the problem of corruption is systemic and predates the war. According to them it goes further back in history. It is therefore important to look at the root cause, the proximal cause and the triggers. They identified complacency of the populace as one of the challenges to instituting an effective anti-corruption regimen.

They made the following recommendations in relation to building an effective strategy:

- Addressing grand corruption
- Massive public awareness
- Interaction with the populace to access inputs
- Draw examples from other countries
- The regimen must be a nationally driven process.

The group complained of lack of access to information.

APPENDIX 14

MEETING WITH UNMIL CIVIL AFFAIRS UNIT

The team met with the Civil Affairs unit of UNMIL. The officials gave a briefing on the activities of the unit which includes restoration and consolidation of civil authority in Liberia. Civil Affairs officers are deployed to key government institutions to monitor and report on events at such institutions. The unit has deployed officers to forty out of the sixty-six government institutions. The unit has comprehensive information on the workings of government in Post War Liberia. As a result they have insight into the prevalence and manifestations of corruption which they describe as systemic and deeply rooted. They identified the need to raise the consciousness of the people as a strategy to stimulate zero-tolerance. They gave some examples of manifestations of corruption as follows:

- The LPA Syndrome
- The embezzlement at the Bureau of Maritime Affairs.

They observed that earnings in the public sector are very low with the average monthly salary being about \$11 [United States]. In addition workers are normally owed for several months. They identified the need to have an anti-corruption law and an anti-corruption Commission and recommend that it be run by foreigners initially. They observed that the Anti-Corruption Task Force is not independent.

APPENDIX 15

MEETING WITH THE TRANSITION GOVERNANCE TEAM

The Transition Governance Team described their terms of reference as working to fashion out short, medium and long term strategies on governance issues. They are also required to identify long term institutional needs. The team had been recently formed and just held their first meeting.

They identified the major causative factor for corruption as absence of checks and balances due to administrative weaknesses.

They recommended the following measures:

- Mass education which will be extended to the counties and districts
- Need for access to information
- Need for leadership by example
- Need to clean up the Ministry of Finance
- Entry point and engagement for professional groups
- Constant monitoring

They lent their support to the establishment of an anti-corruption as a quick win measure.

APPENDIX 16

MEETING WITH THE CIVIL SERVICE AGENCY

The team met with the director and officials of the Civil Service Agency. The officials informed the team that even though the Constitution provides for the setting up of a Civil Service Commission, this is yet to be done. The CSA was set up in 1973 as a Ministerial Agency. It was charged with the mandate to recruit civil servants and oversee the Civil Service. This was carried out till 1980 when the subversion of the systems commenced.

Prior to 1980, the CSA enforced laws against bribery and imposed sanctions such as dismissal. There are also rules in the 1973 law which guaranteed the political independence of the CSA. There were rules on nepotism and other anomalies. There were bodies set up in each Ministry to accord redress to members of the public in cases of maladministration. However these rules are seldom enforced now.

The CSA, in collaboration with the GRC, has drafted new rules for the Public Service. This document will provide for a Code of Conduct for Public Servants, rules on asset declaration, gifts and conflict of interest. This document is yet to be adopted.

They identified a number of problems plaguing the Civil Service as follows:

- Low and irregular salaries within the sector
- Low capacity of staff
- Poor infrastructure and poor work environment
- Ghost worker syndrome
- There is lack of motivation and low moral in the public service;
- There are no clear guidelines on the methods of appointment and promotion of public servants. Much depends on partisan connections and nepotism;
- The relationship between political office holders (including ministers) and public servants are not clearly defined;
- As a result of low wages and other factors, there is lack of professionalism in the public service;
- The public service is over-bloated in terms of staff strength
- The constitution allows public servants to belong to political parties.

APPENDIX 17

MEETING WITH THE MINISTRY OF FINANCE

The team met with the officials of the Ministry of Finance who gave an overview of the mandate of their Ministry as managing the Fiscal affairs of the government with emphasis on revenue generation and expenditure.

Even prior to the GEMAP document, they had already embarked on the centralization of revenue collection. All monies accruable to government owned enterprises of agencies are paid into a single account at the Central Bank of Liberia.

However some Ministries, such as Ministries of Labour, Commerce, and Immigration are still collecting 'Form Fees' directly. These Ministries give the excuse that they need petty cash to produce the forms.

In response to questions raised by the team on the issue of delays in release of appropriated funds to government agencies, by the Ministry of Finance, the MOF explained that the government has no reserve. Therefore appropriated monies have to be raised before they can be disbursed.

The team also raised questions on the LPA syndrome. The MOF admitted that they are aware of this practice. However, they have directed the Central Banks to refrain from cashing bulk cheques. They are also making efforts to automate in order to check fraud.

The manifestations of corruption which they have experienced in the course of their work are fraud and petty embezzlement. They are unable to publish the national budget due to lack of funding.

They proffered the following recommendations:

- There is need for a holistic strategy to combat corruption
- Salaries and other core problems must be addresses.

They also identified some measures which need to be put in place to promote efficiency in the Ministry.

1. The structure of the MOF is too bulky and should be decentralized.
2. The Ministry is overstaffed with about 2000 personnel. There is need for rationalization.
3. The revenue department should be an autonomous unit supervised by a Board of Directors.
4. A mechanism to track money laundering should be introduced.
5. There is need for decentralization in revenue management. All key government agencies should have separate accounts and operate their budgets directly.

APPENDIX 18

MEETING WITH CONTRACTS AND MONOPOLIES COMMISSION

The team met with the director of the CMC which is one of the agencies recommended under the Accra Comprehensive Peace Accord. It was subsequently created by Executive Order No 3. The Commission has four commissioners as well as other officials. The mandate of the Commission is to maintain oversight on contracts and purchases of government Ministries and ensure compliance with the procurement guidelines. Under the guidelines, all purchases above a certain threshold come to the CMC for verification and authentication. The Commission has also drafted guidelines on procurement and concessions shortly after it was created. Further, they carried out series of sensitization workshops for stakeholders, especially procurement officers in the various Ministries. They also collaborated with the Bureau of budget in creating awareness on procurement and concession issues.

With these methods, procurement guidelines were widely disseminated and most government agencies try to comply.

However, the Commission has experienced resistance and observed malpractices such as inflation of contracts and splitting of contracts to bring such contracts below the threshold of oversight of the CMC.

A Public Procurement and Concessions Act which has created a Public Procurement and Concessions Commission, was enacted in 2005. However the mandate of the CMC was extended to April 2006 by an Executive Order. It is expected that this extension will give the new government time to set up the Commission.

APPENDIX 19

MEETING WITH THE SUPERINTENDENT, COMMISSIONERS AND PARAMOUNT CHIEFS AT BONG COUNTY

DATE: 1ST DECEMBER 2005

The team traveled to Bong County to meet with the Superintendent, Commissioners and Paramount Chiefs within the County. At the interactive forum, the participants were requested to provide views and opinions on the issue of corruption and strategies for combating it. The discussion was structured along the following lines:

- Prevalence of Corruption
- Manifestations of Corruption.
- Causes and Effects of Corruption
- Strategies for combating corruption

1. **Prevalence:** The participants informed the team that corruption is visible and pervasive within all sectors of the polity. They identified the existence of corruption in both the public and private sector.
2. **Manifestations:** The participants identified some of the manifestations as follows:
 - i. A standard 5% deduction from the salary of government workers at the county level. This arises as a result of the need to cash their salary cheques through middle men who take their cheques in exchange for cash. It is necessary to go into this funny arrangement because when they go to the Central Bank directly, they are informed that the bank has no cash and when the cash is available, the notes are usually in very poor condition. In order to get immediate cash and also get usable notes, they have to go through these middle men who extort a minimum of 5% of their salaries. The alleged connivance between the Bank officials and the middlemen because the middle men stay right outside the Banks for this transaction. They wondered why the middle men are able to have ready and clean cash when the Banks do not have. They further identified the non availability of identity cards as part of the problem. The workers cannot present themselves at the bank to cash their cheques because they don't have valid identity cards.
 - ii. Another manifestation of corruption is the non payment of fractions on the cheques. The Bank officials round up the figures and refuse to pay fractions on the excuse that the small denominations are not available.
 - iii. With the ongoing Civil Service audit, the names of some legitimate workers are sometimes omitted from the list. In order to correct this, the relevant officials extort as much as \$750 [Liberian] dollars from the workers to restore their names to the pay roll.
 - iv. NGOS are not transparent in their dealings with the communities. They do not present project documents to the communities and inflate figures and payments to the detriment of the communities.
 - v. Unauthorized levies and extortions in schools
 - vi. Sexual harassment, examination leakages and selling of grades even in the Universities.
 - vii. Unauthorized charges for WAEC fees
 - viii. Sale of pamphlets and handouts
 - ix. Selling schools meals meant to be issued to children free, in the open market.
 - x. Diversion of drugs and patients to private clinics by health personnel
 - xi. Unauthorized charges for drugs meant to be free.
 - xii. Extortion by police
 - xiii. Extortion by Union of Road Transport workers.
 - xiv. Extortion by pay masters
 - xv. Graft by Court officials
 - xvi. Distortion of the system for appointing Justices of the Peace.
3. **Causes and Effects:** The participants identified some of the causes of these forms of corruption as follows:
 - i. Poor salary paid to government workers. This has several effects. Often workers in the hinterland cannot travel to the pay stations to collect their salaries because they cannot afford transportation costs. Thus they have to depend on middlemen. This leads to the thriving of the middle man syndrome.
 - ii. Irregular salaries. Workers are often owed for two-three months.
 - iii. Lack of infrastructure and materials in the work place. Workers are constrained to buy work materials.
 - iv. Lack of amenities such as accommodation.
 - v. Absence of banks at the county level and absence of the Central Bank in certain districts.
 - vi. Inefficiency and poor co-ordination in the system. Sometimes workers are transferred without their details remitted to their new posts for several posts. Within this period they do not receive salaries in their new post.

- vii. Absence of budgets and allowances for traveling accommodation and other necessary expenses for officials at the county level when they undertake official duties.

4. *Linkages and Effects*

- i. Commissioners inflate fines and other charges for adjudicating disputes
- ii. Dereliction of duty as people engage in other informal employments to make ends meet
- iii. Extortion and exploitation of members of the public.
- iv. Ghost worker syndrome due to the ease with which third party cheques can be cashed.
- v. Advance fee fraud and other social ills.
- vi. Soliciting and accepting bribes.

5. *Strategies for Combating Corruption*

The participants agreed that there is an urgent need to combat corruption. They also agreed that there is a need for an anti-corruption Commission. However they recommend that it should be part of holistic strategy which will incorporate salary review, overhaul of the Civil Service System, public education and disciplinary measures. They proffered specific suggestions as follows:

- 1. Rationalizing and trimming down the public service for greater efficiency
- 2. Reviewing the budget process to take cognizance of the needs of the counties
- 3. Circulation of small denominations of currencies
- 4. Establishing the Central Bank in all the counties.
- 5. Providing identity cards to workers
- 6. Take measures to restrain the cashing agents and middle men

Visit to Bong County Circuit Court

The team visited the circuit court within Bong County and interacted with the Court Registrar. The condition of the court was appalling. The building was in a state of dilapidation and disrepair. The roof was almost caving in. The windows gaped open and had no shutters. There were very few seats in the court room raising concerns about where the lawyers and litigants sat when the court is in session. The clerks' offices had no tables and filing cabinets. The Court Registrar informed the team that when it rains the roof leaks and water comes in from the windows.

MEETING WITH THE PRIVATE SECTOR AND CIVIL SOCIETY - 2/12/2005

Members of the Civil Society and stakeholders in the private sector were scheduled to meet with the Team on 2/12/2005. Unfortunately the latter group was not in attendance.

After the introduction of their mission by the team members of the civil society informed the team as follows:

- Candidates were using state funds to run campaign
- Law enforcement is very weak in Liberia
- Immigration officers intimidate people and extort money from them

- The police is still very corrupt notwithstanding the enhancement in their salaries
- There is no coins which makes it impossible to collect certain minor fractions of money.
- Past Presidents use public money to erect buildings which they rent back to the government. In effect, the government has very few buildings of its own.
- The constitutional requirement of trial within 48 hours gives no room for adequate investigation which leads to unjustified discharge and acquittal.
- Judges and court workers collect bribe from people.
- Prosecutors collect money from complainants
- Citizens ask for money to vote
- The absence of pension and gratuity impel illegal wealth accumulation for post-retirement survival
- Ministries are highly politicized – there are party offices in ministries
- Public servants play active politics
- There are problems of exam leakage, collection of illegal fees, selling of marks, sexual harassment and selling of certificates in public schools.
- Drugs meant for public hospital are usually stolen
- Doctors and nurses in the public hospitals have private clinics and pharmacies where they refer people from public hospitals.
- Many Liberians front for other nationals to circumvent the law

APPENDIX B

BENCH MARK AND MINIMUM STANDARDS FOR PILLARS OF INTEGRITY

S/NO	PILLAR	BENCH MARKS	COMMENTTS <u>[The INDICATORS ARE DEVIDED INTO FORMAL PROVISIONS AND POLICIES; AND WHAT HAPPENS IN PRACTICE]</u>
1.	The Executive	i. Human and Civil Rights issues ii. Rules on Disclosure, Code of Conduct and Asset Declaration	All these are encompassed in the expression of Political Will

		<ul style="list-style-type: none"> iii. especially for top officials in the Public Sector iv. Conflict of Interest Rules v. Rules on gifts and hospitality vi. Guidelines on exercise of discretion vii. Independent Electoral Commission viii. Laws on Political Party Funding and Campaign financing ix. Existence and independence of a Supreme Audit Institution. x. Rules and guidelines on public procurement and procedures for complaint and review. xi. Access to Information Law. 	
2.	The Judiciary	<ul style="list-style-type: none"> i. Independence [appointment and removal procedures, funding] ii. Security of Tenure iii. Powers and jurisdiction to review the actions of the executive iv. Disciplinary procedures for judicial officers. 	
3.	The Legislature	<ul style="list-style-type: none"> i. Appropriation and budgetary approval powers. ii. Codes of conduct for Parliamentarians iii. Conflict of Interest Rules iv. Rules on Gifts and Hospitality 	

4.	Civil Service	<ul style="list-style-type: none"> i. Political Independence ii. Regulations on employment procedures [Merit criteria, and rules to prevent nepotism, cronyism etc.] iii. Rules on Gifts and hospitality iv. Codes of Conduct and rules on asset declaration v. Procedures and guidelines on exercise of discretion vi. Complaint and redress mechanisms for Civil servants and Whistle-Blowers Protection Mechanisms vii. Complaint mechanisms for members of the public. viii. Rules on post service employment 	
5.	Public Prosecution	<ul style="list-style-type: none"> i. Independence ii. Security of Tenure iii. Special Units to investigate and prosecute corruption cases. 	
6.	Investigative Watch-Dog Agencies	<ul style="list-style-type: none"> i. Dedicated anti-corruption Watch-Dog Agency\Agencies ii. Independence [appointment procedures, funding and security of tenure] iii. Investigative powers iv. Reporting channel [preferably to the Parliament] v. Regular publication of reports. 	
7.	Ombudsman	<ul style="list-style-type: none"> i. Independence[appointment, removal and funding] ii. Security of Tenure iii. Protection for witnesses and Whistle-Blowers iv. Enforcement and Implementation of Recommendations v. Publication of Reports 	
8.	Media	<ul style="list-style-type: none"> i. Laws on Freedom of the expression and Freedom of the Press ii. Spread of media 	

		<p>ownership [Government and private media, different types of media. Print, electronic etc]</p> <p>iii. Freedom to report corruption</p> <p>iv. Media licensing procedures</p> <p>v. Use of Public Media and their attitude to criticisms of government.</p> <p>vi. Nature of libel and Sedition Laws</p> <p>vii. Existence or otherwise of other sanctions [withdrawal of advertisements, censorship, harassments etc]</p>	
9.	Civil Society	<p>i. Access to Information</p> <p>ii. Existence of Laws of Freedom of Association.</p> <p>iii. Respect for Civil Rights and mechanisms for enforcement of Rights</p> <p>iv. Existence of Citizens' anti-corruption groups</p> <p>v. Existence of Citizens' Groups monitoring government performance in the area of service delivery.</p> <p>vi. Citizens access to Parliament for input, submissions and complaints on public issues.</p>	

