State-building Interventions in Post-Conflict Liberia

Mulbah, Susanne

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State-building Interventions in Post-Conflict Liberia

A. Susanne Mulbah

A thesis submitted to the Global Institute at King’s College London for the degree of Doctor of Philosophy, London, September 2015.
Dedication

I dedicate this thesis to my daughter, Aino (Miriam) Nummikallio, for being the light of my life, and all my reasons. I can only hope that one day she forgives me for the time and attention devoted to this work instead of to her.

Acknowledgements

First and foremost, I would like to thank Professor Abiodun Alao for his supervision of this thesis. I owe my deepest gratitude to Professor Alao for his invaluable guidance and prompt responses throughout the entire exercises. I would also like to thank Professor Olonisakin for the invaluable feedback. I am fortunate to have Professor Alao and Professor Olonisakin as my supervisors. To the African Leadership Center at King’s College London and my fellow research students, thank you for the collegial support and encouragement.
Declaration

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Abstract

Why a state is perpetually fragile despite being subjected to extensive international state-building efforts is one of the most debated topics in contemporary international relations and development studies. In the literature the Liberian conflict presents an example of how natural resources can play a central role in civil wars. Post-conflict Liberia has been subjected to extensive international state-building, at some point hosting the largest and one of the longest UN peace keeping forces in the world, and inflow of aid that exceeds in multiples the GDP. In order to understand the international state-building efforts in Liberia, it is pertinent to reflect them against the extractive and predatory nature of the Liberian republic, and the central role natural resources exploitation and plantations have played in accommodating transnational interest in the country’s abundant natural resources and fertile land. Benefit sharing of rents from natural resources exploitation is inseparable from the internal legitimatization of the Liberian state. Excessive lending, reforms led by international experts, semi-sovereignty and weak internal legitimacy originate from the inception of the Liberian state. This thesis focuses on the political economy aspect of Liberian state-building, and in particular the question of the governance of natural resources. By combining a historical perspective and ethnographic knowledge the thesis seeks to answer a number of interrelated questions: How was access to the state distributed in Liberian state-building? How are those to be governed and their representation included in political economic decision making and more particularly in decisions over natural resources governance? The thesis describes the empirical state-building practices in Liberia during the first two terms of the post-conflict elected government. The analysis is theoretically grounded on the empirical definition of a state in terms of Mitchell (1991) and the underlying social rules of the Liberian governance systems. The thesis argues that securitisation, debt servicing and revenue collection from extractive industries, were prioritized to create an enabling environment to advance concessionary economic policy. While state-building is apparently technocratic, it is, in fact, inherently political. The identification of domestic actors suggests that access to state institutions, information and thus to decision making was unevenly distributed with preference being given to those proclaimed to be reformist partners in neoliberal state-building. This set of elites has appropriated state-building projects to shape institutional arrangements to its own advantage. Historically, Liberia has been characterized as a ‘quasi-apartheid’ state with a perpetual lack of social development. Through concession agreements the state outsources public service provision to concessionaires. The Liberian state has never extended its institutions, public service provision and rule of law to its entire territory, yet maintains a monopoly over the country’s natural resources. After a decade of international state-building, the constitutional reform process revealed that Liberians value economic rights over political rights. The thesis concludes that low confidence in the state’s authority, including in its right to resources, perpetuates the fragile security situation.
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<tr>
<td>ABA</td>
<td>American Bar Association</td>
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<td>ACSA</td>
<td>Acquisition and Cross Servicing Agreement</td>
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<td>ADB</td>
<td>African Development Bank</td>
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<td>AFL</td>
<td>Armed Forces of Liberia</td>
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<td>AIT</td>
<td>Agenda for Transformation</td>
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<tr>
<td>BOB</td>
<td>Bureau of Budget (later Ministry of Finance/Department of Budget)</td>
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<td>BoC</td>
<td>Bureau of Concessions</td>
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<td>TCC</td>
<td>Carter Center</td>
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<td>CA</td>
<td>Concession Agreement</td>
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<td>CBL</td>
<td>Central Bank of Liberia</td>
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<tr>
<td>CCRC</td>
<td>Contracts and Concessions Review Committee</td>
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<td>CDC</td>
<td>Congress for Democratic Change</td>
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<td>CDF</td>
<td>Country Development Funds</td>
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<td>CIA</td>
<td>Central Intelligence Agency</td>
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<td>COTOL</td>
<td>Coalition for the Transformation of Liberia</td>
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<td>CPA</td>
<td>Comprehensive Peace Agreement</td>
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<td>CPA</td>
<td>Comprehensive Peace Agreement in Accra</td>
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<td>CPR</td>
<td>Common pool resources</td>
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<td>CRA</td>
<td>Community Right Act</td>
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<td>CRC</td>
<td>Constitution Review Committee</td>
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<td>CSC</td>
<td>County Security Council</td>
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<tr>
<td>CSG</td>
<td>Centre for Security Governance</td>
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<td>CSO</td>
<td>Civil Society Organisation</td>
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<td>DCAF</td>
<td>Democratic Control of Armed Forces</td>
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<td>DD</td>
<td>Disarmament demobilisation</td>
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<td>DDR</td>
<td>Disarmament demobilisation reintegration</td>
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<tr>
<td>DDRR</td>
<td>Disarmament Demobilisation Reintegration Rehabilitation</td>
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<tr>
<td>DFID</td>
<td>Department for International Development</td>
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<td>DMU</td>
<td>Debt Management Unit</td>
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<tr>
<td>ECOMOG</td>
<td>Monitoring Group of the Economic Community of West African States</td>
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<td>ECOWAS</td>
<td>Economic Community of West African States</td>
</tr>
<tr>
<td>EGSC</td>
<td>Economic Governance Steering Commission</td>
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<tr>
<td>EITI</td>
<td>Extractive Industries Transparency Initiative</td>
</tr>
<tr>
<td>EPA</td>
<td>Environmental Protection Agency</td>
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<tr>
<td>ERU</td>
<td>Emergency Response Units</td>
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<tr>
<td>ESESP</td>
<td>Emergency Senior Executive Service Project</td>
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<td>ESIA</td>
<td>Environmental Social Impact Assessment</td>
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<td>EU</td>
<td>European Union</td>
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<td>FDA</td>
<td>Forestry Development Authority</td>
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<td>FDI</td>
<td>Foreign Direct Investment</td>
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<td>FIFA</td>
<td>Fédération Internationale de Football Association</td>
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<td>FMC</td>
<td>Forest Management Contracts</td>
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<td>FPIC</td>
<td>Free Prior Informed Consent</td>
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<td>FPP</td>
<td>Forest People Program</td>
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<tr>
<td>GAC</td>
<td>General Auditing Commission</td>
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<td>GDP</td>
<td>Gross Domestic Product</td>
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<td>GEMAP</td>
<td>Governance and Economic Management Assistance Programme</td>
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<tr>
<td>GNI</td>
<td>Gross national income</td>
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<tr>
<td>GOL</td>
<td>Government of Liberia</td>
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<td>GRC</td>
<td>Governance Reform Commission</td>
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<td>GSA</td>
<td>General Services Agency</td>
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</table>
GVL  Golden Veroleum Liberia
HDI  Human Development Index
HIPC  Heavily Indebted Poor Countries
IBS  Infrastructure and Basic Services
IC  International community
ICG  International Crises Group
IDA  International Development Association
IDP  Internally displaced populations
IFES  International Foundation for Electoral Systems
IFI  International Financial Institutions
IFMIS  Integrated Financial Management Information System
IMCC  Inter-Ministerial Concession Committee
IMF  International Monetary Fund
IMTC  Inter-Ministerial Technical Committee
IRI  International Republican Institute
LAP  Liberian Action Party
LC  Land Commission
LDSP  Liberia Decentralisation Support Programme
LEGAP  Liberia Economic Governance Action Plan
LEITI  Liberia Extractive Industries Transparency Initiative
LFA  Liberian Football Association
LFF  Liberian Frontier Force
LLC  Limited Liability Company
LNP  Liberian National Police
LPRC  Liberia Petroleum Refining Corporation
LRA  Land Right Act
LRC  Land Reform Commission
LRDC  Liberia Reconstruction Development Committee
LURD  Liberians United for Reconciliation and Democracy
MDA  Mineral Development Agreement
MLME  Ministry of Land, Mines and Energy
MoA  Ministry of Agriculture
MODEL  Movement for Democracy in Liberia
MOE  Ministry of Education
MoF  Ministry of Finance
MOJA  Movement for Justice in Africa
MoPEA  Ministry of Planning and Economic Affair
MPRI  Military Professionals Resources Incorporated
MTEF  Medium Term Expenditure Framework
MTMF  Medium Term Macro-Fiscal Framework
NBC  National Bureau of Concessions
NBI  National Bureau of Investigation
NBOC  National Bureau of Concessions
NDI  National Democratic Institute
NEC  National Election Commission
NGO  Non-Governmental Organisation
NIC  National Investment Commission
NOCAL  National Oil Company of Liberia
NPDLG  National Policy on Decentralisation and Local Governance
NPFL  National Patriotic Front of Liberia
NSA  National Security Agency
NSC  National Security Council
NTGL  National Transitional Government of Liberia
NTRC  National Truth and Reconciliation Commission
NTRGL  National Transitional Government of Liberia
<table>
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<tr>
<th>Acronym</th>
<th>Full Form</th>
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<tr>
<td>NUDP</td>
<td>National Union for Democratic Progress</td>
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<tr>
<td>ODA</td>
<td>Net Official Development Assistance</td>
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<tr>
<td>OECD</td>
<td>Organisation for Economic Co-operation and Development</td>
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<td>OPEX</td>
<td>Operation Experts</td>
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<tr>
<td>PAE</td>
<td>Pacific Architects and Engineers</td>
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<td>PAL</td>
<td>Progressive Alliance of Liberia</td>
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<tr>
<td>PFM</td>
<td>Public Financial Management</td>
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<td>PFMA</td>
<td>Public Financial Management Act</td>
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<td>PMC</td>
<td>Private Military Companies</td>
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<td>PPCC</td>
<td>Public Procurement and Concession Commission</td>
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<td>PPCC</td>
<td>Public Procurement and Concession</td>
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<tr>
<td>PPEP</td>
<td>Political Party Empowerment Programme</td>
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<td>PRC</td>
<td>People Redemption Council</td>
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<tr>
<td>PRS</td>
<td>Poverty Reduction Strategy</td>
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<td>PRSP</td>
<td>Poverty Reduction Strategy Paper</td>
</tr>
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<td>PUP</td>
<td>Private Use Permits</td>
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<tr>
<td>REDD</td>
<td>Reducing Emissions from Deforestation and Forest Degradation</td>
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<tr>
<td>RFTF</td>
<td>Results-Focused Transition Framework</td>
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<td>RRHG</td>
<td>Rules and Regulations Governing the Hinterlands</td>
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<tr>
<td>SDF</td>
<td>Social Development Fund</td>
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<td>SIDA</td>
<td>Swedish International Development Cooperation Agency</td>
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<td>SOE</td>
<td>State-Owned Enterprise</td>
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<td>SSR</td>
<td>Security Sector Reform</td>
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<td>SSS</td>
<td>Special Security Service</td>
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<td>SSS</td>
<td>Special Security Services</td>
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<td>TFLIB</td>
<td>Trust Fund for Liberia</td>
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<td>TOKTEN</td>
<td>Transfer of Knowledge Through Expatriate Nationals Programme</td>
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<td>TRC</td>
<td>Truth and Reconciliation Commission</td>
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<td>Timber Sales Contracts</td>
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<td>TWP</td>
<td>True Whig Party</td>
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<td>UCC</td>
<td>United Church of Christ</td>
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<td>UN</td>
<td>United Nations</td>
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<tr>
<td>UNDP</td>
<td>United Nations Development Programme</td>
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<td>UNHCR</td>
<td>United Nations High Commissioner for Refugees</td>
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<td>UNMIL</td>
<td>United Nations Mission in Liberia</td>
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<tr>
<td>UNPOL</td>
<td>United Nations Police</td>
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<tr>
<td>UNSG</td>
<td>Secretary-General of the United Nations</td>
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<td>UP</td>
<td>Unity Party</td>
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<td>US</td>
<td>United States</td>
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<td>USAID</td>
<td>United States Agency for International Development</td>
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<td>US EUCOM</td>
<td>United States European Command</td>
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<td>USSR</td>
<td>Union of Soviet Socialist Republics</td>
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<td>WB</td>
<td>World Bank</td>
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Introduction

International state-building is based on the assumption that neoliberal economic policy and liberal democracy are morally superior.\(^1\) However, empirical evidence relating to the increasing number of states subjected to state-building indicates that similar mistakes are repeated and that state-building consistently fails to establish legitimate states, sustain economic development and provide for human security.\(^2\) Recent academic contributions on state-building introduce alternative approaches to the state-building discourse\(^3\).

Further empirical studies of the relative importance of external versus local agendas may well establish the pre-eminence of local processes, and outside resources and policies merely feeding into and being appropriated by local actors and agendas. If this is the case, one not only needs to rethink state-building, but also the way state-building is being studied. A shift in focus may be in order away from the international state-building circuit and towards the distinct post-war social, political and economic process in particular foci.\(^4\)

This work focuses on the political-economic aspect of state-building. By incorporating ethnographic knowledge and a historical perspective the work hopes to advance an emerging alternative paradigm in the state-building discourse.

The work is motivated by disparity between the Liberian state-building enterprise and its lived experience. Although, in the period since the end of the cold war, the level of active involvement by the UN and its organisations in support of exogenous state-building has been unprecedented in the history of international organisations,\(^5\) the dynamics between domestic political development and state-building have not been sufficiently studied.\(^6\) The Liberian state provides an example of a perpetually fragile state despite being subjected to extensive international state-building efforts. Therefore, the aim of this work is to explain what the Liberian state is, how it works, and what it ought to do. Further, the work takes the position that Liberian state-building is theoretically and ideologically inherently contradictory.

Consequently, the research aims to advance three core arguments: Firstly, how was access to the state and to decision making concerning its institutional arrangements distributed? In other words, how does state-building create boundaries within the society subjected to it, and in so doing


\(^3\) Richmond 2011, Pugh and Cooper Ed. 2011, Millar 2014, Cummins 2015, Gabay and Death 2014, Berger 2008

\(^4\) Torjesen p.60 in Berdal and Zaum 2012

\(^5\) Berdal and Davis 2012 p.132

\(^6\) Miller 2010 p.11; see also Millar 2014, Richmond 2011, de Guevara 2008
prevent the population from building its own state? Political exclusion plays a central role in the recurrence of civil war\(^7\) and in the perpetuation of a fragile security situation. This is especially relevant for Liberia, because the earlier Liberian Republic could be characterised as a ‘quasi-apartheid’ state, and natural resources exploitation and the associated benefit sharing played a key role in the collapse of the Liberian state after the 1980 coup d’État, and in proroguing the conflict (1990-2003).

Secondly, the work continues a recent paradigm in the state-building discourse, namely the legitimacy focused peace and state-building. The Liberian state is inseparable from natural resources exploitation. Hence, the benefit sharing from natural resources exploitation is central to the internal legitimacy of the state. This inevitably invites the political economy aspect of Liberian state-building.

Lastly, the work postulates that state-building is unlikely to transform the political-economic trajectory. Institutional formation takes place over a long period of time and does not exist in a vacuum of international state-building. Therefore, we have to look back to the origins of the institutional formation and their underlying rule systems in order to understand contemporary state-building.

Although state-building is unlikely to transform state institutional arrangements, the overwhelming presence of the international community (IC) and the dependency on an external influx of resources and aid inevitably shape domestic political space. In state-building projects power is distributed unevenly among the domestic actors creating information asymmetries and beneficiaries. Thus, state-building is inherently political, and yet international state-building avoids debate over goals and objectives of socioeconomic development. The seemingly technocratic approach of international state-building is appropriated by a set of elites. In the process institutional arrangement that are initially introduced by state-building are made permanent in order to advance and sustain economic and political power constellations.

This work postulates that the externally guided state-building in post-conflict Liberia has done little to support the participation of citizens and their representatives in decision making about how they are governed, and in the natural resources management. Rather, the neoliberal state-building agenda in post-conflict Liberia accommodates transnational commercial interests in Liberia’s natural resources.

\(^7\) Call 2012, Introduction; see also Fukuyama 2014
The work is positioned in the ‘internal legitimacy–political economy–institutional development’ nexus. The objective is to question, whether the conflict originating from state-formation and its class conflict, integration and questions over political authority have been resolved or are in fact still lingering. If the latter is the case, does it re-surface in the state-building project? These questions further re-open a more fundamental question concerning the functions and design of the state itself.

The research question is: how has the state-building framework shaped the post-conflict state–society relationship and consequently the internal legitimisation of the post-conflict state? To operationalise the question, the study analyses the distribution of state and political power, and looks at how access to the state was distributed in the framework of Liberian state-building. Further, the work examines how the empirical state-building experience is translated into the design of the state and its functions. How has state-building shaped institutional arrangements and how has state-building distributed political-economic \textit{de facto} and \textit{de jure} powers?

The components of state-building—such as its projects, reforms, technical advisory, and commissions, form an empirical base for the study. Empirical study demonstrates that Liberian state-building has followed ‘a standard platform of state-building practices’\textsuperscript{8} (see Table 2) guided by the normative ideology of liberal peace and neoliberal economic policies. However, even after a decade of international state-building, an empirical definition and the internal legitimisation of the Liberian state are still missing. The conflicted relationship between state and society, the repressive type of political order, monetisation of the political market place and the continued dependency on external support have advanced the external legitimisation and securitisation of the state, i.e. regime security, while the majority of the population remains excluded from the formal state institutions. Hence, the work argues that state-building ought to be a domestic political process, not an externally imposed technocratic exercise.

\textbf{The Liberia Case in Political Economy of State-Building}

Revenues from natural resources, especially in the extractive sector are said to enable conflicts, especially civil wars. Comparatively less is known in the literature about the post-conflict political economy in resource-rich countries.\textsuperscript{9} In the literature Liberia has been described as one of the prime cases of links between civil war and natural resources. Due to Liberia being small, marginal and disproportionately influenced by the US,\textsuperscript{10} the Liberian state-building has received less attention, with few the exceptions. Despite extensive external interventions, few academic

\textsuperscript{8} Chandler 2010

\textsuperscript{9} Benner and de Olibver in Berdal Ed. and Zaum Ed. 2013 p.94

\textsuperscript{10} Benner and de Olibver in Berdal Ed. and Zaum Ed. 2013 p.95
contributions on the subject of Liberian state-building have been made to date. Although Liberia appears in many academic works on state-building, often it appears in name only or only isolated aspects of Liberian state-building, such as the Governance and Economic Management Assistance Programme (GEMAP) or corruption have been discussed.11,12

Paradoxically, the selection of Liberia as the object of a state-building case study could be justified both by its uniqueness and its representativeness. The international presence in the tiny state of Liberia has been overwhelming and yet after a decade of state-building, ‘the state’ has hardly been extended to the rural areas. The role of the IC including the International Financial Institutions (IFI) has been especially intrusive. Liberia’s abundance of natural resources, its historical political-economic trajectory and ‘growth without development’ call for more study of the role of natural resources management in state and peace-building. Furthermore, natural resources played a central role in the Liberian conflict. The end of the Liberian conflict coincided with increasing efforts by the IC to apply the state-building framework in post-conflict and fragile countries. It also coincided with the rise of the ‘good governance’ agenda in post-conflict state-building policies.13 Finally, Liberia provides a case of an extensive state-building framework in a small state, which makes it possible to study a comprehensive range of state-building practices and may even magnify the dynamics between state-building, state, and society, in a way which would be impossible in the case of bigger and more complex countries.

The Republic of Liberia experienced extensive UN peacekeeping operations, at various points the largest in the world and also one of the longest (2003–2016; 2016 being the estimated time of withdrawal),14 followed by the strong presence of multi- and bi-lateral donor organisations and various NGOs. The peacekeeping operations have been transformed into a perpetuated state-building framework with no end in sight at the time of writing. Moreover, Liberia is one of those countries in which ‘the resources devoted by external actors to a state-building project’ far exceed the GDP.15

The Liberian conflict, peace process and security sector reform (SSR) have been extensively discussed in academic papers elsewhere and there is no need to repeat the discussion here. Briefly, studies examining the cause of the conflict have pointed to various reasons ranging from ‘greed and grievances’, to ethnic tensions, personified explanations, and to land and agrarian conflict. Nonetheless, the fundamental lack of internal legitimacy of the state, the ‘quasi-apartheid’

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11 McGovern in Call Ed. 2008
12 Reno in Zaum Ed. and Cheng 2012
13 Benner and de Olibver in Berdal Ed. and Zaum Ed. 2013 p.95
15 Berdal and Zaum 2012 p.2
arrangements and the perpetuated absolute poverty of the largest segment of the population seem like more obvious reasons.

As was the case in Afghanistan and Somalia, IC seems to have chosen for Liberia the faster, externally guided state-building over the slower and possibly more self-reliant capacity building and political processes. The earlier state-building discourse came predominantly from within International Relations. This discourse ‘analyses state-building from a systemic macro-level vantage point’ and is biased by an outsider perspective. It understands conflict countries ‘either as sovereign subjects of international politics, or as structures under which domestic relations are played out’.16 Whereas state institutions offer definable and manageable providers of security in the given territory (i.e. a single governing entity and a partner for externally imposed reforms) state-building tends to reduce complexity, use manageable categories, establish images of local politics, and use selective interpretations and ‘globalised ideas about the causes of war, terrorism and underdevelopment’.17

The rapid ‘securitisation’ of Liberia became a priority after the conflict. This in turn had long-term implications for SSR, which is one the central components of the state-building framework. Liberia has been accused of hosting Al-Qaeda and Hezbollah, and to be a major drug-trafficking and money laundering hub.18 Furthermore, the Liberian conflict has fuelled further conflicts in neighbouring West African countries.

The USA due to its historical ties to Liberia has been a driving force in Liberian state-building. Lake (2010) defines the USA’s state-building as ‘militarized interventions by a foreign state or coalition with the explicit goal of creating a new regime, where the previous one has already collapsed, or of changing a regime that would otherwise fail’.19 Lake’s definition of the USA’s state-building applies to the ending of the Liberian conflict, for example when President Taylor was pushed out and the National Transitional Government of Liberia was installed.

In reference to the political economy of state-building Liberia presents a relevant case for three reasons: Firstly, the Liberian economy is based primarily on natural resource exploitation. It appears that many, even most, post-conflict countries under international state-building are either oil-producing countries (e.g. Iraq, Sudan, East Timor, Angola, and now Liberia) or geographically strategic for oil production due to a pipeline (e.g. Georgia, Afghanistan).20 Secondly, Liberia is

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16 Heathersahw and Lambach 2008 p.270-273
17 De Guevara 2008 p.350-351
18 Wegner, 2012; Al-Qaeda’s Growing Sanctuary”, Washington Post, 14 July
19 Lake 2010 p.249; see also see Fukuyama 2004, p. ix, Pei et.al., 2005, pp. 64-65, Dobbins et al., 2007, p. xvii
20 with the exception of the formal Yugoslavia, i.e. Kosovo and Macedonia, where the EU due the geographical proximity and European security concerns has been instrumental
among the heavily indebted poor countries and has been chronically dependent on aid and loans. Therefore, the role of the IFIs has been especially instrumental. Thirdly, President Johnson-Sirleaf’s administration has demonstrated its ‘reform willingness’ and implemented a range of financial reforms from a zero deficit cash budget, GEMP, HIPC, and EITI to PRS. Attributed to the improvements in public financial management, the GDP growth, increase in government revenues, and national budget growth are impressive. Consequently, Liberian state-building has been ‘sold’ as a success story, a ‘poster child’ of state-building, and its President was awarded the Nobel peace prize in 2011.21 Duffield (2007) refers to donor-declared ‘good performers’ as examples of contingent sovereignty ‘where the IC, rather than being external to the state, is an integral part of it’.22 For instance, in Liberia international experts were given co-signing authority in the ministries and government agencies.

For the study of the political-economic aspect of state-building with a focus on natural resources management Liberia provides an interesting case. Although tiny, Liberia is exceptionally rich in natural resources including diamonds, timber, rubber, oil palm, oil, gold, iron ore and other minerals, allegedly even uranium, and exceptionally fertile soil and high rain falls, and yet the economy is still at a pre-industrial stage. In addition to being near the top of the list of recipients of highest net Official Development Assistance (ODA) per capita23 Liberia has attracted a high level of foreign direct investment (FDI)24 and signed large concession agreements with ExxonMobil, Chevron, the world’s largest mining companies, and some of the largest palm oil corporations. Still, the GDP growth25 has had hardly any impact on the ‘lived experience’ of the poor and rural population26 and Liberia continues on the ‘growth without development’ trajectory.27 This work postulates that the neoliberal state-building and economic policies have advanced transnational commercial interests in Liberian natural resources.

Whereas ‘more traditional’ and earlier state-building research typically compares multiple state-building objects (states) in respect of one or two aspects of state-building, this study does the opposite. It explores multiple state-building components, in depth, in the context of a single, small country with a peculiar political history in order to deliver a more comprehensive analysis (i.e. a thick description) of the state-building framework.

22 Duffield 2007 p.29
24 see Figure 8
25 see Figure 5
26 see Figure 6 and 9
27 Clower 1966
The objective of this study is not to propose state-building policies, nor to point out that a more context-specific approach and historical knowledge of the state-building object would improve the efficiency of international state-building. Neither is the work focused on recommending greater or lesser sovereignty for countries subjected to international state-building. All this has already been done. Instead the work explores the political economy aspect of state-building, and more specifically, how natural resources management and benefit sharing from natural resources exploitation, are dealt with in contemporary state-building. Further, it explores, how these issues affect social development and organic democratisation processes, which will ultimately determine, how successful and sustainable peace-building will be in the long-term. This introduction clarifies the central argument and justifies why Liberia is the object of the study. The second part of the Chapter 1 explains the research position, the choice of methodology, the research design, including the timeframe and the units of analysis, and lists the main sources. Chapter 1 also outlines the limitations in the methodology used in this study.

**Research Position and Methodology**

A relativist position would allow for the modification of concepts and definitions which are in conflict with the normative objectives. At least on some level the normative objectives, for example a liberal market democracy, would need to be linked to theoretical concepts. This could make the discourse itself the object of the study. From this perspective the actual object, state-building practices, would require no study.

Weldon (1953) argues that the shortcomings of a discipline result from relying on methods that rest on faulty ontological assumptions. He suggests isolating normative objectives from rational inquiry or argument. The metaphysical tendencies of political philosophy deduce political concepts such as the state, freedom or authority. The claim that these concepts have ‘an essential meaning beyond our empirical experience’ is misguided. In clarified or de-mystified form these terms are generalizations from ‘observable social behaviour’. In reference to peace-building Wilén (2012) claims that ‘clear definitions would doubtfully facilitate an evaluation of their utility, both in discourse and in practice’. State-building assumes that a liberal peace and a neoliberal economic policy are the absolute winning ideologies. Not only does logical positivism as presented by Weldon question the faith-based undertone of state-building, but it also draws attention to the missed opportunity to operationalise the terms used in state-building. For example, democracy, poverty reduction, or capacity building could be operationalised in terms of political pluralism, the institutionalisation of a political party system, the human development index (HDI),

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28 Weldon 1953 in Marsh and Stoker 2002 p.175; see also Richmond 2011
29 ibid.
30 Wilén 2012 p.138
and public service output, such as the Word Bank’s country institutional assessment, or compliance with international norms, respectively.

The lack of clear definitions and a theoretical framework shields state-building from criticism and masks it as apolitical while it is in fact deeply political.31 Heathersaw (2008) postulates that the state-building discourse has not formulated theoretical assumption, not even on the most general level. This position calls for an empirical study of state-building experience and practices.

Essentially, the position taken in this work is economist and determinist in the sense that “economic relations determine social and political relations”.32 It follows that the political economy aspect of state-building is pertinent. From this position it also follows that control over benefits from natural resources and political power are inseparable in Liberia. Therefore, the political economy explanation takes precedence over cultural explanations. For example, corruption is not just a cultural tradition but systemic, and rational behaviour in the given circumstances.

Ethnic and cultural conflict theories, which are often used to describe African conflict states, draw attention from the underlying conflict over management of natural resources, and from how the benefits from resources are distributed in the scope of the state, and what the role of state institutions is in regulating the distribution. In comparison, dependency and rentier state theories highlight a dependency on external assistance and unsustainable economic policies.

Theories which focus on communities’ self-reliance and traditional governance may overemphasise indigenous structures and lead to the ‘indigenisation of poverty’ and related survival methods. Models that either use assumptions of the state institutional capacity or focus on self-reliance and the strength of indigenous institutions, despite the absence of any viable economic activities, do not offer a device for analysing both the state and the traditional governance systems combined in the way they co-exist in Liberia.

Further, competition for control over the state ‘machinery’ is in essence competition over benefits from natural resources exploitation. State institutions and the trajectory of economic production are interlocked, just as they are in the state-building discourse–neoliberal economic policy and liberal democracy. The state is the distributor of benefits. The fact that the management of benefits

31 Heathersaw 2008, de Guevara 2008
32 Marsh in Marsh and Stroke 2002 p.154
from natural resources in Liberia has not been about ‘the stewardship but about the ownership’ of
the state invites the study of the political economy aspect of state-building.

Peet and Harwick (2009) subject modernisation theories to considerable criticism and introduce
a critical modernism perspective. Unlike post-structuralism which denies any validity to
evidential truth and the pre-modern understanding which accepts theories purely on faith, critical
modernism forms its theories based on logic and known experience. In their development entails
increasing the economic capacity of the poorest in terms of ‘control over production and
reproduction within a democratic politics’, including distrust of any of the elite. Like the
present political and intellectual climate, state-building is dominated by neoliberal faith in markets
and neconservative dictatorship of ‘democracy’. Alternative discourses ‘on behalf of political
goals defined around social justice’ are silenced.

Methodology and Research Design
The qualitative case study method of an analytical narrative has been chosen as an appropriate
and feasible method to conduct research in an extremely poor and volatile environment. The study
is informed by academic, secondary and non-peer-reviewed grey literature, a large number of
donor, government and other documents and publications on Liberian state-building, local
newspapers and media, related Internet blogs, ethnographic knowledge and long-term field stays
(i.e. participatory observations and ethnographic field research) in Liberia. Collecting information
from a wide variety of sources serves to triangulate the information.

Sources of the Document Research
The conceptualisation of the state and institutions of governance is informed by and draws upon
Mitchell (The Empirical Definition of a State 1991, Rule of Experts 2002) and Ostrom (1991,
Understanding Institutional Diversity 2005) and Fukuyama (Political Order and Political Decay
2014). The theoretical discussion and the specific model of the Liberian state proposes concepts
against which empirical state-building can be analysed.

The historical narrative is based on academic writing on Liberian political history including
It extracts relevant aspects from the literature to conceptualise Liberian political economy, local governance structures and political institutions.

In addition to academic literature the sources consulted include historical accounts, donor and government publications, various studies, reports, budgets, published interviews and media publications. While there are few peer-reviewed academic studies on later Liberian state-building, there is a large quantity of documentation produced by multi- and bi-lateral donor organisations, including the UN, UNMIL, UNDP, WB, EU, OECD, UN Security Council (periodic status reports and special investigative reports), IMF, and HIPC progress reports, USAID, the State Department and the United States Embassy in Monrovia. Each multilateral organisation produces its own country strategy papers which are largely available in the public domain. Concession companies (such as Chevron, Bridgestone Firestone, ArcelorMittal, Golden Veroleum, SimDarby, etc.) maintain country websites and report on community and government affairs. Because Liberia receives a significant amount of ODA per capita, the country is on the list of the majority of international NGOs, such as Global Witness, International Crises Group, the Sustainable Development Institute, Forest Peoples Program, to name just a few. Every international and domestic NGO publishes its own field studies, budgets, ‘lessons learned’ papers, project documentation, and seminar papers, as well as fact finding, field, project and final reports. Due to a high turnover it is not feasible to list all the NGOs that have had or have projects in Liberia, but it is safe to say that most major NGOs had Liberia at least at some point during the state-building era on their list of project locations or applied for Liberia project funding. (See Annex for the list of NGOs) The NGO reports and documentation are available in the public domain.

In order to attract aid, external support and FDIs, the Liberian government has an effective ‘public relations machinery’, which publishes reports, studies, budgets, legislations, reform programmes, committees’ websites and reports, most of which are available in public domain or in government offices. These documents include legislations such as the Public Financial Management Act (2009), the Liberian Investment Act, the proposed Land Right Act (2014), all ratified concession agreements, Poverty Reduction Strategy Papers (PRSP), the Agenda for Transformation (2013) (the Liberian economic policy paper), the Final Report of National Truth and Reconciliation Commission (2009) and all testimonies, GEMAP documentation, Land Reform Policy papers, Government Reform Commission reports, just to name the most significant ones. The Liberian government and agency websites include: Liberia News Agency, the Executive Mansion, the Legislature, and various agencies (Environmental Protection Agency, Forest Development Authority, etc.), ministries (Ministry of State, Ministry of National Defence, Ministry of Planning and Economic Affair (MoPEA), Ministry of Agriculture, Ministry of Youth and Sports, Ministry of Commerce & Industry, Ministry of Finance, Ministry of Information, Ministry of Landmines.
and Energy, Ministry of Foreign Affairs, Ministry of Information Cultural Affairs and Tourism)\textsuperscript{38} and commissions. Independent Commissions are funded by donors and/or GOL and they are key actors in the implementation of state-building reforms and projects. Each Commission (the Governance Reform Commission, the Law Reform Commission, the Land Reform Commission, the NTRC, the Election Commission, the Anti-Corruption Commission, the National Election Commission, the National Investment Commission, the LEITI, the Auditor General’s Office, later the General Auditing Commission, and the Constitution Review Committee) publishes its own reports and documentation and maintains a website. The National Civil Society Council of Liberia website lists at least thirty Liberian NGO members each of which publishes concerning its respective areas of interest.

Although the ethical integrity of the Liberian press is questionable (any news can be published for a moderate payment), or precisely because of this, local newspapers (\textit{The New Dawn, FrontPageAfrica, All Liberia, The Inquirer, Heritage, The NEWS, The New Republic Liberia, Liberian Observer, New Democrat, The Analyst, The Informer}, and frequently changing newspapers published by various politicians) and related internet blogs are vibrant fora for local political dialogue. They target the domestic audience with locally relevant issues, gossip, scandals, news, and political events in general.

During the conflict many Liberians left the country. Some of those who spent time in exile used the years to acquire an academic degree. The resulting thesis are an additional interesting ‘domestic’ perspective to Liberian affairs. Additionally, the US involvement in the SSR and in training the Liberian army has prompted interest in Liberia and there are a number of theses published by the US Army colleges.

All these publications and forums document Liberian state-building and social-political-economic affairs in post-conflict Liberia. The NGOs, multilateral organisations and institutions and their projects are ‘the alphabet soup of state-building’ yet they rarely relate to or capitalise on each other’s reporting. The research brings this otherwise unconnected material into ‘the analytical framework deducted from relevant theories and concepts and the historical analytical narrative’.\textsuperscript{39}

The information obtained from the document research has been verified through a process of triangulation; firstly, by obtaining information about an issue from a variety of sources which are likely to represent different points of view, for example, how a concession company’s operations

\textsuperscript{39} Ostrom 1991, 2005
are described by the GOL, local media, a multilateral donor organisation, a local group, and an international advocacy NGO; secondly, by reflecting the information obtained from the document research against ethnographic knowledge and participatory observations.

**Ethnographic Knowledge and Participatory Observations**

The author’s long engagement with the research topic forms a core part of the analytical narrative method. This is important, because a common criticism of state-building claims that state-building lacks a localised and contextualised perspective, yet ethnographic contributions to the state-building discourse are still rare. In addition to the study of existing documentation, the research is a longitudinal ethnographic study and benefits from experiencing and keenly observing Liberia and Liberian state-building at first hand. The experience provides the necessary contextualised knowledge of the research subject and the longitude of the engagement with the research topic. Because indigenous communities have few written materials, the author’s knowledge of the indigenous social order originates primarily from participatory observation. Additionally, the primary information based on participatory observations and ethnographic field research aids to triangulate information obtained from the document research.

While such experience widens the researcher’s understanding of the research object, by the same token there is the possibility of a methodological bias resulting from a close association. To mitigate methodological bias resulting from personal contacts and experiences the research does not utilise primary information gained from personal conversations and interviews, which could otherwise be utilised as expert interviews. In order to further mitigate methodological bias, the analytical narrative is based on historical and more conceptually guided narrative, and as previously noted utilises a wide variety of primary and secondary sources which document Liberian social-political life and state-building practices. Nevertheless, the author’s long engagement with the research topic aids in triangulating the document study.

Although the research capitalises on an ethnographic and contextualised understanding of Liberian society and political life, it does not include a fieldwork component as such. This could be considered a methodological limitation. However, Millar (2014) states that an ethnographic approach to state-building does not demand a particular conception of fieldwork or an extension

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40 Bates et al. 2000, Ostrom 1999, 2005
41 Richmond 2013, de Guevara 2008
42 The author has been privileged to observer the Liberian conflict, peace- and state-building efforts for over a decade in private, in academic and also in professional capacity. The author has been associated with a Liberian politician. Additionally, the author worked for a concession company in a senior manager capacity. This complex position has allowed access to proprietary information, and to experience Liberian state-building from the domestic perspective. It has also enabled access to all segments of society from the poorest rural villages to the highest levels of the government. The events observed include but are not limited to the ceasefire when the country was divided, sharing a housing with (ex)rebels for few months, traveling through ‘Taylor-land’, the withdrawal of ECOMOG troops, the 1997, 2005 and 2011 national elections, President Johnson-Sirleaf’s inauguration, political manoeuvring, but also ordinary citizens’ struggle in conflict and post-conflict Liberia.
of anthropology. It is enough to try to understand alternative experiences of international interventions. Millar (2014) defines ‘an ethnographic approach’ to state-building as ‘a willingness to study closely social and cultural context’ and understand the local experience of a peace-building intervention. This work is similar to that of Millar’s in that, it is not satisfied with merely understanding the local experience but also hopes to provide insight into why state-building seems unable to overwrite the political-economic trajectory of the Liberian state and instead domestic political dynamics seem to instrumentalise state-building projects.

Ostrom (1991) underlines the importance of identifying social variables or informal institutional structures based on observation of real life situations. A theory alone will not reveal the actual structures. The variables of social structures ought to be empirically grounded. Boone (2003) ties the variation of state structures to social organisation and modes of production: ‘sociological parameters of institutions choices are defined in terms of class structures, communal structures, and modes of production.’

The Analytical Narrative Method in State-building Study

The analytical narrative is especially well suited to studying institutional change and understanding institutional diversity, although it is not typically applied in state-building discourse. Ostrom (2005) describes the process of understanding the underlying components of social systems. An analysis of the situation decides what assumptions to make about participants and predicts outcomes and these assumptions and outcomes can then be supported or falsified empirically. In this sense every international state-building project makes assumptions concerning its object and then tries to reform it. Here the assumptions of the Liberian social-political system draw from the political history narrative, not from the neoliberal state-building discourse and its normative terminology. An analytical narrative may provide valuable theoretical and systematic insights into an otherwise more praxis-orientated state-building discourse.

The analytical narrative outlines the formation of economic-political institutions and presents assumptions concerning the trajectory of the state. It is guided by the understanding of an empirical definition of a state by Mitchell (1991), and uses the analytical narrative method described by Ostrom (1991, 2005) and Bates et.al. (2000) as a process of inductive-deductive-Weberian ‘understanding’. ‘Although driven by a particular case narratives are informed by theoretical modelling, which assist to attain logically consistent explanations; thus the predictions

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45 Ostrom 1999 p.21
46 Boone 2003 p.19
of the model must follow deductively. In the analysis process the predictions are either supported or falsified.

The analytical narrative, or ‘the exploratory method’, bridges rational choice theory and more traditional narrative explanations for phenomena in the social sciences. The rational choice theory is applied by carefully identifying the causal mechanisms. This allows the application of the logic of one setting to another, here from the origins of the state to the state-building state. Analytical narrative is suited to investigating questions of political economy such as political order, political and economic governance, and intra or interstate relations, as well as explaining institutional formation and change, which are the objectives of a state-building project.

Analytic narratives recognize and take advantage of the context specificity and historical contingency of institutional analysis. In analytical narrative the model itself is formulated in interplay with the context-specific elements of the historical narrative. A major objective of analytical narrative is to identify the causal factors that explain a particular historical phenomenon; the notion of ‘mechanism’ is commonly used. Analytic narratives stand on a careful balance between context-specific detail and rigorous analytic techniques. An analytic narrative, however, is problem driven, not theory driven.

The empirical state-building experience is reflected against the contextualised background, i.e. the Liberian state institutions as they exist in reality. The analysis is driven by the Liberian case, but it is based on a conceptual modelling of a state, the empirical definition of the Liberian state, including its functions and state–society relationship in terms of Mitchell (1999).

The process categorises isolated elements: the practices of state-building and its actors, the elite, the IC, and society groups. The process of categorisation assists in identifying key actors and factors in the state-building framework. Essentially, the categories are also used to select those who participate in state-building decision making and execution at various levels.

The theoretical reflection provides the categories and the framework to study state-building, and to form the assumption of ‘the modus operandi’, a simplified mode or a typology of the Liberian state. The trajectories constrain but do not determine the assumptions (legitimacy, rule of law, state design). The state-building is seen as a factor shaping the system of governance and political economy—to what extent is left open to question.

48 Arias 2009 pp.1–6
49 Oritsejafor 2009
50 Bates et al. 1998 p.11
The aim is not to evaluate the success of state-building, but to contribute ‘evidence-based knowledge’ about the effects of state-building interventions.\textsuperscript{51} The method of analytical narrative theorizes strategic interaction and not the structural conditions under which the interaction takes place.\textsuperscript{52} Hence, the analysis process asks how the state-building framework is politically instrumentalised, strategically benefited from, and appropriated to create boundaries within a state. To this end ethnographic knowledge provides an understanding of context-specific rule systems.

**Research Design**

The components of state-building, projects, programmes, and reforms form the empirical base of the study. The main components of state-building are outlined and the empirical Liberian state-building is described.

Although international state-building is a continuum from a peace process (CPA), peace-building and a transitional government (NTGL), the analysis of Liberian state-building components focuses on the time period from the first post-conflict national elections in 2005 to the end of the second term of elected government in 2014, that is, the later phase—after the peace agreement and the formation of the transitional government. The timeframe, which includes two national elections cycles, is sufficiently long to observe the dynamics between the post-conflict domestic political development and international state-building. During this time a wide variety of state-building components (Table 2), including SSR, GEMAP, PRS, NTRC, HIPC and two national elections, were introduced into Liberia.

The unit of analysis of state-building is more complex than simply a ‘state’. The ‘black-box’ of state is analysed in terms of Mitchell (1999, 2002). In state-building discourse rural and domestic social and political power structures tend to be invisible. They are seen as traditional, indigenous, self-organised grass-roots actors. In this work the indigenous governance, the rule systems of sociability, and especially the dualism of the Liberian state, legal system and economy are the artefacts of state design rather than delays or failures to be corrected. The Liberian ruling elite has used the dualism strategically to stay in power. Therefore, the ‘state’ is not sufficient as the unit of analysis in state-building projects. Instead the actual, empirical, social-political arrangements and institutions form the unit of analysis.

The empirical experience of state-building is operationalised according to the state-building components, which are organised according to the functional areas of the state according to four

\textsuperscript{51} Fritz and Menocal 2007 p. 43
\textsuperscript{52} Bates et al. 2000
Call (2008) divides the core responsibilities of a state into four thematic areas: provision of security, accumulation and distribution of economic resources and broader legitimacy. The core responsibilities are: security, legitimacy, public finances and economic policy-making, and justice and the rule of law. The core responsibilities of a state translate into the priority areas of state-building. Alternatively, state-building could be categorised into tasks of political development, building administration, justice, public financial management, and security. They correlated with the apparent normative objectives of state-building, namely security, democracy, economic development and the rule of law.

The four thematic areas further translate into empirical state-building practices as follows: SSR and human security for security; elections and democracy education for legitimacy; IFI policies and PRS for economic policy-making and public finances; and judicial reform, SSR and rebuilding police forces for the rule of law. (see Table 1) Naturally empirical state-building is not so neatly organised under the thematic areas. Still, the elements of state-building are inextricably linked to the core functions of a modern state.

Table 1. Thematic areas of state-building according to state functions and normative objectives of state-building

<table>
<thead>
<tr>
<th>Thematic Areas</th>
<th>Objectives</th>
<th>State Building Practices</th>
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<tbody>
<tr>
<td>Security</td>
<td>Security</td>
<td>SSR</td>
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<tr>
<td>Legitimacy</td>
<td>Democracy</td>
<td>Elections</td>
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<tr>
<td>Public finances / economic policy making</td>
<td>Economic development</td>
<td>IFI conditionality, PRS</td>
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<tr>
<td>Justice and Rule of Law</td>
<td>Rule of Law</td>
<td>Justice and Law Reform</td>
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Miller (2010) calls attention to ‘the misguided effort to master sequencing’ in state-building. Similarly, Call (2008) postulates whether and how the sequencing and weighting of various components might have a profound impact on the success of the state-building and to balancing peace-building and state-building objectives. To focus on a single modality, such as the SSR or GEMAP, would be to invite an incomplete analysis. State functions translate to thematic areas of state-building and ultimately also to institutional arrangements and state design which regulate de facto power relations. Thus, to capture these dynamics, the study comprises all thematic areas of the state-building framework in Liberia.

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53 Call Ed. 2008 p.8-11  
54 Call Ed. 2008 p.7-15  
55 Call Ed 2008, pp. 13–17  
56 Ibid.  
57 Miller 2010, p.217  
58 Call Ed. 2008; Fukuyama (2014) calls attention to the sequencing of the introduction of modern institutions especially in terms of the stage of the democratic franchise.
Baker and May (2010) include in the standard ‘menu’ of international post-conflict interventions capacity building at the central-state level, especially with respect to budget management and anti-corruption measures, support for the security sector, electoral assistance, and the decentralisation of state functions. This correlates with what Chandler (2010) describes as ‘various tactics of state-building’: a focus on international administrations, broader post-conflict peace-building, and increased state capacity to address state failure and or underdevelopment. Chandler (2006) assigns to state-building a slightly wider range of practices such as post-conflict governance, international support of weak states, state capacity building, poverty reduction strategies, and specific state-building practices such as civil society building, democracy promotion, anti-corruption policies, election monitoring, education reform, psycho-social counselling, rule of law support, judicial and police reform, civil service and administrative reform, peace-building, and financial and economic reforms. The entire menu of state-building practices has been introduced in Liberia with variable success.

These state-building practices which span the four thematic areas form the subunits of the empirical analysis. A comparison of a ‘typical menu of state-building practices’ according to Chandler (2010) with the state-building practices implemented in post-conflict Liberian from 2003 to 2014 demonstrates that they are close to identical.

Table 2. Typical Menu of State-building Practices according to Chandler (2010) and State-building Practices implemented in post-conflict Liberia between 2003 and 2014

<table>
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<tbody>
<tr>
<td>Disarmament Demobilisation Rehabilitation Reintegration DDRR</td>
<td>Disarmament Demobilisation Rehabilitation Reintegration DDRR</td>
</tr>
<tr>
<td>Civil society building and democracy promotion, election monitoring</td>
<td>Elections, Support for civil society</td>
</tr>
<tr>
<td>Psycho-social counselling</td>
<td>Community Youth Peace Education Programme</td>
</tr>
<tr>
<td>Financial and economic reforms</td>
<td>GEMAP, HIPC</td>
</tr>
<tr>
<td>Police reform</td>
<td>SSR</td>
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<td>Rule of law support, judicial reform</td>
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<td>Peace-building</td>
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59 Baker and May 2010 in Kurz 2010 p.211
60 Chandler 2010 p.8
61 Chandler 2006 pp.1–2. Since 2009 the Liberian government has been implementing a budgetary tracking system.
The justification for including all the functional areas of the state in the empirical study is that the state-building practices combined is greater than the sum of its individual components. Although the variable roles of a state are mutually reinforcing and interconnected, rarely is the entire ‘menu of state-building practices’ included in case studies. More often the analysis is limited to one reform area. This may invite a distorted view because of the cumulative and intersected nature of state-building practices; perhaps even more so in small states.

In general, state-building is introduced as a reform or as a series of reforms: public sector reform, judicial reform, SSR. Although the state-building discourse, like the previous fragile state discourse has struggled to keep up with ‘rapidly changing realities’, nevertheless, the components of state-building, although externally imposed, are locally transformed into policies, government structures and institutions, such as independent commissions, and into laws, legislations and policies which affect the everyday life of citizens and future development of the state.

Methodological Limitations

In general, transitional and post-conflict environments are almost always characterised by illiteracy, inequality, poverty, lack of human capacity and degraded infrastructure, including ‘a lack of qualified quantitative researchers within organisations active in peace-building, a lack of human capital, an over-reliance on consultants, and a degraded transport infrastructure’. In particular, Liberia represents an exceptionally difficult place in which to conduct research.

Realistically, a qualitative method would be a considerable challenge due to the limited amount, or complete lack, of quality data available. For some years Liberia was excluded even from the UNDP statistics. In 2006, the year the post-conflict elected government (GOL) took office, Liberia was one of three countries without data (Liberia, Myanmar, Somalia) in the World Bank’s Low Income Countries Under Stress programme. Even President Johnson-Sirleaf (2010) writes in her autobiography of how she was only able to read and learn facts about her own country when she entered Harvard. A data gathering process would need to begin from scratch in rather

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<td>Civil service and administrative reform</td>
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62 Carment, Prest, Sany 2010, p.5  
63 Millar 2014 p.142  
64 Ibid. p.150  
65 Johnson-Sirleaf 2010, pp.58–61
primitive conditions. Consequently, a qualitative method was chosen as more realistically achievable and appropriate.

Secondly, the research objective is to analyse the state–society relationship from a domestic perspective rather than evaluate the success of a state-building project from a donor perspective. A quantitative analysis based on selected external parameters (most of which are provided by multilateral donor organisations) can tell us little about the qualitative factors of internal processes. Richmond (2011) points out that the liberal peace research is biased because of its knowledge system, epistemic community and techniques developed by the community. In Liberian state-building a technocratic approach to public sector management has been justified on the grounds of efficiency and fiscal necessity. The problem is that the technocratic approach separates public sector management from political accountability. Traditionally, accountability was founded in political control. Smith (2007) argues that the evaluation of public financial management is further de-politicised by introducing performance indicators and external evaluators, as if these will somehow be more ‘objective’.

Consequently, introducing statistical parameters such as the HDI or the WB’s country institutional assessment would inevitably invite the IC’s perspective on Liberian state-building. Millar (2014) postulates that the neoliberal state-building objectives – securitisation, marketization, democratisation, good governance, and rule of law cannot be evaluated by counting the output or calculating correlations between statistical parameters prepared by the IC. The backdrop of Liberian state-building is the perpetuated absolute poverty (low human development index (HDI), historical dependency on external assistant (high levels of net Official Development Assistance (ODA) of Gross Domestic Product (GDP), in context a GDP growth), which, however, does not translate to sustainable development, or to any development for that matter. However, these statistical developmental and institutional indicators are not the parameters of domestic political development, the internal legitimacy of the state, nor do they have explanatory value for the dynamics between various local actors and the IC.

The choice to concentrate on one state, namely Liberia, is justified by the fact that although Liberia appears in many state-building studies, it does so in name only. The Liberian conflict has been extensively researched, but research on the later state-building era is limited to the SSR or GEMAP related studies. Many contributions to the state-building discourse are intra country

66 Richmond 2011 Introduction, Beyond The Liberal Peace?, ebook edition
67 Smith B.C. 2007, pp.207–8
69 Clower et.al. 1966 Growth without Development
70 Call Ed. 2008, Call 2013, Miller 2010, among others
comparisons, yet the space between domestic political development and state-building remains understudied and a historical perspective is often still lacking.

Two recent works take a similar approach. Cummins (2015) limits her analysis to one state, namely Timor-Leste. She critically examines how villages navigate between customary and state structures and norms in a context where customary rule continues to be the dominant point of reference. Millar (2014) draws on examples from extensive fieldwork in Sierra Leone and applies an ethnographic approach which recognised a diversity of conceptions of peace, justice, development, and reconciliation. He argues that local experiences are the primary measure of the success of peace-building.

The decision not to conduct expert interviews was conscious for a number of reasons. First of all, there is abundant primary and secondary documentation available, many of which include interviews and questionnaires. Secondly, interviews as a research method face specific cultural limitations in Liberia. The culture of secrecy and strategic manipulation of whatever information is provided limit the ability to obtain truthful information through interviews or surveys. Since its inception the Liberian state has been subjected to a number of missions by international experts and taskforces. Consequently, the country has an established culture of ‘apparent co-operation’. The international experts are told what it is assumed they want to hear, while business as usual continues. More recently, the post-conflict Liberian communities have been over-supplied with aid and NGO projects. ‘Briefcase NGO businesses’ are common. In a formalised interview situation in hope of benefits people perform a social drama of pleasing the ‘international expert’. Furthermore, in a clientelist society like Liberia, secreries and information are a currency of a never ending reciprocal exchange. Thus, interviews are unlikely to reveal any new information that is not already stated in a project paper or local media forum.

Interviews do not work well in a high-risk, extremely poor and volatile environment such as Liberia. Individuals experience a high level of personal insecurity. It is hardly possible to obtain honest accounts in a formalised fashion such as informed consented interviews, even when the subjects are told that their name will not be revealed. In fact, the level of trust is so low that most people will not consent, or if they do they are unlikely to share valuable insights. Furthermore, the low educational level compromises the usefulness of interviews and questionnaires, even when they are translated into local vocabulary. Further, the difference between an aid

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73 Ibid. p.148
74 Brawley 1921, Greene 1936, Liebow 1987
75 Millar 2004, Introduction, also Smith, D.J. 2007
76 See USAID YES program Final Evaluation report
organisation’s representative and a researcher is not clear, or does not matter for the local subjects. To sum up, to protect themselves and to avoid losing any potential benefits policy makers, politicians, government officials and even ordinary citizens are unlikely to express their views openly or share information that they could otherwise benefit from, that is, ‘sell’. Instead of interviews the already existing vibrant domestic forums provide more honest accounts because they are not aiming to entertain the IC. To sum up, the information which could be obtainable through interviews is abundantly available in local newspapers, commentaries, internet discussions and various documentations.

Although the research capitalises on ethnographic knowledge, an ethnographic study as such was not chosen as the research method. This was to avoid a dichotomy between ‘the other’ subjected to state-building and the effort to try to ‘understand’ these non-state elements.77 A number of policy recommendations and even works of academic literature call for the contextualisation of state-building. However, contextualised and bottom-up state-building still operate under the assumption that state institutions enable a securitised state, advance liberal democracy and foster neoliberal economic policies. Millar (2014) points out that the choice of an ethnographic qualitative methodology which also represents the voices of those who are marginalised ‘is already an inherently political and ethical decisions’.78

In this research the ethnographic knowledge, based on studying and observing state-building in Liberia for over a decade, provides the foundation for understanding and describing the social organisation and institutions.79 Ostrom (1991, 2005) and Boone (2003) call attention to a deeper understanding of institutional formation, such as mode of production and class relations. These are the objects of the analysis in Chapter Two. In Understanding the Diversity of Structured Human Interaction (2005) Ostrom writes,

Understanding anything is a process of learning what it does, how and why it works, how to create or modify it … If the individuals who are creating and modifying rules do not understand how particular combinations of rules affect actions and outcomes in particular ecological and cultural environments, rule changes may produce unexpected and, at times, disastrous outcomes.80

International state-building rarely has the patience or the time to account for the rule systems of local institutions.

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77 Millar 2014, also Gabay and Death 2004, Cummins 2015
78 Millar 2014 p.135
79 Ostrom 1991, 2005
80 Ostrom 2005, Chapter One, ebook edition
The aim to improve state-building practices, which is the objective of state-building practitioners, would inevitably invite a donor perspective. Furthermore, it is not enough to advocate for a contextualised or bottom-up approach to state-building which come closest to ‘the civil peace’, ‘a peace as governance’. Richmond (2014) characterises the civil peace as an emancipatory model of state-building, but which still ‘treads a fine line between providing what external actors believe to be suitable version of these according to their external understanding of the everyday, and what recipients may want according to contextual dynamics’.81 Because of its presumed moral superiority, state-building discourse assumes that the “epistemology, ontology, and methods associated with the liberal peace are on ethically firm ground”.82

More recent academic literature has taken a critical view of state-building83 and the lessons learned from previous missions and policy-prescriptive accounts are no longer considered sufficient to understand what works in post-war state-building.84 A number of contributions are increasingly critical about neoliberal state-building and liberal peace. Duffield (2011), among others, advocate a ‘paradigm change’ in the development–security nexus, a shift in which ‘nothing is left unquestioned’.85 Alternative approaches to state-building include the legitimacy focused state-building,86 understanding local governance structures,87 the political economy aspect of state-building,88 and the ethnographic approach to state-building.89 This work relates to these more recent contributions to state-building and addresses the understudied dynamics between state-building and domestic political development.90 It hopes to contribute to the paradigm shift.

Disintegration and duality are predominantly distinctive in the political history of the Liberian state and in its natural resource exploitation based economy. Therefore, the study aims to advance a political economy framework with a special focus on class relations related to inclusionary power-sharing in legitimacy focused state-building.

In an evaluation of a state-building framework an entirely different dimension would be to provide counter-factual evidence. A comparison with a situation without the external actors, the influx of aid and the state-building framework is not possible because there has never been and there will

81 Richmond 2011, Introduction, ebook edition
82 ibid.
85 Duffield (2011) Foreword in Pugh et al. Ed.; see also Millar 2014
86 Call 2012
87 Cummins 2015
88 Berndal and Zaaum 2012, Pugh et al. 2011
89 Millar 2014, Cummins 2015
90 Miller 2010
not be in any foreseeable future a Liberian state existing independently of the IC and aid interventions—a fact which in itself deserves to be debated.

A central criticism of case studies is their failure to develop more systematic explanations. The choice of the analytical narrative as the methodological framework contributes towards the aim of developing systematic explanations. The model of the Liberian state explores the elite state–society dynamics. The state model is subjected to a systematic pursuit of falsification by comparing the assumptions it presents with the contemporary post-conflict state and the empirical experience of state-building; the assumptions are thereby irrefutable. Lastly, state-building practices are referred back to the theoretical academic discussion on state-building and the political-economic history of the Liberian state. Nevertheless, it is stressed here ‘that specific findings will often only be applicable under a restrictive set of conditions and, therefore, general theories of post-war violence should always be treated with caution’.  

Organisation of the Work
The remainder of this thesis is divided into eight chapters. Chapter 1 links Liberian state-building to the general state-building discourse. This is relevant because the end of the Liberian conflict coincided with the intensification of international state-building interventions and because, on the whole, Liberian state-building has followed the paradigms of the state-building discourse. This chapter also presents some of the central concepts necessary to understand and discuss state-building.

The second chapter provides a brief theoretical discussion of the concept of the state. The analytical task is to explain what the Liberian state is, how it works and what it ideally ought to provide as compared to what it actually does. The chapter explores the origins of the Liberian state, how institutional arrangements relate to modes of production and how these have formed over time to accommodate economic development. Drawing upon relevant aspects the Liberian state’s political-economic history, Chapter 2 constructs a narrative that conceptualises local institutional development and makes it possible to compare these earlier structures to the state-building state. It provides the ‘model of the Liberian state’ as a device to analyse the dynamics between state-building interventions and local political-economic dynamics.

Chapter 3 outlines how the Liberian state and state-building have introduced manageable categories, drawn boundaries in the fabric of society and begun to exclude elements of society from the ‘formal’ state subjected to state-building. The chapter highlights, how state-building

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91 Berdal in Berdal and Zaum Ed. 2012 p.321
excludes the population and its representatives from building their own state. This is important because political exclusion plays a central role in the recurrence of civil wars and in the perpetuation of a fragile security situation. This is especially relevant for Liberia because the earlier Liberian Republic could be characterised as a ‘quasi-apartheid’ state. Chapter 3 presents an example of a standard international programme implemented in post-conflict states in order to build human capacity, something of which conventional wisdom suggests is lost during the course of protracted conflicts. This chapter discusses the programme against a backdrop of a systemic denial of access to education, which has been used as an institutional strategy to marginalise and exclude the indigenous population from the state and political-economic power. It further discusses how the programme became a politicalised project and aggravated class conflicts in post-conflict Liberia.

The focus of the fourth chapter is on describing the role of the IC in organising and orchestrating elections. It compares the political landscape, parties and power bargaining in the 2005 and 2011 elections to demonstrate how state-building may have failed to support an organic democratisation process. The chapter discusses how, despite the democracy support agenda of state-building, the involvement of the IC has not advanced multi-party institutionalisation, but has instead advanced executive dominance.

Chapter 5 outlines how the ‘securitisation’ of Liberia became a priority and how the securitisation of development had further implications for SSR, which is one the central components of state-building framework and thus has wider implications for peace-building in Liberia. The chapter outlines how the privatised and internationalised SSR and disconnect from the security sector architecture led to a return of regime security but failed to improve human security. The way the SSR was implemented in Liberia illustrates what may occur when state institutions are divided between donors as if they were not interconnected. The weak rule of law and corruption led to a failure to reform the police forces and a continuing culture of impunity. Chapter 5 further explores the weak legislative and civilian oversight of the security sector, and how this creates a sense of insecurity and compromises the legitimacy of the security institutions. Lastly, Chapter 5 discusses how the commercialisation of the SSR has become a part of the political economy of state-building.

Chapter 6 outlines the dual legal system in Liberia. It discusses how this duality has been appropriated to advance neoliberal economic policies. Chapter 6 also explores some of the issue surrounding the application of a rule of law given that the majority of the population is prevented from accessing the statutory legal system, and how the traditional legal system is in fact appropriated by the state to control the indigenous population and exclude them from legal
protection provided by the statutory system. Chapter 6 explores the connection between the rule of law, access to justice system, protection of property and how these key questions related to the concessionary economic policy and land rights.

The seventh chapter addresses the role of ‘governance’ in state-building and outlines some of the main projects used to improve public financial management, typically framed as ‘governance’ and ‘capacity building’ in the language of state builders. This chapter shows how the IFIs have been especially instrumental in Liberian state-building. The chapter describes how the selection of state-building partners translates to institutional arrangements and how reforms are appropriated by a set of elite to capture ‘de facto’ power.

The links between natural resources, subsequent benefit sharing and institutional arrangements is a central theme throughout this thesis. Chapter 8 focuses specifically on the concessionary economic policy. Chapter 8 describes the regulatory framework for concessions and the concession negotiation process. Chapter 8 also describes how concessions are experienced by the local population and sets the Poverty Reduction Strategy (PRS) in the context of the concessionary economic policy, donor conditionality and human development in Liberia. The section on land rights explores why conflict over land is potentially one of the most explosive grievances in Liberia. The chapter clarifies the links between the dual system of governance, the judicial and land tenure systems, and shows how this duality is used as a pretext for advancing concessionary economic policies.

Together, the content of these chapters contributes to an understanding of how the international state builders, by picking and choosing priority areas and local partners for state-building, shape the post-conflict space and institutional arrangements, dictate policy choices, omit domestic debate and messy political deliberation over national economic policy options, all of which are ultimately necessary for peace-building, internal legitimisation of the state, and sustainable economic development.
Chapter 1:
The State-Building Discourse in Relation to Liberia

This chapter situates the Liberian state-building in state-building discourse. The objective of this chapter is to outline some of the key concepts in the state-building discourse and to make clear their links to the Liberian post-conflict situation. Indeed, the end of the Liberian conflict coincides with the intensification of international state-building interventions. Consequently, Liberian state-building has followed the paradigms of the state-building discourse. This chapter introduces the concepts of sovereignty, legitimacy and governance; ideas central to the state-building discourse and, given that post-conflict Liberia has been described as a semi-sovereign state, to Liberian state-building. The central argument advanced in the chapter is as follows: The earlier state-building discourse, having applied a narrow definition of what constitutes a state as a sovereign subject, failed to articulate the internal dynamics of states and societies; therefore, state-builders have invariably relied on what might only be described as ‘generic theories’ with which to explain the Liberian state and society. For instance, the process by which the state is internally legitimatised has not been well-understood. Consequently, the chapter argues less for a normative and more for a theoretical, historical and empirically grounded approach to state-building.

The earlier structural adjustment considered the state as an obstacle to development. However, in the late 1990s and the early 2000s recognition of the state as ‘a necessary condition of development’ prompted transformation from the structural adjustment to state-building discourse.92 One explanation for shifting the focus to the capacity of the state was the increasing demand for aid efficiency. The state was seen as the primary partner for development. The 1997 World Development Report highlights the role of a state in sustainable development, ‘An effective state is vital for the provision of the goods and services—and the rules and institutions—that allow markets to flourish and people to lead healthier, happier lives. Without it, sustainable development, both economic and social, is impossible’.93

This understanding underscores the role of administrative agencies. However, in a democracy the elected representatives are authorised, by virtue of their elected status, to make political decisions, which are then carried out by the administrative branch. Smith (2007) points out that when the roles are reversed, ‘the form of government would be bureaucracy rather than democracy’.94

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92 Smith, B.C. 2007 p.3
93 The WB, World Development Report 1997 p.1
94 Smith, B.C. 2007 p.204
Naturally, a complete separation of the political and administrative branches of government is hyperbole, because public administrators are always political, although not necessarily partisan. In general, state-building is based on the notion that political and economic development is not achievable in the absence of functional state institutions. In state-building discourse, weak governance and inadequate institutions are seen as the source of state fragility. Some definitions of state-building include normative aspects, such as legitimacy, functional state institutions and economic and physical security. Chesterman (2004) and Chandler (2007) define state-building as, ‘constructing or reconstructing institutions of governance capable of providing citizenship with physical and economic security’. Paris and Sisk (2009) define state-building as, ‘the construction or strengthening of legitimate governmental institutions in countries emerging from civil conflict’. This wider approach to state-building describes later Liberian state-building including quasi-governmental activities, such as electoral assistance, human rights and rule of law, technical assistance, SSR and certain forms of development assistance.

Earlier state-building discourse was framed in terms of a security–development nexus. Policy orientated studies, many of which were financed by donor organisation, were focused on the outcomes of state-building. Sisk and Paris (2009) propose an analytical tool, described as a ‘dilemma analyses’, as a method of anticipating and managing the contradictions inherent in post-war state-building. Likewise, Putzel et al. (2010) identified the dilemmas of state-building in fragile states: Afghanistan, Bolivia, the Democratic Republic of Congo, Nepal, Rwanda and Sierra Leone. The ‘do no harm’ approach, which originates from the viewpoint of aid practitioners and multi-lateral donor organisations, does not question state-building as such, but cautions donors to cause no harm and to focus on how aid is delivered; because state-building can have a profound impact on the policy-making processes that are central to a well-functioning state. In general, earlier academic contributions, with some exceptions, had a flavour of policy or practical level criticism. Nevertheless, the policy and praxis-orientated dilemma analysis approach, or contextualised state-building, does not question the theory underlying state-building discourse.

95 Smith, B.C. 2007, p.204
97 Fukuyama 2004, Miller 2010, Chandler 2010, among many others
98 Chesterman 2004, p.4
99 Chandler 2007, p.1
100 Paris and Sisk 2009, p.1
102 Sisk and Paris 2009, p.304, p.18; see also Putzel et al. 2010, Call Ed. 2008, Lotz 2010
103 Putzel et al 2010, p.3–14
Heathershaw and Lambach (2008) caution reducing politics to policy-making, reducing politics to policy-making, but failure to reflect and think theoretically about, state-building is not necessarily an intrinsic product of interventionism, but is surely driven by the merging of the academic and policy worlds of peace studies and operations. Consequently, problems must be solved rather than solutions problematized. They postulate that because local elite dynamics and authority structures are not well understood by the international state-builders, states are understood only as sovereign subjects and thereby under-theorised and over-generalized. They highlight the need for more nuanced research to deconstruct the concept of the single sovereign state and to place it in a specific historic socio-political-cultural context. Instead of the state-centred perspective, post-conflict spaces should be understood as fields of power where sovereignty is constantly contested and negotiated among global, elite and local actors.

State-building practitioners may deny the validity of local realities (i.e. ‘organised hypocrisy’). On the other hand, the influence of the IC is constrained by the resilience of local institutions of governance. Whitfield (2009) argues against the use of rational choice theories to describe or predict the realities of African governments, as though the governments were individuals. Blundo and Oliver de Sardan (2006) observe a similar deficiency in research on the African state, ‘There is no shortage of adjectives in circulation: neo-patrimonial, imported, feeble, phantom, predatory, kleptocratic and so on. However, what these analyses have in common is that they are seldom based on empirical studies of the “actual functioning” of African states and instead rely on generalizations drawn from secondary sources. Thus, in the context of these analyses, the state largely remains an “abstract entity”’. Specifically, in Liberian state-building, the international actors have focused on the capacity building of statutory state institutions. Other important factors, such as the political economy aspect of state-building, local power bargaining, elite dynamics and the reality of the dual governance system, were largely ignored.

Kurz (2010) calls on international policy analysts and policymakers to open the ‘black-box’ of the post-conflict state, to widen and ‘refocus their analytical lenses to integrate additional conceptual tools that are necessary for understanding some of the driving forces behind existing political and social systems, and analyse the deeper determinants of state-formation and failure’. Kurz’s analytical toolbox consists of clientelism as the basic mode of political and

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105 Heathershaw and Lambach 2008 p.272
106 ibid. p.275
107 also Kurz 2010
109 Wilen 2012
110 Heathershaw and Lambach 2008 p.270, see also Paris and Sisk Ed. 2009
111 Whitfield 2009 p.30
112 Blundo and Oliver de Sardan. p.108
113 Kurz 2010 p.2110
social relations, the essence of informal institutions and their influence on power structures, the impact of geography (e.g. centres of power and rural areas), and a historical perspective. Ostrom (1991) describes how such multiple models relate to a theoretical framework:

Frameworks that relate whole family of models together provide an important part of the theoretical foundation for policy analysis, because they point to the set of variables and the types of relationships among variables that need to be examined in conducting any theoretical or empirical study of particular type of phenomenon.\(^{114}\)

These variables describe dynamics on multiple levels and predict likely outcomes when the variables are changed. However, one does not derive a precise prediction from a framework.

This analytical framework of Liberian state-building should include the concepts of sovereignty, legitimacy, state functions and state design (e.g. political arrangements and institutions, clientelism and patrimonialism) as the underlying rule system of social order. For instance, if the prevailing rule system in national elections is clientelism rather than institutionalised multi-party systems representing ideological platforms, then it is unrealistic to expect that an election would promote democracy or nationwide political mobilisation (see Chapter 6 on Democracy Support).

Boone (2003) observes that much of the state-formation literature is focused on external factors, although institutional differences in African states are determined endogenously...\(^ {115}\) She further argues that ‘possibilities for economic development and decentralized democracy are shaped…[by] …the capacity of localities to organise for political engagement with the state’.\(^ {116}\) Institutional outcomes results from historical and social determinates. Thus the question posed to state-builders is, can externally imposed state-building overwrite or shape pre-existing endogenous factors?

Lotz (2010) claims that there are few empirical studies on later state-building projects in countries like Sierra Leone. ‘The newer state-building debate has more theoretical flavour’ and practical experience is still limited to countries such as Afghanistan.\(^ {117}\) Lotz (2010) suggests the adoption of multidisciplinary, holistic, historicised and context-specific approaches.

Call (2012) introduces the expression ‘legitimacy focused peace-building’ for peace-building, emphasising the role of legitimate authority. Call outlines earlier Liberian failed peace-building attempts (1997–2002), but he does not discuss state-building after the Comprehensive Peace

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\(^ {114}\) Ostrom 1991 p.192
\(^ {115}\) Boone 2003 p.2
\(^ {116}\) ibid. p.3
\(^ {117}\) Lotz 2010 p.223
Agreement in Accra (CPA), the National Truth and Reconciliation Commission (NTRGL) or the 2005 national elections.

Peace-building is likely to fail when peace is exclusionary in terms of the distribution of political power. Power-sharing through competitive electoral processes and the non-exclusionary distribution of state offices plays a central role in peace-building. Inclusionary practices are the driving force behind legitimatisation. The distribution of power expands beyond democracy and may include various forms of power distribution, inclusion and participation.\textsuperscript{118} Call Ed. (2008) proposes learning from peace-building and state-building experiences, including more theoretical debate over state-building. Strengthening state institutions may potentially challenge peace consolidation and vice versa. In order to balance between peace and state-building, Call suggests strategising peace-building around five points: the consequences of deals negotiated for a sustainable state, the link between capacity and legitimacy, the translation of short-term measures to long-term consequences, the conflict of interest between international and national legitimacy, and the conflict of interest between elites and the population at large.\textsuperscript{119} These points have been largely ignored in Liberian state-building, where the primary objectives have been securitisation and capacity building to fulfil the conditions stipulated by IFIs.

Critics of state-building argue that due to disciplinary confusion, state-building is a normative ideological theory contradicted by empirical evidence.\textsuperscript{120} State-building practices are normative in the sense that their objectives are generally understood to include liberal western values, liberal peace and neoliberal economic policies. Nonetheless, state-building is not a strictly a theory, but rather a collection of fairly standardised interventions and practices applied by the IC in post-conflict states. The narrow neoliberal definitions underlying the ideology of state-building inevitably contradict empirical definitions as used in practice, leading to an inherent contradiction in the state-building discourse itself. In other words, the state-building discourse accepts the liberal peace and neoliberal economy before inviting any evidence of its success.\textsuperscript{121}

\textbf{Contingent Sovereignty}

It is widely acknowledged today that external interventions can disturb local processes. Instead of promoting democracy on the basis of self-rule, international state-building assumes a lack of capacity and a need for external interventions to create a semi-sovereign state.\textsuperscript{122} This argument deserves attention, considering that since the inception of the Liberian state it has been dependent

\textsuperscript{118} Call 2012 Chapter 4; also Miller 2010
\textsuperscript{119} Call Ed. 2008 p.3
\textsuperscript{120} Heathersaw and Lambach 2008
\textsuperscript{121} ibid.
\textsuperscript{122} Chandler 2007, 2010, Duffield 2007
on external assistance, and even after the conflict has again become one of the most aid-dependent countries in Africa, if not the world.123

In exogenous state-building, external actors become participants in the violent power struggle by which the state is constructed.124 Chandler (2010) argues that the IC sees autonomy or self-governance as problematic and applies permanent ‘mobilizing of interventionist mechanisms’.125 In the paradigm of post-liberal international state-building, ‘domestic and international arenas increasingly merge and political accountability becomes blurred’.126 The ‘more the institutions of the “failing” or the “post-conflict” state are engaged with by international institutional actors, the more secure their sovereignty and capacity to take up their “responsibilities” will be’.127 Harrison (2004) describes contingent sovereignty in terms of a post-interventionary political terrain, which ‘constitutes a zone or frontier that is shaped by interactions between national and international actors and institutions’.128 Elden (2006) remarks, ‘while territorial integrity remains, sovereignty over life within an effective state has become internationalised, negotiable, and contingent’.129

This is not a modernising state, it is a ‘human security’ state in which the core economic and welfare functions of population are now designed and managed by international actors and agencies. As Duffield (2007) observes, ‘contingent sovereignty is a zone of donor and NGO experimentation in the biopolitics of state reconstruction’.130 The Liberian transitional government, installed after the CPA in Accra in 2003, could be described as such a contingent sovereignty; nonetheless, the IC has been integral to the 2005 elected government.

While national political decision making becomes increasingly internationalised, state-building practices have become locally politicised. Economic policy choices in post-conflict Liberia have been made based on internationalised decision making. Despite Liberia being one of the world’s poorest countries, neoliberal economic policies have been prioritised over social contracts, job creation, infrastructure investment and the provision of public services. The lack of social development and investments for example in the healthcare sector quickly became apparent during the 2014 Ebola pandemic, revealing the country’s vulnerability.

The President’s background in international banking and finance may explain why post-conflict Liberia has so closely observed the conditions stipulated by the IFIs. During the 1990s, at the

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124 de Guevara 2008, 2010
125 Chandler 2010 p.93
126 ibid. p.15
127 Chandler 2010 p.138
128 Harrison in Duffield 2007 p.28
129 Elden 2006 in Duffield 2007 p.26
130 Duffield 2007 p.26
height of the economic policies referred to as the ‘Washington Consensus’, Johnson-Sirleaf was working for the World Bank.\(^{131}\) Prior to that, in the President Doe government, she played a central role in negotiating with donors and keeping aid funds flowing.

Although researchers disagree as to the role of external interventions, calling for either a ‘light footprint’, ‘neotrusteeship’ or ‘shared sovereignty’,\(^{132,133}\) such as in GEMAP, generally earlier state-building research argued for the building of effective governmental institutions. This contradicts later notions of the need for balancing peace-building (i.e. legitimatisation) with state-building.

**Legitimacy**

The current crisis of Liberian state-building is a *crisis of citizenship* and the *legitimacy of the state* (i.e. the acceptance of the state as the source of authority. Furthermore, the weak legitimacy impacts the establishment of the rule of law and contributes to a perpetually fragile security situation. In contrast to state capacity-centred state-building, the OECD sees state-building as a response to fragility in the broader context of state-formation processes and state–society relations.\(^{134}\) According to the OECD’s definition, state-building is an indigenous development, founded on a political process of negotiation and contestation between the state and societal groups. Nevertheless, endogenous political processes are rarely tolerated in state-building practice.

The 2011 World Development Report defines state fragility in terms of periods where states or institutions lack the capacity, accountability or legitimacy to mediate relationships between citizen groups and the state, thus making them vulnerable to violence.\(^ {135}\) This definition links state fragility to its legitimacy and the state–citizen relationship. Anten et al. (2012) defines the quality of the state–society relationship through its political and economic structures, formed by its political history, structural inequalities, source of state revenue and the interaction between formal and informal or traditional institutions.\(^ {136}\)

The Liberian state is characterised by formal state sovereignty and weak internal legitimacy. Lotz (2010) supposes that a good governance agenda with a focus on the role of the state, especially the strengthening of its legitimacy, and the relationship between the state and society, are

\(^{131}\) Johnson-Sirleaf 2009
\(^{133}\) Krasner 2004 in Woodward in Kozul-Wrigh and Fortunato Ed. 2011 p.99
\(^{134}\) OECD DAC 2008:7 in O’Gorman 2011 p.78
\(^{135}\) WB World Development report 2011, p. xvi
\(^{136}\) Anten et al. 2012 p.12
important facets of state-building.\textsuperscript{137} Uphoff (1989) utilises resource change analysis to separate authority from legitimacy. He defines a state’s legitimacy as ‘a counterpart resource to authority, being produced by those subject to authority rather than by those in position of authority’.\textsuperscript{138}

Paganini (2008) convincingly argues that the definition of a state is centred on the legitimacy of the state. State-building is likely to legitimise a state when the process is genuinely inclusive, open to all major political forces and to the participation of the public, and prioritises public order and the delivery of services.\textsuperscript{139} State legitimacy is ‘the normative belief of a political community that a rule or institution ought to be obeyed. Empirically, legitimacy is observed when rules and the decisions of rule-making and rule-applying institutions are observed’.\textsuperscript{140}

Legitimacy might further be categorised as external (i.e. the legitimacy of external interventions) or internal (i.e. the state’s legitimacy).\textsuperscript{141} For example, the Liberian population welcomed external intervention and peacekeepers. The external legitimacy of state-building was initially strong. On the contrary, the legitimacy of the Liberian government and the state (i.e. internal legitimacy) remains contested, which further affects the acceptance of state order and the establishment of the rule of law. Empirically, weak internal legitimacy leads to a crises of the rule of law. Problems in the establishment of the rule of law translate into high levels of corruption\textsuperscript{142} and a fragile security situation, both of which have characterised the Liberian state since its inception. In fact, after one term of the transitional government and two cycles of national elections in 2005 and 2011 and successive elected governments, the UNMIL is still present in Liberia. Most recently, the colossal failure of the state institutions to react to the 2014 Ebola pandemic and consequent deteriorating security situation has prompted the US to send four thousand US army reservist to stabilise the situation.

Papagianni (2008) defines a state as a variable concept, which has at least four complementary roles: administrative, institutional embedded in legal order, embodiments of normative order and arrangements of enshrining power balances.\textsuperscript{143} The key is ‘rebuilding an entity that combine these four roles’, because legitimacy is derived from performing all of the complementary roles of a state. This differentiates a state from other concepts, such as nations, regimes, institutions, territories or sovereignty.\textsuperscript{144}

\textsuperscript{137} Lotz 2010 p.221
\textsuperscript{138} Uphoff 1989 in Carment et.al. 2010 p.124
\textsuperscript{139} Paganini 2008 p.50 in Call Ed 2008
\textsuperscript{140} Paganini in Call Ed. 2008, pp.49-50
\textsuperscript{141} Ibid.
\textsuperscript{142} Transparency International (http://www.transparency.org/country#LBR [accessed 1.2.2015]). In 2010, Liberia ranked as the most corrupt country in the world. Casals & Associates, Inc. - A DynCorp International - See more at: http://www.respondanet.com/Africa/liberia-worlds-most-corrupt.html#sthash.rbCUC0CI.dpuf, (accessed 1.2.2015)
\textsuperscript{143} Paganini 2008 in Call Ed. 2008 p.51
\textsuperscript{144} ibid. p.51
The Liberian identity crisis is about the role of the state. Liberia started out as an elite regime. Some scholars argue that state-building is not possible without nation-building, yet the concept of a nation is even vaguer than that of a state. National identity would require a shared experience, history, culture, or a unifying ideology, all of which are deeply divided and contested in Liberia.

In state-building practice, the state is seen as ‘a set of institutions… [which] …can be established and strengthened by means of comprehensive institutional engineering’. State institutions are seen as a pre-condition for external democratisation and economic liberalisation. In the words of Pierre Bourdieu, ‘any form of political domination aiming at stability and longevity is in need of ties between rulers and ruled with transcend mere coercion and strengthen the subjective belief in the legitimacy of this form of domination’. Therefore, it is ‘unlikely that stateness will be established coercively or technocratically’. Although political struggles within a society concern the need to determine the form and the content of a state prior to state-building, in times of state-building, ‘normative international models are imposed upon intervened societies’.

Liberia presents a case of a late state-building enterprise, following previously established blueprints of state-building or a menu of state-building platforms, and in which lessons learned from previous interventions have apparently guided state-building practices. However, state-building in the absence of an equally accessible functional justice system and a lack of genuine efforts to extend government structures and public services to the entire population, result in commercial interests taking precedence over the social contract between the state and its citizens. Consequently, the legitimacy of the Liberian state remains contested.

Good Governance

The legitimacy of the Liberian state is inseparable from natural resource governance. This section provides a definition of good governance, which is unlike that used in neoliberal state-building. State-building discourse, like the earlier peace-building discourse, can be traced back to the good governance approach of the IFI. Nonetheless, Berdal and Zaum (2012) observe that the ‘political economy of conflict affected countries, had remained woefully underexplored in the existing state-building literature’.

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145 Lemay-Hébert 2009
146 Bliesemann de Guevara 2008 p.351
147 Pierre Bourdieu quoted by de Guevara 2008 p.359
148 Bliesemann de Guevara 2008 p. 364
149 Chandler 2001
150 Heathersaw 2008; Berdal and Zaum 2012
151 Two recent contributions to the state building-state building discourse conceptualize state building through the political economy aspect of state building. (Berdal and Zaum Ed. 2012; Pugh and Cooper Ed. 2011)
Since the 1997 Word Development Report, *The State in a Changing World*, the central role of the state and good governance have become components of subsequent development documents. Good governance is generally considered an objective of state-building and is seen as a means of conflict resolution. The UN lists as commonly accepted elements of good governance: the rule of law, a competent and independent judiciary, human rights, SSR, a robust civil society, an independent press, and a political culture that ‘favours tolerance, dialogue and mobility over rigidities of identity politics’.

Call (2012) argues that while the political economy is central to peace-building, economic factors do not dictate stability. Instead, the equitable distribution of rents is inseparable from good governance and the legitimisation of a state. The choice of economic and distributive policies is ultimately a political question. This leads us back to the question over inclusive political arrangements, which reach far deeper in local power arrangements than electoral democracy promoted by external state builders.

In Liberia, the rule of law and the judicial system have been traditionally weak, human right violations have been commonplace, the press is political and its integrity questionable, and the political culture is characterised by personalised neopatrimonial politics and clientelism. Even more importantly, the management of natural resources, access to land and the distribution of benefits from both remains a source of grievances and conflict. Aalo and Olonisakin (2000) state that good governance includes the active participation citizens in the ‘the management of the natural resources endowment of their countries’. Good governance ‘is generally assumed to encompass ensuring that citizens are empowered to participate actively and democratically in decisions related to how they are governed’. The externally guided state-building in post-conflict Liberia has done little to support the aforementioned elements of good governance or to ensure citizen participation in the management of natural resources. Consequently, the neoliberal state-building agenda in post-conflict Liberia accommodates the transnational commercial interest in natural resources. After a decade of state-building and international interventions, including democracy support and good governance agendas, the implementation of the GEMAP and the LEITI, an Anti-Corruption Commission, the NTRC and two cycles of national elections,

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153 Bliesemann de GueVARA 2008, p.350
154 Chandler 2010, p.138
155 Secretary-General’s 2009 report§44 in Chandler p.137
156 Call 2012, Introduction
157 Call 2012, Introduction, Chapter 8
158 Aloe and Olonisakin 2000 p.33
Liberia is still top on the of the most corrupt countries on earth, and confidence in transparency and in fair due process is low.

This thesis argues that Liberian state-building has failed in its apparent objectives. Because the state-building objectives are not operationalised they lack empirical definition. Secondly, state-building is an inherently political activity, directed by objectives which may have little in common with those contained in theoretical definitions and understanding of the state-building discourse.

In general, state-building practices are not historically contextualised or defined at an empirical-practical level. While state-building lacks any conceptual theoretical foundations, state-building practices continue to follow a rather rigid set of blueprints. Therefore, state-building is inherently and empirically contradictory, and its apparent objectives are unachievable. Consequently, state-building practices are appropriated, instrumentalised and politicised.\(^{159}\) It follows that the externally imposed state-building framework has ambiguous effects on the reconciliation of the state–society relationship that forms the foundation of a legitimate state.

Liberian state-building has been focused on the rapid securitisation of the state, the management of its surplus population, and establishing a state as a legitimate partner to negotiate concessions in order to differentiate the state from the illegal extraction of natural resources during the conflict period. The economic policy is based on attracting foreign investment (i.e. the advancement of transnational commercial interest in natural resources) and aid. The capacity building of institutions in charge of public financial management prioritises revenue collection and debt servicing, to the extent that the Public Financial Management Act (2009) specifically prioritises debt servicing before any other commitments.

Neither the external legitimatisation of the state nor technocratic approach can replace or circumvent the process of internal legitimisation (i.e. the early social contract theories like those of Hobbes, Locke, Rousseau, and Milton). Nonetheless, state-building in Liberia aims to strengthen state institutions, which lack internal legitimacy. In other words, state-building is an enterprise aimed at building and reforming a state without a foundation.

\(^{159}\) Ferguson 1994
Chapter 2:
The Path of the Liberian State: From Settler Colony to Failed State

This work focuses on the understudied dynamics between domestic political development and state-building. The analytical task of this chapter is to explain what the Liberian state is, how it works, and the dichotomy between what it ought to do in theory and what it does in reality. This chapter extracts relevant aspects from Liberian political-economic history to construct a narrative that conceptualises local institutional development and makes it possible to compare earlier structures to the state of state-building. The narrative constructs the model of the Liberian state as an analytical device. Understanding the origins and the model of the Liberian state aids in understanding how institutional arrangements relate to the modes of production and how they have failed to accommodate economic growth and socioeconomic development.

Before turning to the peculiarities of the Liberian state, it is necessary to briefly discuss the concept of state as a conceptual-empirical construct and as the machinery of intensions. The second section explores the dual system of governance, which is the hallmark of the Liberian governance system. The chapter problematises the capacity of the traditional governance to protect communities in the context of increasing transnational interests in natural resources and land. The chapter proceeds to outline Liberian political institutions and their underlying rule systems, concluding that both the statutory and traditional institutions are largely organized around the same social rules. An ethnographically thick description of these institutional arrangements aids in understanding how they can be instrumentalised to advance transnational commercial interests. The next section links economic diversification to subsequent social mobility and changes in foreign policy orientation, and explores how these forces have created pressure to modify rigid political institutions. The fifth section posits that the Liberian conflict has modified popular perceptions about right to rents from natural recourses. Section six presents the modus operandi and the trajectory of the Liberian political economy, its transformation from slavery to plantations, and finally to a contemporary concessionary economy. This chapter advances the argument that the key factors implicated in the earlier destabilisation of Liberia’s political-economic trajectory were in fact reintroduced via the international state-building framework.

Theoretical Discussion on State Concept

Before exploring the origins of the Liberian state, there are a number of important theoretical considerations which need to be addressed, including a discussion of the concept of state. A state

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160 Miller 2010 p.11; see also Millar 2014, Richmond 2011, de Guevara 2008
can be measured through state–society relationships or through its structures, which would point toward institutionalism. Carmen et al. (2010) argues that ‘the ambiguity of the (state) concept discourages formulation in which the state is seen as a variable, as a collective entity or a process that varies as a consequence of internal or external forces’. A state is ‘a field of power marked by the use of threat and violence and shaped by 1) the image of a coherent, controlling organisation in a territory, which is a representation of the people bounded by that territory, and 2) the actual practices involving those staffing its multiple parts and those they engage in their roles as state officials’.

Nonetheless, these aspects of state are especially controversial in a post-conflict state. In general, such duality is typical for the objects of state-building, which often confront different forms of social organisation at the grass-root and elite levels. Furthermore, vertical power linkages, patronage and clientelism are routinely found in poor societies. In Liberia in particular, the boundaries between public and private, as well as legal and illegal, have never been clearly defined, nor has the entire territory been controlled and organised by the formal state and its institutions.

In small developing states, the government tends to be the dominant actor, and public and private elites overlap. Consequently, small developing states possess ‘a qualitatively different relationship between state and society’. Examples of such states include Liberia and East Timor. The traditional practical overlap of the public and private elites in Liberia could explain similarities in state-building outcomes with other small developing states, such as East Timor. This overlap is unlikely to be observable in larger, more complex states under state-building.

The state-centric focus in post-conflict analyses inherently invites a biased assessment. Instead, the post-conflict state could be described as a space, ‘understood as a field of power relations where multiple “sovereigns” negotiate rule across multiple spaces of political authority. Post-conflict statehood is then conceptualised as a hybrid form of governance, in which authority is “fragmented and contentious” and may be provided by multiple, potentially competing, social organisations. Given that these seemingly provisional governance structures often stabilize over time, external actors become a constant and resilient feature of domestic governance’.

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161 Carmen et al. 2010
162 Carmen et al. 2010, p.79
163 Migdal and Schlichte quoted by de Guevaraa 2008, p.359
164 Migdal and Schlichte quoted by de Guevaraa 2008, p.361
166 Samy et al. 2008 in Carment et al. 2010, p.87
168 Reisinger 2009, p.483, also Heathershaw and Lambach 2008
A state can be understood as an institutional capacity, which is demonstrated in a monopoly of the coercive use of force, revenue collection and government expenditure, or as organisational arrangements referring to state design.\textsuperscript{170} A state design interferes with the character of the political regime (i.e. state–society relationship) and how political power is distributed.\textsuperscript{171}

Fukuyama differentiates between the scope and the capacity (i.e. effectiveness) of the state. After a state collapses, like in Liberia, institutional arrangements may take precedence over capacity. For example, a few years after the GEMAP was concluded, while the number of Liberian state institutions continued to grow, there was less to show from their output capacity.\textsuperscript{172}

State-building discourse posits the classic Weberian definition of the state as holding a monopoly on violence in a given territory. This definition has been enhanced through the service provider functions of a state. Additionally, the concept of a civil society has been introduced to define a political territory and to imply a western style of societal structure.\textsuperscript{173} According to USAID research, Liberia had no civil society in 2013, per the donor understanding of the term. NGOs are not true advocacy groups and donor funded NGOs and CSOs are too weak to perform watchdog functions.\textsuperscript{174}

Mitchell (1991) contradicts the notion of a state as an individual construct. The vague concept of a state is enhanced with the even more elusive concept of a political system, with the literature reducing ‘the state to a subjective system of decision making, a conception that is both exceedingly narrow’ and essentially idealistic. Moreover, the conception ‘fails to fit even the evidence presented by stateist authors’.\textsuperscript{175} The narrow definition of state excludes the monopolistic organisation of coercion, the legal or ideological structures, the processes of political representation, ‘the arrangements that maintain a given relationship between the producers of capital and its owners’;\textsuperscript{176} essentially treating the state as a close system isolated from the world surrounding it. The slow to transform state architecture, political party system, legal systems and state institutions in general are objects of state-building, but they lack even the most general description, what is entailed in each case. In the words of Mitchell:

The state should be addressed as an effect of detailed processes of spatial organisation, temporal arrangement, functional specification, and super-vision and surveillance, which

\textsuperscript{170} Call 2008 p.8
\textsuperscript{171} Call 2008 p.8–10
\textsuperscript{172} The Liberian Governance Stakeholder Survey 2015 USAID p.3
\textsuperscript{173} Mitchell 1991, Duffield 2007
\textsuperscript{174} USAID 2015 p.20
\textsuperscript{175} Mitchell 1991 p.77
\textsuperscript{176} Mitchell 1991 p.85
create the appearance of a world fundamentally divided into state and society. The essence of modern politics is not policies formed on one side of this division being applied to or shaped by the other, but the producing and reproducing of this line of difference.\textsuperscript{177}

The line of difference has been carefully maintained and reproduced in the Liberian political system to the extent that the constitution of the 168-year-old republic recognises a dual legal system (Article 65, 6, 4), and that the hinterlands were governed by a different set of laws, the Laws and Regulations Governing the Hinterlands. In the state-building framework, the elements not captured by the state institutions are defined as traditional, informal or even illegal, and thereby marginalised or altogether excluded from the state even when they are the majority.

As an alternative to the classic Weberian state definition, Mitchell (1991) proposes a conceptual-empirical distinction of a state. Nettl defines a state as ‘essentially a sociocultural phenomenon, which occurs due to the cultural disposition among a people to recognize the state’s conceptual evidence’. The notion of the state is incorporated in the thinking and actions of its citizens, to the extent that the conceptual variable can be shown to correspond with empirical differences between societies, demonstrated in legal structures and party systems.\textsuperscript{178} When a state is defined as an essentially empirical concept, then a state’s architecture (e.g. its political party system and its legal system) are included in the particular definition of state as it is understood by its citizens, unlike in the classic state definition. Therefore, the conceptual-empirical state concept allows for the introduction of relevant variables. In short, the state is not divided between state institutions and traditional, informal governance and legal systems; because in actual practice, it is both. This being the case, the population navigates between both systems on a daily basis. Actual arrangements form the empirical definition of the particular state.

Mitchell (1991) describes the construction of a state as a ‘machinery of intensions’ and an ‘expression of authoritative intensions’, which ‘becomes essentially a subjective realm of plans, programme or ideas’.\textsuperscript{179} A post-conflict state represents a machinery of intensions, which primarily exists to generate and implement plans, such as PRS, GEMAP, HIPC and SSR, and to administer these reforms according to the blueprints provided by the IC.

**Origins of the Liberian State**

State-building interventions aim to build the capacity of state institutions. However, institutional formation is a long historical process and does not exist in a vacuum of international state-building. The political-economic trajectories, the modes of production and associated social

\textsuperscript{177} Mitchell 1991 p.95
\textsuperscript{178} Nettle in Mitchell 1991 p.565–577
\textsuperscript{179} Mitchell 1991 p.85
norms, institutional arrangements and power bargaining are the context in which international state-building takes place.

For the study of empirical state-building experience, it is pertinent to understand why something so seemingly harmless may be highly conflicting. Wesley (2008) argues that a crucial deficit in state-building blueprints is that the state is defined as an independent variable, divorced from politics, economy and society.\textsuperscript{180} Aid that has been conditioned to policies and institution-building is unsuccessful because it ignores the contextual and historical background of institutional failure. Consequently, policies imposed by the IC are implemented in name only, or are not adopted at all.\textsuperscript{181} However, the picture is more complex than simply a conflict between traditional governance and state institutions, or a reform-minded elite and local patronage networks.

The concept of the state, its institutions and their manifestation have been instrumentalised in Liberia’s political history to obtain political-economic hegemony. Step-by-step, the Liberian state frontier was extended in a land acquisition process by the settlers and the indigenous population was pushed further from the coastal areas to the hinterlands.\textsuperscript{182} This very process has been repeated in post-conflict concessionary economic policies (see Chapters 8 and 9). The conceptual-empirical understanding of the Liberian state illustrates a dichotomy of distinct empirical differences, manifested in a deeply divided lived experience and cultural origins, conflicting governance, legal and economic systems. This work proceeds to describe the dual system of governance and institutional arrangements.

**The Dual System of Governance**

Liberia is a small polity with a political-economic history characterised by dependency on external support, indirect rule and dual governance. The historical conditions underlying the creation of the Liberian state are peculiar. In 1819, the US Congress passed a vote to establish the colony. The Republic of Liberia was established by the American Colonization Society under the ideology of returning freed slaves back to Africa. Arguably, the Americo-Liberians colonised the indigenous population. The early settlers felt vulnerable in their new and strange environment, surrounded by a hostile indigenous population. To protect the colony from the surrounding society, from the other, the settlers created state institutions and resorted to external support and protection.

\textsuperscript{180} Wesley p.380
\textsuperscript{181} Acemogly and Robinson 2012 p.441
\textsuperscript{182} Brawley 1918
The formation of the institutional state was associated with internationally recognised sovereignty and weak internal legitimacy, which was typical for many African countries. African leaders often relied on internationally recognised institutions, and most post-colonial states were quasi states with juridical, but not empirical statehood.\(^{183}\) The earlier oligarchic elite ruling over the state were characterised by a broken state–society relationship and a gross-marginalisation of the largest segments of society. Meredith (2005) describes the Liberian political system as a quasi-apartheid state in which the indigenous population was suppressed and, in social-political-economic and cultural terms, confined to the hinterlands. One percent of the population controlled an estimated two million people.\(^{184}\)

The hinterlands were politically neglected and economically exploited by the settlers.\(^{185}\) Because the indigenous population was economically insignificant and non-essential for agricultural production, rural communities were left to their own devices. Unlike postcolonial states, the nascent Liberian state did not make an effort to establish an institutional presence or to integrate indigenous elements into the national political-economy. Equally so, rural communities were free to avoid dealings with the state as controlled by the narrow settler elite. Identifying the class divisions in Liberia contradicts the general notion that African societies as classless. Notwithstanding, the state was founded on a caste system, filled with interclass antagonisms.\(^{186}\) The class contradictions run deep through Liberian society and state institutions.\(^{187}\) Whereas ethnic tensions might dominate the socio-political landscape in many other African states, class tensions are as much relevant in Liberia as are ethnic tensions.

Internationally defined sovereignty protected the Liberian state from its own society. Externally, the Liberian state boundaries were protected by the US, preventing France and the UK from carving up its territory.\(^{188}\) The US military provided security to the settlers and assisted in suppressing tribal hostilities. The Liberian Frontier Force (LFF) was trained by US officials and foreign troops maintained security, but only at the district headquarters.\(^{189}\)

The absence of any centralised hierarchical source of social order could explain why the early state applied military solutions and force to the problems of governance.\(^{190}\) In the early twentieth century, the territorial expansion of the nascent Liberian state was secured through the

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\(^{183}\) Jackson 1990 paraphrased by Herbst 2000
\(^{184}\) Meredith 2005 p.546, also Liebnow 1987
\(^{185}\) Dalton 1965, Lowenkopf 1972 in Oritsejafor 2009
\(^{186}\) Oritsejafor 2009 p.99-100, also Pham 2006, Liebnow 1987, Meredith 2009
\(^{187}\) Akpan 1972; Hlophe 1973 in Oritsejafor 2009
\(^{188}\) Varrie 2004 p.15, Brawley 1918
\(^{189}\) Oritsejafor 2009 p.102, Brawley 1918, Pham 2008, Dunn 2009, Ebo 2008
\(^{190}\) see Boone 2003 p.106
establishment of indirect rule in the hinterlands.\textsuperscript{191} Green (1936) describes the earlier Liberian republic, where the natives were left alone to the paternal oppression of their chiefs and secret societies, ‘They weren’t interfered with as they would certainly have been interfered with a white colony’.\textsuperscript{192} The avoidance of direct involvement was an institutional strategy. Boone (2003) researched earlier political topographies in West Africa, and states, ‘[n]one-incorporation is a strategy that is likely in zones that are not politically threatening or economically interesting (i.e., not taxable) as far as central rulers are concerned’.\textsuperscript{193} The early Liberian state was financed by loans and aid from the UK and the US. The lending, reforming and questions of sovereignty originate from the earlier Republic. In 1918, the US ‘lends its assistance to the Liberian Government in the reform of its internal finances’. The acceptance of the terms of the 1918 loan meant that Liberia surrendered its sovereignty.\textsuperscript{194}

A comparison of the formation of the early Liberia Republic and post-conflict Liberian state-building reveals interesting parallels. In terms of lending, reforming and contingent sovereignty nothing has changed. In general, in African state-building processes, new governments are shielded by the powers of aid agencies and do ‘not have to confront either the military threats or the revenue demands that gave earlier generations of rulers incentives to persuade those who earned private incomes to pay the costs of government’.\textsuperscript{195} Foreign military support, while stabilising the security situation, has shielded the state from the surrounding society, and prevented the state from establishing its territorial authority. Neither the earlier Liberian republic nor the post-conflict administration has been confronted by revenue demands or external threats and neither faces incentives to turn its orientation from external legitimisation through the approval of the IC towards its population. Neither have they depended on domestic taxation. Likewise the earlier Republic, also the post-conflict state under state-building, has been shielded against its internal weak legitimacy by the external military assistance (e.g. the UNMIL), by excessive aid flows that exceed in multiples the GDP and by the FDIs in natural resources extractive sectors. These three factors have historically been central to the political organization of the Liberian republic, enabling the dysfunctional unsustainable ‘modus operandi’ of the political economy. Concession negotiations associated with the FDIs creates lucrative agent positions for a narrow state elite, but do not translate into capital inflow or technology transfer. Due to the external legitimisation and the orientation toward external actors, the state faces no pressure to expand its domestic tax collection beyond imports taxes and concession royalties. Therefore, the state need not debate its economic policies with the population.

\textsuperscript{191} Akingbade 1997  
\textsuperscript{192} Green 1936 p.107  
\textsuperscript{193} Boone 2003 p.332  
\textsuperscript{194} Brawley 1918, Chapter IX Liberia, Chapter 3. International Relations  
\textsuperscript{195} Bates 2011 p.52; Fritz and Menocal 2007
The subsequent chapters will elaborate upon how state-building undermines local organic democratisation processes and the redistribution of rents from resources. Despite the technocratic capacity building of state institutions, rather than achieving fundamental changes in the neopatrimonial state, external state-building undermines political accountability between revenue collection (GDP growth) and redistribution (social development and infrastructure investments).

Neither the loans nor the reforms had any impact in social economic development. Brawley (1918) describes the conditions. The country had no railroads, no cars, no distribution network for produce, no public schools, no genuine newspapers and no manufacturing or other large-scale employment opportunities. Consequently, politics was the most promising employment opportunity. The settler elite was not interested in working. The isolation of the country and the hardship of everyday life resulted in ‘a rather excessive emphasis on church, on politics, and on secret societies’.196

Culturally, the settler elite and the indigenous lived in separate realities, which had little in common. Ironically, the settlers replicated the social structures and lifestyle they were familiar with, namely those of the American Deep South and imitated the pathos of civilization and Christianization of the indigenous African population, which led to antagonism and a sense of superiority.197 The American-Liberian elite mimicked the lifestyle of their former slave masters: dressing up, driving American cars and going to church on Sunday. They replicated the oppressive class system that they, the freed slaves, had escaped. Even communication between the two systems was minimal due to a miserable road network, unpassable during the rainy season, and in the absence of a nationwide radio station.198 The line between the settler elite and the indigenous, and the state and the society was fortified.

The unification of the nation has been sold under state-building as necessary. However, the unification agenda has not welcomed political or cultural pluralism. The national emblem and the national anthem have been criticised as symbols of the Americo-Liberians and they ignore indigenous history. These debates have been brushed under the carpet.199 The debate on national symbols reflects a much deeper crises of citizenship.

196 Brawley 1918, Chapter IX Liberia, Chapter 4. Economic and Social Conditions
197 Jaye and Ebo 2008 p.144–145
198 Ingram et al. 2012 p.27
After the conflict, Liberia did not even make it into the international statistics. During the post-conflict years, minor improvements have taken place in terms of social conditions. Ten years after the conflict, the majority of the population still lives on less than a one USD per day. In 2010, GDP per capita was USD 400. In 2014, ‘Liberia ranked 175th among 187 countries HDI – an improvement from its 182nd ranking in 2011. Nevertheless, most people lack access to pipe born ware, any type of sanitation, electricity, health facilities, access roads, quality education, finance and secure land tenure’. Moreover, ‘according to the 2010 labour force survey, 78% of Liberia’s workforce are engaged in “vulnerable employment” without a steady income, and 68% are employed in the informal sector’.

An often repeated statement, ‘Liberia is recovering from fifteen years of conflict’, presented as the explanation for the absolute poverty, is factually wrong. Indigenous Liberians were just as poor prior to the conflict and lived in the same type of primitive mud huts or shacks. The long and uncivil conflict cut Liberia off from the rest of the world. During the long years of conflict, only two international companies kept their offices open for the most part of the conflict, namely Western Union and Brussels airline. Even post-conflict Liberia is still surprisingly isolated. Until 2013, internet connectivity has been poor. Few international airlines run traffic to Liberia. Out of the five international airlines that do, three ceased operations due to the 2014 Ebola pandemic. Likewise in 1918, the isolation and the general lack of opportunities accentuates the politics’, churches’ and the secret societies’ role in people’s everyday lives.

The dual structures of governance, which have been the hallmark of Liberian institutional arrangements, have been replicated during state-building. They were appropriated to provide a pretext to exclusionary state-building. In the earlier Liberian republic, the only policy-making actors were the elites and their True Whig Party (TWP). The indigenous population had no political or other forms of representation in the scope of state institutions. The indigenous population withdrew from the state, which provided them with no services and no protection in return for the extortion of their labour, natural resources and taxes extracted from an impoverished population. The process was mutually exclusionary.

The Liberian formal state structures have been highly centralised and predominantly limited to the capital, Monrovia. The state was not accountable to its citizenry or the surrounding society.

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200 McGovern in Call Ed. 2008 p.339
202 Liberia Institute of Statistics and Geo-Information Services 2011 pp.36-37
There was a lack of state penetration. In the periphery of a predatory state, the indigenous population exercised traditional fractured self-governance. The state formed the instrument and centre of economic and political power. The two forms of governance coexisted and interacted with each other through intermediates, but they did not shape each other in a sense of adjusting their rule systems to accommodate the other. The exclusion of the hinterland from formal state institutions fortified a dual or parallel system of governance. The simultaneously existing and conflicting rule systems of governance are referred here as the dual system of governance, which is one of the defining characteristics of the Liberian state.

State-building theory is supported by the notion of a Weberian state which maintains a monopoly on legitimate violence within a given territory. The dual system of governance contradicts the notion of the state’s monopoly on violence within its given territory. Furthermore, the duality should not be understood as a delay in development. Instead, the duality has been systematically cultivated in order to keep the power in the hands of a small state elite. The duality of governance, legal systems and economy was instrumentalised as a strategy to capture and maintain a hegemony over state institutions and the economy.

The earlier good governance paradigm claimed that bad governance was caused by underdevelopment. The state-building framework includes governance components, which aim to improve governance. Nevertheless, the term governance in state-building refers to the statutory systems of governance and state institutions. Governance support does not extend to traditional governance systems or to dual system of governance, the governances systems existing in post-conflict Liberia. Still, navigating between the two systems is part of the everyday life of most Liberians.

The formation and design of state institutions was a long process of political power bargaining between the elite, intermediate and indigenous structures. The two parallel systems of governance interacted with each other through a system of intermediates who had no incentives to establish formal governance structures other than those necessary in order to exploit the local population for their personal enrichment. Under indirect rule, the local population was left to the mercy of chiefs and superintendents. Curiously, the decentralisation agenda of state-building has strengthened the intermediate positions and the traditional governance structures.

Local Governance Structures
Being naturally unmodified, there are variations in the traditional governance structures. In some regions, the structure is more hierarchical, while governance in others regions is rather acephalous. In traditional governance, the highest indigenous chief is a paramount chief. A
paramount chiefdom consists of two or more clans, but rarely more than three clans. The chieftaincy model had a centralised hierarchical authority over chiefdoms. In the acephalous structures, the authority was at the level of clan, lineage elders or lower chiefs, and there was no central authority or administrative authorities.

In general, however, a clan consists of several villages. A clan was the kinship unit of the indigenous rural social order. Some powerful clan chiefs combined clans to a chiefdom. Because personal relationships with subordinates is the source of social order and cohesion, in some areas, villages are further divided into quarters, each with their own sub-chiefs who are in charge of land use rights and labour allocations. Communities forming clans were autonomous self-governing units.

In traditional governance structures, indigenous Liberians are regarded as communal members of their respective groups rather than as individual citizens of the Liberian state. Nevertheless, the status of traditional governance is recognized by the Liberian Constitution (Article 2, 5 and 65). However, the quasi-apartheid order was also legalised by the separate set of laws and rules under the Rules and Regulations Governing the Hinterland in 1949 and the Revised Edition 2000. The Rules and Regulations Governing the Hinterlands provided the legal regulatory framework for the quasi-apartheid state. The law was revoked after 2005 by the post-conflict elected government. Nonetheless, the Rules and Regulations Governing the Hinterlands outlined the territorial division, the function of superintendents and commissioners, duties of various chiefs, revenue collection, Hut Tax collection, administration of traditional justice and chiefs’ obligations to provide public labour.

In order to grant concessions, the settlers needed to control remote areas and regulate land usage. They also needed easier access to labour to work at large plantations and to supply labour to concession companies. Instead of extending state structures to the remote, dangerous and hostile rural areas, the settlers introduce a system of indirect ruling which utilised and strengthened the indigenous power structures, but avoided the cost of extending state institutions to the hinterlands. In the process, the indirect ruling adopted traditional governance forms, chieftaincy and acephalous systems to the patronage networks. For the sake of divide and rule, small-scale kin tribal units were combined to form larger ones. Clans were combined to chiefdoms and new administrative districts were introduced. These new administrative and electoral districts failed to appreciate the traditional understanding of community or clan borders. This created layers of incoherent governance units. Moreover, in the process of creating new governance units, tribalism

\[204\] Wulah 2005
was replaced with ethnicity. For example, district borders were drawn based on ethnic lines. The process aggravated ethnic identities, which are otherwise a social construct. Liberia has more than fifteen ethnic subgroups, and due to the tradition of inter-marriage, the lines are fluid.

The chiefdoms, as a new administrative layer, fortified the indirect system of ruling. The chiefs ruled their communities as they wished and traded with state intermediates with labour and resources. The intermediate position of chiefs and patronage networks contributed to the emergence of the autocracy. Systems of intermediates were created for the economic benefit of the predatory state to exploit and rule the hinterlands. The indirect ruling appropriated traditional governance, with coerced labour often claimed to be an aspect of customary obligations, a form of communal labour. After the League of Nations accused Liberia of forced labour and slavery in 1930, the powers of the paramount chiefs were curtailed and they became executioners and instruments of the Americo-Liberian commissioners and superintendents. Additionally, the League of the Nations inquiry raised further questions of the sovereignty of Liberia and if the black African nation was capable of governing itself.

During the President Tubman’s open door economic policy, large concessions were signed and economic diversification followed. During that time, the chiefs were added to the government payroll in order to ensure their greater cooperation and to control resistance by rural communities. These structures were again appropriated by post-conflict concessionaires in commercial land acquisition (see Chapter 8 and Chapter 9).

The overlap of traditional governance structures and state institutions is multi-layered and at times not well understood by international actors. The paramount chiefs, likewise the superintendents and commissioners, fall under the Ministry of Internal Affairs. The subnational state representatives are superintendents, who are appointed by the president as the highest ranking state officials in the counties. Commissioners and regional administrators fall under their control. In the earlier republic, these positions were often given to lower ranking members of the elite, who were sent out to the hinterland as a punishment. Today, these position are highly contested and include indigenous community members, with these local positions being regarded as a stepping stone into the society and a position in the ministries and government agencies in Monrovia. A superintendent’s power varies greatly, from that of a disliked administrator to that of a king of a county. Superintendents and the commissioners under them, are the extension of the executive power in the counties.

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205 Fukuyama 2014 Chapter 26
206 Dunn 2009, Jaye and Ebo 2008
207 Dunn 2009, Jaye and Ebo 2008

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While local level GOL authorities are appointed by the executive, local level traditional authorities are chosen by members of their respective communities. However, neither these GOL representatives nor traditional authorities are elected through any form of democratic due process. Table 3 reflects how local level authorities are appointed in the dual system of governance. In theory at least, the chiefs are chosen in a process based on consensus and popular approval. In practice, paramount chiefs and clan chiefs are chosen not just by their local communities, but also by the superintendents as the representation of the executive branch and by other members of the national government, who may exert some significant influence. Although the Constitution mandates local elections, no elections have taken place since the first elected national government took office in 2006 (see Chapter 4).

Table 3. Local level authorities in the Liberian system of governance

<table>
<thead>
<tr>
<th>National Government</th>
<th>Representation of National GoL</th>
</tr>
</thead>
<tbody>
<tr>
<td>County Superintendent</td>
<td>appointed by the president</td>
</tr>
<tr>
<td>Development Superintendent (Deputy Superintendent)</td>
<td>appointed by the president</td>
</tr>
<tr>
<td>(District Superintendents)</td>
<td>appointed by the president</td>
</tr>
<tr>
<td>District Commissioners</td>
<td>appointed by the president</td>
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</tbody>
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<table>
<thead>
<tr>
<th>Traditional Governance Structures</th>
<th>concensus based selection process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paramount Chief</td>
<td>selected/elected by town/quarter chiefs</td>
</tr>
<tr>
<td>Clan Chief</td>
<td>selected by town/quarter chiefs</td>
</tr>
<tr>
<td>General Town Chief</td>
<td>selected by member of communities</td>
</tr>
<tr>
<td>elders, youth, women, traditional leaders representation</td>
<td>selected by member of communities</td>
</tr>
</tbody>
</table>

Originally, the main sources of a chief’s power were control over land use and communal land ownership rights, the administration of traditional justice and the spiritual power by fear. The governance structures translate to communal land rights, which are instrumental in organising indigenous communities in Liberia. In traditional systems of governance, citizenship status and land use right were intertwined, with both being administered by chiefs. This gave the chiefs right to define a person’s political and economic rights in the community and make them sub coordinates of the chief’s reciprocal networks. A village chief can allocate annual land use rights, but he is not authorised to transfer ownership rights of communally governed land. Longer term ownership rights fall under the purview of clan (via patrimonial lineages) and paramount chiefs. In general, local chiefs functioned as protectors of their areas. They controlled economic benefits and traded with intermediates of the Monrovia government. However, indigenous leaders had no direct access to state resources.

Boone (2003) describes a similar constellation of governance in other West African countries, in much of provincial Africa, where ‘dominant lineages or members of old aristocracies control land
or market access, possibilities for autonomous political action (including associational autonomy) on the part of individuals are extremely restricted. In Liberia, access to markets has been controlled by the elites, those with the major land holdings of cash crop production. Likewise, the state’s non-involvement in hinterland governance, the low productivity of the subsistence agriculture has been an institutional strategy, a choice of economic backwardness. Consequently, unlike other West African countries, Liberia has no export producing agricultural sector. Such an industry could have led to the development of a politically stronger rural elite.

**Governance by Fear**

The third aspect of traditional governance and source of chiefs’ power has been spiritual power, governance through fear by secret societies. In the rural areas, the indigenous population have lived under traditional rule, the code of law and fear of big bush devils. Traditional governance was intertwined with secret societies and practices of witchcraft. Low penetration of literacy skills enables the spiritual power, the governance by fear, over people. From Poro, Yassi and Bundu, the Poro was the most politically influential, with religious and civil aspects. The society was organised by three grades: the first for chiefs and big men, the second for fetish-priests and the third for the crowd. The two dominant secret societies, Poro and Sande, were formally assimilated to the indirect system of ruling to strengthen the power of the chiefs to collect hut taxes and to provide free public labour.

In the past, secret societies and spiritual power played an important role in maintaining cohesion. Often these sources—a chief’s position and rank in a secret society—were combined so that the same leader might claim power from both sources. For example, Taylor claimed to have the highest rank in the Poro society. Although the bush societies remain taboo, politicians have been forced to claim association with them. The secret societies have been instrumentalised by politicians to consolidate local support and to rekindle traditional structures, to create and to extend their support networks. Presumably, President Johnson-Sirleaf has cooperated with Sande in association of gender-specific benefits.

However, governance by fear has lost some of its power after the rituals were exposed and perverted during the conflict. It could be argued that they were stripped of their authority when the secrecy that protected them was lost. Nonetheless, the public’s fear of ritualistic killings and

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209 Boone 2003 p.325  
211 Ellis 1999, Greene 1936  
212 Ellis 1991, Wulah 2005  
213 Fuest 2010 p.10  
214 Fuest 2010 p.24  
215 Ellis 1999
of witchcraft performed by secret societies has re-emerged in post-conflict Liberia. The Ministry of Internal Affairs has worked with stakeholders, including traditional leaders, to implement government guidelines regulating the activities of secret societies, including the prohibition of forced initiation. Unfortunately, high illiteracy rates and secret societies are mutually reinforcing. Moreover, traditional leaders have benefited from the power of the bush societies.

International standards and norms as a normative component of the state-building framework are contradicted by traditional customs and secret societies, but international NGOs may simultaneously romanticise customary governance and indigenisation is promoted by international NGOs and the IC. For example, the National Traditional Council of Liberia (i.e. the council of elders) has been given a seat in aid funded projects and committees.

Cummins (2013) observes that, ‘across many parts of postcolonial world, it is everyday reality for people to cross regularly between state-based and customary governance, institutions and norms’. In post-conflict Liberia citizens, politicians and concession companies navigate between and appropriate both governance systems. Elected representatives try to balance between satisfying the patrimonial demands set by their constituency simultaneously demonstrating compliance with international norms. Like other citizens, politicians must navigate between these conflicting norm systems on a daily basis. This narrows their options to offer more ideological political platforms, which could potentially mobilise wider nationwide political support, or to offer domestic policy options as alternatives to the international state-building framework on the one hand, and to the traditional governance structures on the other. Naturally, the traditional pressure weighs heavier on the minds of elected political leaders than it does on those who are appointed. Appointed leaders can more easily circumvent traditional obligations.

The generational conflicts and social cohesion created by secret societies are interrelated in modes of production, namely in controlling labour and land rights. In the areas where Poro societies were the source of communal social order and continuity, privileged male elders held claims over youth labour while the youth worked on communal fields. Because traditional governance structures followed patrimonial linkages, any autonomous action by youth challenges the

216 Murray 2009
217 While covering various areas, these guidelines do not touch on the serious issue e ‘of female genital mutilation, which continues in the context of many such societies. As a result of secret society activities, the enrolment of children, in particular girls, in formal schooling has continued to fall in some counties.”Twenty-fourth progress report of the Secretary-General on the United Nations Mission in Liberia S/2012/641 15 August 2012
218 Cummins 2013, p.5
219 Boone 2003 p.250–251
traditional social order. During the conflict, the excessive expression of violence and open display of many taboos was directed at challenging the traditional social order. \(^{220}\)

Arguably, traditional governance structures constrain women and youth, aggravating generational and gender conflicts. Paramount chiefs and elders are primarily older males. The youth, who feel excluded both from the traditional and the state governance structures, seek to gain political power over youth organisational and political party membership. Despite the NGOs subjecting the youth to projects and identifying youth as a target group, the structural generational conflict has not been addressed by state-building. The state-building enterprise offers few positions for indigenous youth, who have missed out fifteen years of education and professional experience. Liberia is one of the few countries where the old are more likely to be able to read than the young. The lack of educational opportunities has further excluded the younger generation from state-building projects. Furthermore, Liberia has the third fastest growing population in the world and almost one-half of Liberians are under the age of fifteen. \(^{221}\) Their parents are the lost generation, affected by the conflict, many suffering from post-traumatic stress and reactive attachment disorder, common in conflict societies.

In essence, not everyone in the community has an equal access to decision-makers. The interests of those who are more vulnerable without powerful connections are sacrificed to maintain coherence. Access to decision-makers, both modern and traditional, is restricted, i.e. a limited access order. Still, traditional systems of governance were reintroduced without paying attention to how to include youth and women. In 2012, the positions of elders and chiefs was reformalised with the passing the Act to Create the National Council of Chiefs and Elders of the GOL. Its predecessor, the National Council of Elders, was dissolved. \(^{222}\)

**International Standards: The Promotion of Traditional Institutions**

The simultaneous promotion of international standards and the bottom-up approach of many aid agencies creates instant contradictions. International aid agencies advocate for human rights and the neoliberal ideology emphasises individual rights. In the past, the traditional system of governance set obligations on community members. The systems of rules regulating society were changed by the conflict. Promoting a right-based approach without balancing those rights with a sense of obligations is ill-advised. \(^{223}\) Collective obligations have become obsolete, but they have not been replaced by an understanding of citizens’ obligations.

\(^{220}\) see Ellis 1999  
\(^{221}\) USAID 2015 p.11  
\(^{222}\) USAID 2015 p.19  
\(^{223}\) Jensen in Call Ed. 2008 p.127
The indigenous communities were governed by fear and intimidation under fractured and corrupted traditional structures of governance. These structures are described by aid organisations as *grass-root* democratic structures or as *civil society*, while in reality they are undemocratic and authoritarian, incorporate beliefs about witchcraft, and their backwardness is anything but *civil*. Some of imposed structures lack local legitimacy.\textsuperscript{224} When the traditional system of governance is reinvigorated under the assumption of social capital, the dual system of governance is re-established, oppressive local governance structures are reinvigorated and relegitimised; despite that, they are fiercely contested by wide segments of post-conflict Liberian society.\textsuperscript{225} The rural population is kept *in line* by the traditional systems of governance. They are less able to make demands on the statutory system or to request political participation. Moreover, the generational and gender conflict is perpetuated by the promotion of the idea of communally-owned land administered by chiefs, *perceiving the indigenous land rights*\textsuperscript{226}, and by strengthening the traditional justice system. Fundamentally, the strategic decision to fail in most basic public service provision and to direct state funding to basic infrastructure investments, such as roads, electricity, sanitation, water or communication, repeats the past marginalisation of the rural and the poor.

Fuest (2010) argues that promotion of traditional institutions is assumed to contribute social capital to reconciliation; yet in fact, they may be strongly contested by wide segments of population and their promotion may aggravate the social conflict. At the same time, international policies are guided by liberal peace and international standards, creating a paradoxical contradiction and exclusionary practices in the implementation of workshops and projects. Many state-building programmes are initially discussed in working groups and workshops, which provide an exclusive forum for the elite and the educated; firstly, because participation in a workshops is a privilege; secondly, because issues are discussed in international terminology.\textsuperscript{227}

When international standards are introduced at every level of the post-conflict society, citizens are actually excluded from actively participating in the reconstruction of their state. The constant excessive *informal* sector and high unemployment figures are indications of the exclusionary policies.\textsuperscript{228} In general, in extremely poor and volatile societies, formalisation of the informal often takes place at a cost unaffordable to the poorest.\textsuperscript{229} By imposing *international standards*\textsuperscript{230} and by criminalising patronage networks *space* is created for the international aid organisations to subject the population to their interventions and projects. Andreasson (2006) argues that state-

\textsuperscript{224} Archibald 2005 in Fuest 2010 p.16
\textsuperscript{225} Fuest 2010 p.21
\textsuperscript{226} Statement by the Land Reform Commission in a meeting in April 2014
\textsuperscript{227} Fuest 2010 p.4
\textsuperscript{228} 2010 Labor Force Survey
\textsuperscript{229} Roberts 2009
\textsuperscript{230} Kurz 2009
building plays ‘a pivotal role in this process of systemic marginalization and immiseration of people beyond its “civilizational boundaries’” when it fails to consider societal power asymmetries for example in property rights, or rule of law, as has been the case in post-conflict Liberia.

In 2015, according to an investigative report on political-economy, there really are two different Liberias: The one of the urban elite, governed by the formal system and controlling the reforms and aiming for huge profits, to make it big; and ‘the realm of indigenous rural population who are just trying to make it’.232

Any serious state-building project in Liberia ought to begin with addressing the state–society relationship, rather than rebuilding or reforming pre-exiting state institutions. State-building could be seen as a window of opportunity to redesign state institutions to be more conducive for peace-building, sustainable development, democratisation, and ultimately legitimatisation of the state, which are all apparent normative objectives of neoliberal state-building. The question is, when informal sectors and traditional governance structures, including dual legal system, confused land use rights, reciprocal networks and conflicting rules systems in general, are excluded from the scope of the state, which elements then are included to the state institutions under state-building? Either the definition of the state could extend to include the empirical Liberian state and its institutions, or the state seems to be penetrated by non-state elements and the arbitrary line between the state and non-state actors becomes blurred. Henceforth, the state-building state is experienced as an externally guided semi-sovereign regime, which is tasked to institute the state-building reform. Its content, however, is disconnected from the historical institutional formation, existing social rule systems and from the everyday life of its citizens.

The question is, is the Liberian conflict - originating from its state-formation and its class conflict, associated lack of integration, and questions over whose political authority is established by which processes over others - resolved or still lingering. If this is the case, do these questions in fact resurface in the course of state-building? This reopens the question of functions and institutional design of the state itself.

**Traditional Governance in Concessionary Economic Policy**

In reality, both the statutory and the traditional governance systems and their rule systems are eroded and the gap between them leaves room for corruption practices. Both governance systems, the state and the traditional systems, have changed, perhaps negatively, in that the previous norm

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231 Andreasson 2006 quoted by Roberts 2009 p.3-4
232 USAID 2015 p.22
systems setting cultural and moral limitations are no longer respected or relevant. Reciprocal fluid networks, clientelism and patrimonialism fill the governance and authority vacuum.

State provided services are underfunded and rural communities survive on their own devices. Because the state does not extend direct administration or governance over the indigenous communities the local leaders can be quite dictatorial. The population has no other options than to obey. Traditional structures of governance are unable to protect the rights of communities to their own land and resources. Still there is no genuine political will to modernise the system. During the pre-conflict era, the concession companies benefited from cohered labour provided by chiefs. That chiefs’ function to administer land use rights underlines the conflict of interest. When chiefs face any pressure to transfer land rights to commercial interest, they weigh out expected benefits. On the one hand, the local communities can offer hardly any monetary benefits to the chief yet chiefs depend on the communities’ support. On the other hand, advancing commercial interests may offer moderate monetary benefits or jobs. However, if a chief favours commercial interests and compromises the interests of local population, such actions may cost him his position as a chief. In the past, the local population held the power to remove a chief from his position. Therefore, the contemporary strategy of concession companies to compensate and pay for a chief’s support does not create wide local support. The conflict of interest has escalated land and resources conflicts, and lead to violent uprisings against the concession companies (see Chapter 9). Especially, youth increasingly frequently take their own (at time violent) action; for example, in their demands toward concession companies for better paid jobs or land compensations.

Experience has taught the rural population that when it comes to protecting their rights, they can trust neither the chiefs, who are powerless and corrupted, nor the state and its agents. Both tend to side with transnational commercial interests. However, the communal land tenure system does not allow citizens to exit and completely free themselves from the chiefs. While the traditional governance structures have proven to be powerless in protecting the rights of rural populations subjected to traditional order, traditional governance structures have also been proven ineffective in protecting state or transnational commercial interest. Consequently, chiefs and the traditional structures have won neither the confidence of the rural population, nor that of the executive as a strong reliable alliance. In the absence of any alternative system of rules or social order, the chiefs still function as the intermediates with whom concession companies are forced to interact.

The foreign concession companies navigate between and appropriate both system of governance. Unlike in the earlier republic, in which chiefs provided labour to concession companies, during the post-conflict era concession companies struggle to understand the local governance structures and how they interact with the state administration. The concession companies apparently
negotiate land and other agreements with the traditional governance structures claiming to respect right-based approach.\(^{233}\) One strategy is to pay local chiefs and officials for their cooperation, but still call the special armed forces when local communities engage in violent riots. This is similar tactics used by transnational companies before the conflict, with the only difference being that the labour is no longer slavery or coerced labour, but minimum wage labour (see Chapter 8).

In most cases the affected population has not been informed about a concession agreement or consulted in its negotiations. In order to attract transnational commercial interest and rents, the state typically ignores long-term usufruct rights and traditional tenure rights. Generally, concession agreements are negotiated with the executive branch and concession companies look to the executive and state administration to protect their interests. However, the executive has only a moderate local leverage and is not able to control the traditional governance structures or protect concession investments at the local level. This has reinforced the intermediate positions before introducing decentralisation of the state.

In the past, the chiefs had to maintain a level of fairness in order to stay in power or to rule by fear. Today, traditional leaders are no longer accountable to the community the way they were in the past. Because the traditional governance structures are eroded they are easier to influence. While the traditional systems are labelled as informal or indigenous, they are already controlled by the executive and the concessionary economic policy. The way chiefs’ decisions are influenced by their salaried position effectively smoothens the way for the state and its concessionary economic policy. For example, the systemic payroll corruption scheme organised by the ministries include local chiefs.\(^{234}\) Although chiefs are chosen by communities, they can be removed from the government payroll for misconduct, absence and for other administrative reasons, but also for reasons of insubordination by the County Superintendents or by representatives.

It would be misguided to describe post-conflict rural communities as pure traditional indigenous systems governed by customary governance. Rural communities are penetrated by the state-building by various ways. There are regional variations not only reflecting the circumstances of different clans but also in terms of the exposure to concession companies and other outside influences. Community members’ exposure to these activities varies with some people living more traditional way, some collecting government payments, or voting, or some being actively engage in youth organisations, parties, CSOs, churches and networks of all kind. While engagement with the state statutory system varies significantly, there are changes that are taking

\(^{233}\) Lanier et al. 2012  
\(^{234}\) USAID 2013
place at a boarder systemic level as the state-building interventions and the overwhelming presence of the IC continues. Such changes include the NTRC hearings, the voter education campaign, the decentralisation agenda pushed by the IC, consultative hearings by the Land Commission and by the Constitution Review Committee or even the systemic payroll scams run by the ministries.235 People from the most remote communities are aware of and engage in the state-building project, from voting, benefiting from NGO projects, or by seeking employment with a concession company. Additionally, the over-exposure to foreign experts is typical for Liberia and even in the most rural villages the locals try to find access to external resources to be benefited from.

In state-building, the state is more administratively present than before. It is also less predatory, on an individual level, having effectively abolished forced labour and hut taxes. That is not to say that the experience of the economic system is necessarily justified or equal. Also, what might be an acceptable practice in one community may not be appropriate in another. In general, there is a danger in attempts to formalise the traditional systems of governance and justice, because the traditional system is inherently ad hoc and issue driven.

Despite the obviously hybrid and dual system of governance in Liberia, traditional governance systems have not been subjected to systematic state-building reforms like the state institutions, although they are just as much part of the Liberian state as ministries, commissions and other executing agencies. Unlike in Ghana or Sierra Leone, where twelve seats in the parliament are filled by paramount chiefs from each of the twelve administrative districts, there has been no serious effort to incorporate traditional governance into the statutory system other than by adding them to the government payroll. Nevertheless, the customary governance networks are appropriated during an election campaigns or by concession companies. Local structures are also sometimes viewed as substituting structures until the formal structures can be extended to the entire population. The question for modern state-building is how to treat the pre-existing political units. Should the indigenous organisation be ignored, improved or integrated into the state-building state? The oligarchic elite was faced with the same dilemma prior to the 1980 coups d’etat.

**Political Intuitions in the Earlier Liberian Republic**

In 1847, the settlers ratified a constitution written by a Harvard professor and modelled after that of the United States. However, the discrepancy between the Liberian Constitution and the way

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235 USAID 2013
the de facto power was organised, demonstrates how ‘there was little concordance between the way power is actually organized and the design of [state] units’.236

The Americo-Liberian elite governed the country uninterrupted for 130 years. The presidency was rotated from one member of the elite to another in polite terms as if politics would matter.237 In the oligarchy the only political party allowed was the TWP, which retained a monopoly on power ‘a record equalled by no other political party anywhere in the world’.238 Outside the capital Monrovia, communities and indigenous structures had no capacity to organise for political engagement with the state. Their revolt was limited to local tribal hostilities or violent uprisings against those maintaining the order in the name of the state. The nominal sovereign of the Liberian state was distant and the legitimacy of its rule was contested in localised uprisings. However, the low level of trust did not emanate from a centralised dictatorship, but from the brutal practices of indirect rule.

In 1916, prior to granting citizenship status to the indigenous, the ruling class imposed an annual hut tax of one dollar for each hut occupied by an adult indigenous person. The hut tax invariably became an additional revenue stream for the Liberian government, and ‘in 1922 the Government of Liberia collected $151,213.70 from the hut tax’, approximately a third of gross government revenue for that year.239 The hut tax forced the rural population to seek entry into monetary economic activities, such as offering their labour for hire as workers for itinerant traders and for concession companies.240 The indigenous hinterlands kept being politically neglected and economically exploited under the absolute hegemony over the state by the Americo-Liberia settlers.241

In the 1847 Constitution, the limits upon the arbitrary exercise of governmental authority were nominally documented in the division of the functions of the legislative, executive and judicial branches. In theory, according to the constitution the legislative branch was superior to the executive, or at least the separation of powers and the pattern of checks-and-balances made them coequal branches of government, sharing power with the third branch, the judiciary. In practice, few offices were elective, civil service existed largely on paper and the government was the largest employer offering the president the powerful political weapon of appointments.242 Despite the constitutional trias politica—separate and independent powers and responsibilities of the

236 Herbst 2000 in Fritz and Menocal 2007 p.52
237 Green 1936 p.95–100
238 Meredith 2005 p.545
239 Oritsejafor 2009 p.102
240 Green 1937; Ellis 1999 p. 46.; Muniver 2011 p.361
242 Urey, 2004 p.17
branches of the government—the Liberian state witnessed the gradual eclipse of legislative power with a corresponding increase in the exercise of presidential authority. According to Liebnow (1987), ‘the internal limits on government authority atrophied as power increasingly gravitated from the legislative and judicial branches to an all-powerful executive.’\(^{243}\) During Tubman’s era (1944–1971), the capitulation of the legislature was completed,\(^{244}\) whereas the legislative capitulation does not refer to the loss of political opposition but to the function of the legislative branch of government, because in those days the legislators were all member of the elite, with few exceptions. The legislative function was diminished to a rubber stamp.\(^{245}\)

In addition to kinship and reciprocal networks, the TWP was a political institution of elite class. During its governance of hundred years, the elite distributed economic and political power through the party. The party was not open for challenge or change, and Liberia was strictly a one party state. Consequently, the party institutionalised nepotism, cronyism and other forms of patronage. The absolute hegemony of the TWP and the patrimonial networks intensified the executive dominance.

The neighbouring country, Sierra Leone, provides an interesting comparison to the Liberian political institutional order. While both countries share a similar political history, in Sierra Leone the ruling class was a leftover of the colonial withdrawal of the United Kingdom. The difference to Liberia today is that, according to the 1991 Constitution, Sierra Leone has within the parliament and the political system a multiparty system consisting of two competing parties, in addition to a large number of small parties.\(^{246}\) In the parliament, twelve seats are reserved for paramount chiefs. In comparison, Liberian government has a two-chamber legislative structure according to the US system, a bicameral legislative branch. The Senate could be characterised as a cooling chamber. In effect the two-chamber structure weakens the legislative power, because the Senate often sides with the executive.\(^{247}\) The initially stronger opposition party has lost seats and opposition to the ruling party is not that united as it is in Sierra Leone. Further, Liberian government does not have seats for the traditional governance representatives. These differences underscore the executive dominance in Liberia.

Notably, when other African countries went through the process of independence, political turmoil, and shed the colonial rule in the 1960s and the 1970s, the Liberian dual system persisted

\(^{243}\) Liebnow 1987 p.6, p.126
\(^{244}\) Ibid.
\(^{245}\) Jaye and Ebo Ed. 2008 p. 140
uninterrupted. Unlike in decolonialised states, where the exclusionary colonial power withdrew, ‘the Americo-Liberian original oligarchy is still present, still powerful and still deeply resented’. There was no independence movement to unify the nation. Historically, Liberia has no democratic tradition, no parliamentary governance tradition, and no tradition of pluralism, nor inclusive political institutions. Unlike many African countries, Liberia did not experiment with nationalisation. Neither decolonisation, industrialisation, nor green revolution, or labour movements occurred in Liberia, as if the Liberian state was a holdover from the earlier century.

**Underlying Rule Systems of Liberian State**

The institutional arrangements cannot be understood without first understanding their underlying social rule systems, which are not external to the state. This section summarises the underlying rules system in the Liberian socio-political order. Liberian institutions have never mastered the transition from communal social order to a modern state. Fukuyama (2014) states, the ‘least developed parts of the world today are those that lacked either strong indigenous state institutions or transplanted settler-based ones’. The underlying rules by which a society organises itself defines the political order. Human sociability centres around kin selection and reciprocal altruism. Altruism toward genetic relatives and individuals with whom one has exchanged favours takes natural precedence over other behaviours but can be overwritten by the development of new institutions. When these institutions break down, however, people tend to revert to their natural behaviour. Thus, nepotism and reciprocal networks are a form of natural human sociability.

The first forms of social order were band-level societies. The shift away from band-level societies was organised around tribes, *segmentary lineages*. ‘Tribal societies have no central source of authority’ and no division of power, and they tend to be egalitarian. A community social order is kin-based, everybody knows each other and identities are rather fixed. This would describe the clan-based traditional governance structure in Liberia, which is still the source of social order in rural areas. Nonetheless, while post-conflict networks are no longer based strictly on kinship, they are still based on personal connections and reciprocal exchange. There are areas where the political order is still rather acephalous, lacking clear hierarchal or central authority. People belong to a community.

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248 Ingram et al. 2012 p.27
249 Fukuyama 2014 Chapter 1, ebook edition
250 Fukuyama 2014 Chapter 1
251 Fukuyama 2014 Chapter 1
252 Fukuyama 2014 Chapter 1
253 Fukuyama 2012 Chapter 2, ebook edition
The highest level of political order would be the state, which is centralised and hierarchical, and exercises a monopoly of power over its territory. Based on the rule of law, the modern (i.e. bureaucratic) state should be autonomous from its ruler. Kinship structures are replaced by independent modern systems of administration. In theory, a modern state is characterised by the rule of law and there are mechanisms of accountability, typically the parliament. In comparison, representation in earlier agrarian societies was limited to ‘the asset owning elites’. 254

The idea of popular sovereignty and later social movements widened the circle of natural and political rights. An executive accountable to a representative legislature, and thus to the broader society, proved to be a durable form of accountability across societies. 255 The transition from kinship-based structures to a modern state structure is complicated. Furthermore, sustainable economic growth is typically associated with institutional development.

In patrimonial states, natural forms of sociability (i.e. kin selection and reciprocal altruism) determine a citizen’s status in the state. The polity is a type of personal property of the ruler. 256 This would describe the socio-political order of the earlier Liberian statutory state structures. Even on a Liberian state level, political power was and is rooted in kinship selection and reciprocal altruism instead of processes of accountability and autonomous rules of law. Reciprocal networks are the fabric of Liberian society and people organise their lives and identities through them. Consequently, popular elections turn into an exercise of capitalising upon patrimonial reciprocal networks rather than a competition between political ideas or political leadership. At the state level, the political order is personalised and centralised around the executive. Because the actual underlying rules system contradicts the notion of neoliberal ideas of a state, the rule of law and accountability mechanisms are weak.

Fukuyama (2014) defines clientelism as ‘a form of reciprocal altruism that is typically found in democratic political systems where leaders must contest in elections to come to power’. 257 Clientelism is ‘the trading of votes and political support for individual benefits rather than programmatic policies’. Clientelism differs ‘from elite patronage systems in which the scope of clientelist recruitment is far more limited and less well organized’. 258 Clientelism, which is typical in societies with low levels of income and education, can be understood as an early form of democracy, because it involves large-scale of exchanges requiring a hierarchy of intermediate,
while patronage relationships are reciprocal exchanges between two individuals of different status. Clientelism is associated with social distrust and low-quality bureaucracy.259

Vertical and horizontal reciprocal networks, clientelism, kinship linkages and neopatrimonialism are the fabric of the Liberian society and they contradict the notion of a bureaucratic rational state. Kinship connections and reciprocal networks have undeniably formed the primary conduits to political power. The state institutions were secondary to organising access to power. For example, the presidential rival for Johnson-Sirleaf, Winston Tubman, is a nephew of President William Tubman. Likewise, the father of Johnson-Sirleaf was a representative of the House. To date, the political power is appraised by proximity to the executive, who have all represented the Americo-Liberian elite, with the exception of President Doe, who came to the power in a military coup.

Table 4. The level of institutional development in state and indigenous institutions of governance

<table>
<thead>
<tr>
<th></th>
<th>Appointed members of government (ministers, judiciary, superintendents, etc.)</th>
<th>Elected members of government (representatives)</th>
<th>Indigenous leaders</th>
</tr>
</thead>
<tbody>
<tr>
<td>pre-conflict</td>
<td>patrimonial, neopatism</td>
<td>patrimonial</td>
<td>patrimonial, clientelist</td>
</tr>
<tr>
<td>state building</td>
<td>patrimonial, neopatism</td>
<td>clientelist</td>
<td>patrimonial, clientelist</td>
</tr>
</tbody>
</table>

A comparison between the underlying rule systems of state institutions and indigenous governance systems reveals that they are identical, although their de facto rule systems are different and contradictory. Kin selection and reciprocal altruism has not been overwritten by modern institutions, nor by the rule of law. Nevertheless, state-building reforms are aimed at reforming modern state institutions; while in fact, governance and social order are organised by a different level of human sociability. This leads to inevitable contradictions. It follows then that under the current political order, institutional arrangements nepotism, cronyism, patrimonialism and systemic corruption are logical and rational behaviours. Obviously, neither social order arrangement, the indigenous traditional governance nor the Liberian state, are founded on ‘the principle that the rule should rest on the consent of the governed’260 (i.e. internal legitimacy).

Neopatrimonial State

The Liberian state is a prototype of a neopatrimonial state in which public and private realms merge and reciprocal clientelist networks are pervasive, even in the civil service sector.261 Consequently, formal state institutions operate in a constant contradiction between persistent reciprocal networks and apparently formal set of rules. In neopatrimonialism, political leaders adopt the apparent forms of modern states, bureaucracies, legal systems, and accountability procedures such as elections, but de facto ruling is based on reciprocal networks and private

259 Fukuyama 2014 Chapter 5, Natural Modes of Sociability
260 John Lock, in Fukuyama 2014, Chapter 1
Neopatrimonialism is a limited access order in which a coalition of rent-seeking elites prevent free political-economic competition. Neopatrimonialism is extractive. Therefore, a neopatrimonial state is typically a predatory state. It follows that the rule of law does not apply equally to all, so there are no mechanisms to curtail the abuse of power. Furthermore, the capacity to organise cross-cutting political engagement with the state power is constrained. Consequently, clientelism and systemic corruption are inseparable from neopatrimonialism. Corruption is so deeply embedded in the Liberian state that it is not a threat to the formal system—it is the system.

During Tubman’s presidency (1944–1971), neopatrimonialism and the presidential cult reached its peak. Tubman created a grand cult that later leaders, President Doe and President Taylor included, have tried to emulate. Tubman’s presidency modified the President’s Office from the ‘peculiar plaything of Whig minority’ toward a national institution. Because the scope of the state was limited to the capital city area and the indigenous economy was marginal, no wider tax base emerged to finance the expansion of state institutions. The expansion of state institutions was financed by revenue from mining concessions and loans, thus making Liberia the second fastest growing economy between 1950 and 1970.

![Diagram](path-to-diagram.png)

**Figure 1.** The circles of political power in the early Liberian Republic as illustrated by Liebnow (1978)

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262 Fukuyama 2014, Chapter 1
264 Acemoglu and Robinson 2012
265 Liebenow 1987 p.133
266 Clower et al. 1966 p.23

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The capacity of the neopatrimonial governance came under pressure from state and economic expansion. The underfunded bureaucracy that had previously served a tiny homogeneous costal Americo-Liberian community was no longer able to control the ambitions of regime allies. Simultaneously, the role of the state as an instrument to reward supporters and marginalise enemies intensified.\textsuperscript{267}

**Emerging Social Mobility and Changes in Foreign Policy Orientation**

Until the late 1960s, Liberia remained as though frozen in a previous century, unaffected by decolonisation elsewhere in Africa. However, the last American-Liberian president William Tolbert (1971–1980) made his position insecure by introducing some degree of political reform, and by compromising foreign policy orientation toward the US. Tolbert’s changes in foreign policy orientation coincided with increasing social mobility and urbanisation. In 1965, only 23\% of Liberians were living in urban areas, but by 1985 the number has increased to 38\%.\textsuperscript{268} Primary school enrolment rose from 31–66\%, and secondary school enrolment from 2–20\% between 1960 and 1980.\textsuperscript{269} Gradually, albeit slowly, the educated tribal youth began to replace the foreign employees in lower managerial position:

Returning to rural homeland those who had seen the life that prosperity had brought to other Liberians found it more and more difficult to accept the mounting taxes, the extortions from itinerant soldier, and the illegal demands for labour made by officials and private Americo-Liberians alike.\textsuperscript{270}

While the younger generation benefited from increased social and economic mobility, they also became increasingly dissatisfied with being marginalised and excluded from positions, and the political-economic power.

The economic diversification in the 1970s was potentially a political risk to the ruling elite because it intensified migration to urban areas and created a small lower middle class consisting of indigenous origins. Excluding the indigenous from state positions restricted indigenous political hopefuls’ access to state resources, which could otherwise be capitalised to build-up local political support and overcome the collective action problem of the indigenous isolated communities.

Regardless of the economic diversification and social mobility in the 1970s, the economical divide between the classes, oligarchic ruling, corrupted politics and nepotism continued.

\textsuperscript{267} Liebnow 1987, Pham 2004
\textsuperscript{268} Liebnow 1987 p.158, Pham 2004
\textsuperscript{269} NTRC Final Report 2009
\textsuperscript{270} Libenow 1969 p.214
unaffected. For example, in 1970, only an estimated 25% of the ingenious population was involved in the monetary economy. Three-quarters of households earned less than fifty USD a month while 50% of the total household income was taken by 5% of the families.\textsuperscript{271} For instance, Tolbert’s brother was appointed as Minister of Finance and another as pro tem of the Senate, a son-in-law as the Minister of Defence and other relatives as ministers, ambassadors and presidential aids. The president’s cousin, Daniel Tolbert, owned the largest rice import company.\textsuperscript{272}

Nepotism re-emerged in post-conflict Liberia. According to USAID Democracy Report (2012), governance is frequently exercised through the use of patronage, and nepotism and cronyism are of concern.\textsuperscript{273} The most sensitive positions appear to be occupied by relatives or close allies. The president has appointed her son, Robert Sirleaf, as a chairman of the Board of Directors of the National Oil Company; another son, Charles Sirleaf, as the Governor of the Central Bank; a third son, Fomba Sirleaf, as the head of National Security; a cousin Ambullai Johnson, as the Minister of Internal Affairs; a cousin, Frances Johnson-Morris, as the Chair of the Anti-corruption Commission;\textsuperscript{274} the Minister of Agriculture, who was involved in issuing questionable forestry contracts during the president’s re-election campaign, is said to be a childhood friend.\textsuperscript{275} 276 The deputy minister of interior, Varnie Sirleaf, is a relative, a son; Harry A. Greaves Jr., was the head of the National Petroleum Refinery Corporation,\textsuperscript{277} one of the very lucrative positions. Government officials claim that the sons receive benefits beyond their salaries.\textsuperscript{278} The executive takes ‘care of her own and do not create a stir’,\textsuperscript{279} because those fired would then become political enemies.

Geopolitically, Liberia had an important position in the 1930s because the growth of auto industry required a reliable source of rubber. When the economy diversified after World War II, natural resource extradition became central to the state economy. During World War II, Liberia was the Allied Powers intelligence hub in Africa, and again during the cold war in the 1980s.\textsuperscript{280} Throughout the 1960s and the early 1970s, the strong bilateral relationship with the US continued. Chase and Citi Bank operated in Liberia. In 1987, President Jimmy Carter visited and the Liberian

\textsuperscript{271} Final Report NTRC 2009, p.100
\textsuperscript{272} The rice import licenses like all other import licenses of essential goods were selectively distributed among political alliances or financial supporters, such as the Lebanese commercial class. The year preceding the coup de etatrice riots, the larger scale organized demonstrations, broke out as a response to price increase of Liberian main food stock.
\textsuperscript{273} USAID Democracy Report 2012 p.10
\textsuperscript{274} USAID 2015 p.15; USAID 2013 p.10
\textsuperscript{276} ICG 2011 p.17
\textsuperscript{278} USAID 2015 p.15
\textsuperscript{279} USAID 2015 p.15
\textsuperscript{280} Easterly 2006
government prepared a *Carter Memo*, including a proposal for assistance in the health sector and agriculture. The US had assets worth of three hundred million USD in Liberia.\(^{281}\) However, the cold war politics brought changes to Liberian position as the US’ protectorate, when Tolbert confronted the US by cultivating relations with China and other nations of the communist Eastern Bloc. Soviet, Chinese, North Korean and Cuban diplomats became stationed in Monrovia. In ‘1974 Tolbert accepted economic aid from the Union of Soviet Socialist Republics (USSR), and in 1978 joined with other developing countries in a trade agreement with the European Community’.\(^{282}\) President Tolbert attempted to renegotiate Firestone’s concession and openly criticised the US, ‘one could think that a country 130 years old with a friend having such means as the United States should be far more advanced that she is today’.\(^{283}\) The relationship with the US deteriorated further when President Tolbert refused the bunkering of the US Rapid Deployment Forces at the airport. The Central Intelligence Agency (CIA) and the Pentagon were now prospecting for a leadership change in Liberia. In discussions with US officials, President Tolbert blamed the Soviet Union for the rice riots.\(^{284}\)

Beinart (2003) describes the treatment of Liberia by the US as that of ‘an ugly stepfather’.\(^{285}\) During the conflict, the donor abandoned Liberia. After the 1997 elections, donor agencies withdrew their support from Liberia. Only after the 2002 peace agreement did international NGOs begin to return. Both China and the US have interest in Liberia’s natural resources. China contributed to UNMIL and sent Chinese peacekeepers. The US has reassumed its influence. USAID is the biggest bilateral donor, with an annual aid portfolio in excess of 160 million USD.\(^{286}\) According to interviews conducted among influential GOL officials, donors ‘exert significant pressure’ and USAID is likely to have the most influence because of the funding and historical ties between the US and Liberia.\(^{287}\)

**Socio-Political Changes and Contested Elite Hegemony**

Simultaneous to changes in foreign policy, the absolute political hegemony of the TWP began to crumble. President Tolbert had abolished the compulsory contribution of 10% of government’s employee’s salary to the TWP. Two opposition movements to the TWP emerged. In 1975, the Progressive Alliance of Liberia (PAL) was formed in the US underscoring the role of Liberian diaspora in the US. In 1973, led by Dr. Amos Sawyer, the Movement for Justice in Africa (MOJA) was founded. MOJA was particularly vocal against the Tolbert government.\(^{288}\)

\(^{281}\) Easterly 2006  
\(^{282}\) Global Security.org: http://www.globalsecurity.org/military/world/war/liberia.htm  
\(^{283}\) NTRC Final Report 2009 p.101  
\(^{284}\) NTRC Final Report 2009 p.109–112  
\(^{285}\) Beinart 2003  
\(^{286}\) USAID 2015 p.21  
\(^{287}\) ibid.  
\(^{288}\) NTRC Final Report 2009 p. 111
prominent names in state-building politics originate from the era of opposition to the Tubman and Tolbert administration, among them President Johnson-Sirleaf, Senator Johnson, Dr. Sawyer, former presidential candidate Tubman and ex-president Taylor, just to name few.

In spite of moderate changes in social mobility during both the Tubman and Tolbert era, political power continued to be concentrated in the hands of the Americo-Liberian elite and no power-sharing between the elite and the indigenous population occurred. The Americo-Liberian ruling class stayed firmly in control of economic and political power. The question was, would the evolutionary pace of change have given way to a more revolutionary approach promising a more egalitarian society? Despite his more progressive policies, Tolbert failed to sufficiently address social change and changes in the political process. Former Vice President C.L. Simpson, himself of mixed origin, wrote in his memoir:

Two courses were open to us: One was to merge at the outset the comparatively small advanced elements of the population into the mass of those who, for various reasons, were at a more primitive stage of development and to hope that in due course all would progress homogeneously and simultaneously. The other was to preserve the ideal of western democracy on however small and imperfect a scale and to direct our efforts at gradually improving the system and extending it to broader section of the population. We adopted the latter course.

The settlers had created a state to protect them from the other, the indigenous uncivil population, and elevated themselves from freed slaves to a state elite. The state institutions were instrumentalised to generate political and economic power by exclusion until pressure from the surrounding society penetrated the state boundaries (i.e. demands for political participation within the state). Liebnow (1987) wrote, ‘Whether the institution could continue to adjust to the mounting pressure from within and being off an evolutionary rather than a revolutionary transformation of the social fabric was a question that faced the nation’. Libenow’s observation draws attention to how the boundaries of the state were under ‘the increasing pressure to reproduce of the line of difference’.

Because the executive office had become the indispensable function for the survival of the caste relationship between the Americo-Liberian elite and the indigenous population, it was impossible for any president to move far from the interests of the Americo-Liberian elite, which constituted the presidents’ primary constituency. Still, for all the authority that had accumulated in the hands

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289 Liebnow 1987 p.158
290 Final Report, NTRC 2009 p.74
291 Libenow 1987 p.134
292 Mitchell 1991 p.95
of the executive, neither President Tubman nor President Tolbert were dictators. This type of executive dominance is particularly vulnerable to conflict because the executive controls the composition of the legislature. 293

The political power was not vested in state institutions, but in the elite’s position in charge of the state. The executive dominated political system of ‘oligarchic polity’ had no democratic traditions, no parliamentary traditions, or representation of the rural areas in the national government. Sundiata (2003) claims, the regime of the America-Liberians was saved from external interventions only “to collapse of its own rot half a century later” 294. Bates (2008) postulates that the origin of a state failure lies in the loss of equilibrium. The state fails when predation and corruption offer greater rewards than state administration. 295 Hence, when ‘the president fell—as Tolbert did in the early morning of 12 April 1980—the entire structure of dominance fell with him’. 296 The indigenous population welcomed the removal of the TWP and the hated hut tax. These actions advanced President Doe’s popularity. Nevertheless, despite the change in the executive mansion, the elite stayed in control of the economy.

The Mode of Economy: From Slavery, Plantations, to Concessionary Economic Policy

A brief theoretical discussion outlines how the institutional arrangement and the design of the state have accommodated the mode of economy, first plantations based on free labour, and later natural resource exploitation through concessions with foreign companies.

In Mitchell’s terms the economy means the totality of monetarized exchanges within a defined space. ‘Political economy’ was concerned with the governing of a polity, not with ‘the politics of an economy’. 297 Originally the term government referred to the methods of regulating populations. The modern state and its institutions were formed out of those methods. According to this view, the practice of government formed the economy as a field of political regulation. 298

Acemoglu and Robinson (2012) argue that an inclusive political system is a prerequisite for an inclusive economic system. While economic institutions determine whether a country is poor or prosperous, ‘it is politics and political institutions that determine what economic institutions a country has’. 299 Having studied economic systems, including Liberia during President Tolbert’s era, they conclude that structural conditions, especially the mode of economy, are relatively

293 Smilova and Kolarova 2005 p.5
294 Sundiata 2003 p.340
295 Bates 2008 p.130
296 Liebnow 1987 p.183
297 Mitchell 2002, Introduction
298 Focault paraphrased by Mitchell 2002, Introduction
299 Acemoglu and Robinson 2012; also Fukuyama 2014
stable. Furthermore, measurements of short-term changes can be related to the structural conditions, although these connections are rarely made.\textsuperscript{300} For example, in evaluations of Liberian state-building the statistical analysis often begins from the peace agreement or even later.

Mitchell (2002) outlines the connection between state institutions and economic exchange, and how state institutions structure economic exchange. A state has a territorial nature, characterised by the structure of rules and institutions, which separate the state from the society it governs. Both formal and informal rules govern economic exchange. Property rights depend upon ‘a set of rules and sanctions that determine an individual’s power to dispose of and object in the act of exchange’.\textsuperscript{301} In Liberia, these rule systems are deeply divided and disputed.

Similarly, Liberia’s cultural and social life, and the economy of the earlier republic, were modelled after the US Deep South. The mode of economy was based on coerced labour in plantation agriculture. In the dual economic system, the indigenous economic activities remained largely marginal to the state economy. In the state-building state, they are labelled informal sector, market women, subsistence agriculture, which is then to be supported by aid agencies so that the poor rural population is managed and becomes self-sufficient.

**Natural Resources and Liberian State**

The formation of the Liberian state is inseparable from the organising and capitalising from the exploitation of natural resources. The earlier Liberian state became the machinery,\textsuperscript{302} the instrument of a lean management to regulate access to benefits from the natural resources and labour. President Barclay, talking to Greene in 1935: ‘Once elected and in charge of the machine, why then I’m boss of the whole show’.\textsuperscript{303}

Liberia is known as the *Firestone Republic*.\textsuperscript{304} One of the most extensive explorations of West Africa was undertaken in association with the establishment of the Firestone plantation in Liberia.\textsuperscript{305} Green (1936) argues that the Firestone concession, under which 1,000,000 acres of Liberian territory was leased for 95 years against a loan, was unconstitutional. In 1935, only 60,000 acres were under cultivation and 6,000 natives, supplied by the chiefs, worked in the plantation. From 1950 to 1970, the Firestone Rubber Corporation provided over 60% of the

\begin{footnotes}
\item[300] ibid.
\item[302] Greene 1936
\item[303] Greene 1936 p.95-100
\item[304] Ebo 2005 p.4
\item[305] Hill 2007
\end{footnotes}
GOL’s revenue. Reno (2014) postulates that dependency on one concessionaire fuels patrimonial networks centred on the executive. 306

**Labour and Land**

The strong GDP growth during the mining boom between the late 1950s and the 1970s sustained the otherwise unsustainable economy and funded the government. Still initially, the economic resources of the early Liberian state were predominantly aid and loans, land and labour. 307 During the earlier years of the republic, without any resource extracting industries yet in place, the main source of income was the export of labour. In fact, Liberia was exporting slaves until late 1930s. In 1960s, one-quarter of the labour force was still coerced. While in most economies, wage payments account for two-thirds of the national income, in Liberia the wage payments were less than 20% in the 1950s, and in the 1960s were still only 27%. 308 The indigenous population, as a source of cheap labour, had no significant economic power and was largely excluded from access to markets and economic activities.

Rubber production used more Liberian labour than any other sector. In the 1960s, some two-fifths of the workers in the monetary sector were employed by rubber producers. 309 By the mid-1930s, Firestone was employing 10,000 workers, and by the 1946 that number had grown to over 25,000. 310 To some extent, the establishment of the plantations planted the first seeds of social mobility. A local chief in Grand Gedah County recounted: ‘The companies that owned plantations were forcing our people to go and work there. This scared our people, so they had to start move around’. 311

Labour was provided by recruitment through chiefs. 312 The practice of domestic labour recruitment for the benefit of foreign-controlled corporations ‘and government levies of tribal produce hardly exist elsewhere outside the Portuguese-controlled territories’. The Clower (1968) report notes that other *African-controlled countries* were ‘more concern than Americo-Liberians with achieving higher standards of living for all their people’. 313 Akingbade (1997) claims that the forced labour practices benefited the Americo-Liberian elite and the indirect rule, and ‘merely created avenues for Americo-Liberian officials to milk the interior and to breach the rights of the indigenous Liberians, thereby making enemies of them.’ 314

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306 Reno in Zaum Ed. and Cheng Ed. 2014 p.132-133
307 Brawley 1918 Chapter IX, 2.History (c); Liebnow 1987
308 Acemoglu and Robinson 2012 p.581
309 Gwendolen 1968p.133
310 Clower et al. 1966, 157
311 Posthumus 2007 p.22, also Agemoly and Robinson 2008
312 Gwendolen 1968p.133
313 Gwendolen 1968 p.134
314 Akingbade 1997 p.262
Loans and Aid

Since its inception, the Liberian state has been dependent on external support.\textsuperscript{315} The Americo-Liberian elite was leaning toward the US, which lent money to sustain the otherwise unsustainable state. Green (1936) wrote, ‘America has done worse, for she has lent them money. Without resources of their own, except what they could squeeze out of the unfriendly natives in an underdeveloped interior, they have had to borrow again and again’.\textsuperscript{316}

During Tubman’s era, the American economic aid programme issued 245 million USD in grants and loans, creating a revenue stream for the pro-American elite.\textsuperscript{317} The GOL’s budget grew from one million USD in 1945 to almost 56 USD million in 1968.\textsuperscript{318} Equally so, President Doe’s regime, after the military takeover, returned to a path of dependency on external support and aid, and to the use of state resources to maintain power. According to the NTRC’s report during Doe’s regime, ‘Liberia became the highest per capita aid recipient in sub-Saharan Africa and Doe the highest recipient ever’.\textsuperscript{319} In 2011, Liberia was one of the world’s largest recipients of aid per capita. The aid totalled up to eight hundred times the GOL’s spending.\textsuperscript{320}

Economic Diversification

The state economy was unsustainable. It was dependent on a constant inflow of cash and aid, and on revenues from the natural resource exploitation in a form of granting concessions to transnational companies. Unlike post-colonial states, Liberia did not experiment with the nationalisation of extractive industries, such as the mining sector or domestic cash crop production. While elsewhere in Africa, ‘one of the lasting legacies of the early post-independence period was heavy government intervention, including state ownership of factories, intrusive regulations, and mountains of (usually intentional) red tape’;\textsuperscript{321} in Liberia; the economy remained in the hands of foreign investors. Foreigners owned ‘rubber plantations, iron ore ventures, virtually all commercial banks, retail stores, construction companies and trucking companies. Private investment in domestic enterprises by Liberians remained insignificant and was concentrated in residential housing, small rubber farming, commercial buildings and commercial transport’.\textsuperscript{322} There was no domestic middle class or commercial class to bridge between the two classes.\textsuperscript{323} For instance, Lebanese immigrants have resided in Liberia for decades. Because the

\begin{thebibliography}{9}
\bibitem{:2} Greene 1936 p.95-100
\bibitem{:3} Oritsejafor 2009 p.104
\bibitem{:4} Ibid.
\bibitem{:5} Final Report NTRC p.113–114
\bibitem{:6} USAID 2012 p.2
\bibitem{:7} Mosse 2007 p.102
\bibitem{:8} Varnie 2004 p.45, Clower report 1966
\bibitem{:9} Varnie 2004 p.13
\end{thebibliography}
Lebanese commercial class has no citizenship rights, they have to ‘purchase’ business licences, property leases and an access to the state. The system breeds corruption.

In 1966, an extensive study of Liberian economy, the Clower Report, was published. It characterised the Liberian economy as *growth without development*. Although the elite benefited from the economic growth, the growth was largely unsustainable. The lack of development was integral to the elite’s reluctance to extend the state institutions to the hinterlands.\(^{324}\) The next year, in 1967, the first nationally drafted economic and social development plan was laid out as a part of Tubman’s national consolidation and unification programme. It proposed to eliminate the *caste* type relationship.\(^{325}\) The Tubman’s Open Door economic policy supported economic diversification and participation in global trade. Consequently, social mobility increased and tribal entrants begun to penetrate the honourable class.\(^ {326}\)

In the 1960s, Tubman’s Open Door policy welcomed FDIs and concession companies to Liberia. The three pillars of the Liberian economy were iron ore, rubber and the registration of ships. Primarily, resource extradition was organised through concession agreements with transnational companies. By 1967, over forty foreign companies operated in Liberia.\(^{327}\) Varnie (2004) postulates, that natural resources were *mortgaged* to foreign investors in exchange for the protection of state sovereignty.\(^ {328}\)

The mode of the Liberian economy is characterized by *concessionary economy*, which as a term refers to the source of state revenue. In a concessionary economy, the main source of revenue is from concession agreements with transnational companies who extract a country’s natural resources. This leaves the state independent of domestic tax revenues.

During the Open Door policy, because of economic diversification, pressure to strengthen indirect ruling intensified. The indigenous population provided a source of free and cheap labour for concession companies. Each concession company operated in its own concession area, where it substituted for a state authority by maintaining order, and providing some level of infrastructure and public services. In addition to Firestone, other significant concession areas were Lamco (Swedish) and Bong mines (German).

\[^{324}\] Clower 1967
\[^{325}\] Varnie 2004 p.45
\[^{326}\] Libenow 1987 p.112
\[^{327}\] Liebenow 1969, p.172
\[^{328}\] Varnie 2004 p.63
However, despite the diversification of the economy and the increased demand for skilled labour, the class system persisted. Inherently, the skin colour and origin-based system was translated into societal and economic positions. In essence, Tubman’s policy ratified ‘the division between the great concessionaires and the mass of the people’. While Tubman’s Open Door policy encouraged European and American mining and agriculture concessions to engage in the extraction of natural resources, created a demand for labour and prompted social mobilisation, it simultaneously expanded the opportunities for the ruling class to benefit from the concession agreements. Their monopolistic position to grant concession agreements and distribute benefits and rents from natural resource extradition was confirmed. The economic monopolistic position was protected by the political hegemony of the elite class and its TWP. The state legitimated the elite’s position as state agents to negotiate with transnational companies and to mortgage natural resources. The relationship between the Liberian elite, transnational commercial interests and international donors and lenders created a mutually beneficial equilibrium.

Liberia was governed as a predatory rentier state, which as a political phenomenon is characterised by extreme dependence on external resources and is not conducive to economic development or democratically accountable government because ‘the accountability follows the direction of resource flows’. Still in 2013, during the state-building era, according to the *Agenda for Transformation*, the political economy paper of the GOL, the public sector still spends most of the revenue from natural resource exploitation in marginally productive public sectors, government employment and in consumption. In essence, state-building has not transformed the structural dependency on FDIs and introduced an alternative to concessionary economic policy (i.e. extractive industries owned by foreign nationals extracting the natural resources).

**Decline to State Collapse**

Although the elite lost its monopoly to state institutions in the 1980 military coup, it was still in control of the economic sector. Illustratively, Johnson-Sirleaf, a vocal critic of President Doe’s government and previously imprisoned along with other opposition politicians, was called to handle the donor relationships and to attract aid for the People Redemption Council (PRC). She represented the civilian element. As a former Minister of Finance for Tolbert and as a previous member of the Department of Treasury in President Tubman’s government, she was invaluable in her position as the head of the Development Bank and Investments in convincing the officials

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330 Oritsejafor 2009 p.104
331 Varnie 2004
332 Bayart 1993
333 Shurke 2009 in Paris and Sisks. p.233
334 AfT 2013 p.58
335 AfT 2013 p.57
of the IMF, the WB, and other agencies regarding the future stability of Doe’s revolutionary government.336 Similarly, in her role as the president of post-conflict Liberia (2006–present), one of her main objectives has been to win the support of the IC and to lobby for foreign aid and FDIs.

In terms of state institutions, Doe’s military regime took the position that the constitution was secondary to military degrees. Consequently, legislative acts, judicial decisions and the regime turned increasingly violent. Initially, cold war geopolitics played in Doe’s favour. The mutual defence pact with the US was modified to grant staging rights to the US at 24-hours’ notice at Liberian sea and airports for the US Rapid Deployment Force, reversing changes made by President Tolbert. However, the massively fraudulent elections of 1985 were the beginning of Doe’s downfall. Despite Doe’s efforts to attract foreign assistance, financial aid decreased from 52 USD per capita to 25 USD per capita in 1989. When the aid pipeline was turned off, Doe became increasingly vulnerable. In 1989, after several failed coup attacks, a financially vulnerable and increasingly unpopular Doe was attacked by rebel forces and the Liberian state collapsed.

**Liberian Conflict**

Liberian conflict has been extensively researched and a significant body of literate has accrued around the issue.337 While there is no need to repeat the discussion here, it can be briefly stated which position the work takes. The Liberian armed conflict was not spurred by tribal animosities or ethnic violence, although ethnicity may have been instrumentalised during the conflict to maintain the cohesiveness of rebelling groupings. Instead, the conflict was a product of the complicated pattern of elite corruption and suppression, patron-client governance338, the pure scale of impoverishment of the indigenous population,339 and competition over state power. Furthermore, like most West-African conflicts, the Liberian conflict was related to complicated cross-border dynamics. The 1980 coup has also been described as an indigenous takeover of the state structure.340 In short, none of the single explanations is sufficient as the root cause of the conflict.

However, ‘nowhere has the link between conflict and natural resources been more apparent than in the case of Liberia’.341 The conflict over natural resources management is pronounced in a tiny resource-rich Liberia. The economic dimension of the Liberian conflict and role of the mismanagement of natural resources should not be underestimated. In general, the management

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339 Pham 2004
340 Pham 2004, Meredith 2005
341 Center for International Conflict Resolution 2012 p.5
of natural resources is a root case of conflict in many African countries and is one of the biggest challenges for contemporary peace-building.342,343

It is also pertinent to note that the Liberian conflict was not a sudden outburst of violence, but that the state and its political-economic mode of operations were built on systemic violence and human right abuses. The conflict was created when the settlers landed in Liberia and colonised the indigenous population. In the late 1960s and in the 1970s, two significant changes in the economic sector begun to mount pressure on the rigid institutional arrangements. This latent conflict and violence finally escalated to an armed conflict and the Liberian state collapsed. As several incidents demonstrate in post-conflict Liberia, the violence is just under the surface.344

The literature on Liberian political history acknowledges economic diversification, associated social mobilisation, consequent demands for more inclusive political order and associated political opposition movements, and finally the rice riots345 of the late 1970s.346 However, due to its controversial nature, another aspect has received less attention; namely, the redistribution of benefits from natural resource exploitation and trade, albeit in the form of a warlord economy and associated brutality, broke the economic monopoly position of the elite and also that of the state.

During the conflict, when the younger generation challenged the kinship-based social order and the elites had left the country, the long conflict not only began to dismantle the rigid social arrangements, but also fundamentally changed the arrangement of benefit-sharing from natural resources. In order to maintain their support, the warlords allowed their followers to benefit from trading in resources directly. They shared the money, we all were eating. President Taylor, who has been convicted by the Special Criminal Court for war crimes, enriched himself like all Liberian leaders did, but his way of throwing money around and allowing his supporters to benefit and trade directly, is one of the main reason for his die hard support in Liberia. In fact, his former wife was one of the few senators re-elected in 2014 for the second term. Many of the young rebels were not used to handling cash and lost their money in a matter of days they spent all, ‘they blew it’. A few managed to invest in business or build a support base and, in so doing, climb the social ladder. Some of them were elected to the GOL.

Trade with natural resources prolonged the Liberian conflict, and warlordism was used as a generic explanation for the long conflict. Several scholars have highlighted that access to global

342 Aloe 2007
343 Lanier et al. 2012 p.5
345 Rice is Liberian stable food and the riots begun from demonstrations against higher rice prices.
346 Pham 2004, Liebow 1987, Meredith 2005, Dunn 2009, among others
markets created new avenues to fund civil conflicts. The Liberian conflict has been used as an example of the economic dimensions of conflict. It also coincided with increasing access to global markets. State-building incorporates the economic dimension of a conflict in the form of reforms, anti-corruption measures, control over revenue from natural resources and attracting FDIs as the economic growth strategy. For the purpose of this work, these projects, programmes and reforms need to be seen in the wider context of the Liberian political-economic system in which the state, in the eyes of the IC, externally legitimises the concessionary economic policy, despite the lack the internal legitimacy to sell out resources and land. The position maintained in this work is that the Liberian conflict, armed or latent, continues to be a quest for economic rights.

The economic diversification and consequent social mobility begun in the late 1960s, followed by the benefit sharing aspect of the conflict. These change in distribution and benefit sharing, have not gone unnoticed by common Liberians. The young men who occupied rubber plantations after the conflict were not necessarily just ex-rebels and belonged to conflict networks. Corporations and members of the elite had abandoned the plantations they had previously cultivated, yet the local population felt that the corporations’ and the elite families ‘ownership rights were questionable and subject to a fundamental debate. In post-conflict Liberia, communities request payments for their land and no longer accept the concession agreements ratified by the government. Cockayne and Lupe make a similar point regarding ‘organized crimes’; ‘what is labelled ‘organized crimes’ may at times be ‘a deeper politico-economic system that satisfy the needs and interest of extensive communities straddling the state-society boundary’. Programmes, such as GEMAP, aimed to improve the state’s revenue collection, but consistently fail to address benefit sharing and economic rights. The Liberian discussion, who owns the resources is not yet concluded.

The Carter Center (TCC) summarises Liberian political history as follows, ‘Liberia’s history has been characterized by human right violations, outright denial of the rights of citizens to freely participate in the election process, and electoral fraud. Successive undemocratic governments fermented discontent that in the 1980’s finally escalated into a military coup, violence and civil war’. The state’s failure was followed by a semi-sovereign state, dependent on external support: the UNMIL peacekeeping forces provided security, the economy was dependent on a massive inflow of aid and the concession-based economy sold out the country’s natural resources.

348 Fritz and Menocal 2007b, among many others
349 Utas 2004
351 Cockayne and Lupel 2009, p.153
352 The Carter Center, Final Election Report p.4 2005
Chapter 3:
The Selection of State-Building Partners in Liberia

The previous chapter explored how lines of difference were drawn in the earlier Liberian republic. This chapter proceeds to compare how the boundaries are drawn in the state-building state. It begins by examining the role of systemic denial of access to education as an institutional strategy to protect the elite’s hegemony on political-economic power. The second part introduces the concept of ‘the other’ in state-building. Due to the paradigm of warlordism the labelling and categorization process of domestic politicians and society groups by international actors has been especially pronounced in Liberia. As previously stated, political exclusion plays a central role in the reoccurrence of civil war and in perpetuating a fragile security situation. This is especially relevant for Liberia because the earlier Liberian Republic could be characterised as a quasi-apartheid state. In the practical implementation and execution of a ‘project’ or ‘reform’, societal elements are defined as actors, partners, spoilers, and informal. These various elements can then be included or excluded from participation. In the selection process, which aid funding tends to follow, state-building draws artificial institutional boundaries and excludes the population from building their own state. The last part explains why a typical state-building project, possibly successful in other countries, was controversial and had adverse effects in Liberia. The selection of state-building partners was an extremely sensitive issue. By way of the Transfer of Knowledge through Expatriate Nationals (TOKTEN) project as an example, the chapter argues that a narrow segment of the population was given preference by the international actors as partners in state-building. These key positions allow access to public benefits and control of key institutions and policy choices. Such power invariably translates to additional agent positions, in the concession negotiations process, for example. As a whole the selection process advanced clientelism. In essence, the TOKTEN project undermined organic democratisation processes and democracy support right after the successful 2005 national elections. (Chapter 4)

Denied Access to Education: An Institutional Strategy

At least seven factors implicitly in the formation of Liberia ‘public’ institutions were particularly decisive. First, the elites brought with them the modes of production of the US Deep South (i.e. the caste type political-economic system and plantations economy based on forced labour). Second, the numbers of settlers were so small that they had to seek protection and confined themselves to Monrovia and their plantations. Third, the investments in state institutions were minuscule. In reality, socio-political order was organised around clientelism. In rural areas, intermediates facilitated the economic exploitation of the indigenous population. Fourth, the

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353 Call 2012, Introduction; see also Fukuyama 2014
abundance of natural resources enabled an extractive and predatory economy, which later evolved into a concession-based political economy. Liberia has not been forced to explore alternative economic policies. Fifth, due to the exceptionally rich soil and high rain falls, modernisation of agricultural production was not necessary. Additionally, the chain of traditional farming knowledge has been disrupted. Furthermore, since the 1930s, Firestone forced its workers to purchase imported rice, which caused a decline in domestic production and Liberia became dependent on rice imports. Import licences were monopolised and distributed among the elite or selected supporters. Sixth, Liberia did not experience a decolonisation period. Consequently, there has not been any disruption in the political order. Seventh, because of the abundance of natural resources and the underdeveloped agricultural sector, no significant modernisation or industrialisation has taken place. There have been no large-scale industrial or other employment opportunities. Systemic coerced labour existed until the 1960s.\footnote{In the 1960s estimated one quarter of the labor forces still worked in a slavery like conditions. (Acemoglu and Robinson 2012 Kindle edition 252/523)} The lack of employment opportunities and consequent lack of wide-scale social mobilisation inhibited the emergence of new social classes and the formation of a Liberian middle class.

All these factors led to institutional rigidity and the state boundaries were fortified. Both systems of social order, the formal state and indigenous forms of governance, existed in their own realities. The state boundaries excluded the indigenous population, which reverted to a hostile withdrawal from predatory state institutions and resorted to localised traditional structures of governance. While the elite may have protected itself from the surrounding society and political risk, the isolation also fortified the caste system and prevented any institutional changes that could have harness political-economic development.

The systemic denial of access to education, the poor educational system, and the miserable transport network and communication infrastructure are no coincidence; they are an institutional strategy. The lack of communication and transport infrastructure combined with high levels of illiteracy prevents the spread of information from one corner of the country to the other and hinders collective mobilisation and action. In simple terms, how do you reach a man, who cannot read, owns no radio (and has no electricity for that matter) and who lives in a village inaccessible by road?

This section describes how the systemic denial of access to education has become an institutional strategy used to exclude the indigenous population from political-economic power. During the state-building era, the educational sector has shown little improvement and has remained among the most heavily corrupted of public sectors. The low penetration of literacy skills and low human
capacity inhibits economic growth, social development and is interconnected with other state-building sectors.  

In the past, access to education and the educational system has played an instrumental role in preserving the divide between the indigenous population and the settler elite. Since the inception of the Liberian state the indigenous population has been systematically denied access to education. While the elite overwhelmingly educated their children in the US, the natives were only sent to school to *civilise* them so that they could work as servants. In the earlier republic, the systematic denial of access to education and the consequent low penetration of literacy skills ensured that the natives were not able to claim civil servant positions or to fully participate in the economy and political life. Subsequently, due to the lack of human resources invested into education, the output of the indigenous population on a per person basis has remained economically insignificant, thus making the indigenous politically easy to ignore. This educational bias was strategically used to protect the elites’ hegemony on state power.

This systemic denial of access to education has been a defining factor in the Liberian political system with far-reaching consequences: The low penetration of literacy skills leads to systemic exclusion from political and economic life, exclusion from the formal economic sector and exclusion from government positions. The indigenous are unable to obtain the formal qualifications for jobs within the government or concession companies, and consequently have little in the way of representation in the civil service sector, not to mention higher level government positions. In a patronage-clientelist system, the effect is multiplied as the indigenous population, unlike the elites, cannot award jobs and positions to their friends and family members. Furthermore, the exclusion from better paying jobs perpetuates the poverty of the indigenous class, hinders their meaningful political participation and worsens the problem of collective action. Moreover, a lack of education translates into poor feeding practices and subsequent malnutrition, thus further diminishing human capacity. In essence, the corrupt and poor-quality educational system is instrumentalised to fortify marginalisation and inhibit social mobility.

In post-conflict Liberia access to education is denied in soft terms. Approximately 23% of the national budget for the 2013/14 fiscal year was allocated to the education sector, including donor contributions. Although the Ministry of Education has one of the largest allocations in the

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356 Liebnow 1987
357 WHO Liberia (accessed 10.3.2015), USAID 2014
358 The US State Department, 2014, Liberia: Investment Climate Statement 2014

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national budget, the quality of education is consistently substandard. There is no pre-primary or junior high school teacher training available and less than 30% of primary teachers are trained.\textsuperscript{359}

The educational sector has remained consistently one of the most ineffective and corrupt public service sectors in Liberia.\textsuperscript{360} Higher level officials in the Ministry of Education (MoE), the Ministry of Finance (MoF), rural civil servants and banks operate \textit{syndicates of corruption} and payroll fraud schemes. Non-existent teachers and fake identification numbers are added to the payroll. The MoF Pay Teams, which distribute the paychecks, keep a portion of the paychecks.\textsuperscript{361} The Liberian Teacher Training Programme’s analysis suggests that there may be over four thousand ghost schools on the MoE payroll. Some schools list one hundred teachers for one hundred students, whereas other schools may have only one teacher for one hundred students.\textsuperscript{362} While some teachers who do actually exist rarely show up to work, it commonly happens that teachers who do work do not receive their paychecks. Although basic education is supposed to be free, many parents are paying fees.\textsuperscript{363}

In the president’s own words, the Liberian educational system continues to be ‘nothing but a mess’.\textsuperscript{364} The USAID governance report states that it is widely acknowledge that the president could implement any policy she supports.\textsuperscript{365} Nonetheless, in a decade there have been no sincere efforts to build the capacity of the educational sector. ‘The problem of education goes deeper and beyond the lack of qualified teachers, the lack of facilities and supplies, and the lack of incentive’.\textsuperscript{366} The problems of the educational sector are common knowledge and nobody assumes that a candidate presenting a university degree necessarily has even the most basic literacy skills. For example, Liberian high-school students have consistently performed extremely poor in the West African Standardised High School Test.\textsuperscript{367} In 2013, when university student applications were reviewed by an external consultant, none of the 25,000 university applicants passed both a math and an English entrance exam.\textsuperscript{368} Corruption, patronage and bribery, teacher absenteeism and sex for grades are widely reported. In 2012, out of 3,000 engineering students, only 30 were able to pass the exam.\textsuperscript{369} Applicants with impressive degrees cannot read or write

\textsuperscript{359} WB 2010 p.16
\textsuperscript{360} USAID 2015 p.30
\textsuperscript{361} USAID 2015 p.38, p.16-17
\textsuperscript{362} ibid.
\textsuperscript{363} ibid.
\textsuperscript{364} USAID 2015 p.38
\textsuperscript{365} USAID 2015 p.17
\textsuperscript{366} The Executive Mansion 2015
\textsuperscript{368} Smith 2013, All 25,000 candidates fail Liberian university entrance exam, the Guardian
because anybody can purchase an authentic certificate for less than US$20. In 2013, the adult literacy rate stood at 42%.

The lack of adequate human capacity is a significant hindrance to state-building reforms. For example, more than half of the staff of the GAC in 2014 lacked appropriate degrees in finance, accounting or auditing, but the GAC had 33 janitors, one for each room and one for every 13 staff members. Generally, many civil servants in Liberia do not have sufficient literacy skills, with many completely incapable of reading or writing.

In the state-building state, low human capacity and high levels of illiteracy continue to hamper economic activities and limit wider participation in political process and state-building. For instance, citizens do not have access to basic information and lack knowledge of their rights. Consequently, as the Agenda for Transformation (2013) claims, citizens do not have sufficient civic education to meaningfully contribute to issues central to state-building and the institutional design of the state, such as the debate over decentralisation or constitutional amendments necessary to modernise the state.

The ‘Other’ in International State-Building

International post-conflict interventions may unintentionally recreate the other, especially in situations where countries are referred to as being fragile and failed, or labelled as post-conflict in terms of international relations, as such terms facilitate the subjection of the country to securitisation and state-building. In this fashion, the state-building discourse creates the others in both arenas, internationally and globally, as well as at the local level. In post-conflict settings generally, due to the fragile security situation, debate over local values, democracy, the rule of law, security and legitimacy may not be tolerated. In state-building Liberia, priority was given to rapid securitisation and stabilisation, thereby allowing little space for domestic debate, nor for organic democratisation processes.

A narrow state definition draws a line, ‘internally within the networks of institutional mechanisms through which social and political order is maintained’. Because elements seem to penetrate the state on all sides the boundary between state and society becomes difficult to determine. The state is given a narrow definition, personified as a policy-making actor, while other

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371 USAID 2015 p.22
372 USAID p.27
373 AfT 2013 p.102; Tripp et al. 2012 p10
374 AfT 2013 p.102
375 Mitchell 1991 p.77-78, p.86
376 Mitchell 1991 p.77-78, p.86
377 Mitchell 1991. p.84-86
elements are organised society, civil society and informal structures. It becomes difficult to tell where the state ends and the society or informal or traditional begins. In state-building, this line between various institutional mechanisms can be appropriated to distinguish who gets to participate in the state-building exercise and who remains an informal actor or even a spoiler. As Mitchell (1988) notes, ‘political subjects and their modes of resistance are formed as much within the organisational terrain we call the state, rather than in some wholly exterior social space’.  

While peace-building is defined as support for the transition from war to peace, state-building is defined as ‘the reconstruction of the core structures and institutions of the Western Weberian state’. A key point in these interventions has been the imposition of what has been termed liberal peace, ‘a set of measures designed to liberalize the economy, modernize society, introduce democracy, and induce political stability’. It follows, that the actors are analysed from the position they take vis-à-vis the liberal peace project, defined either as spoilers or change agents, drawing attention to the transnational actors’ ‘unwillingness to be political’. Liberian state-building could be described as a liberal peace, a phantom state, in which local actors are evaluated against the state-building domain.

The restructuring or building of the other (i.e. the state) begins with the selective identification of local counterparts and partners. The selection of partners determines whose state is under construction and who gets to participate in its design. The GOL, and more specifically the executive branch of the government, has been selected as the reform partner in the exogenous state-building enterprise. Berdal (2009) observes the bias for state-like mechanisms. UN bodies often end up confronting special state-building challenges with a profound sense of unreality, as if one is dealing with properly functioning, rationally bureaucratic institutions rather than neo-patrimonial political reigns.

Heathershaw and Lambach (2008) observe that ‘the reliance upon fixed and agreed procedures in a clearly defined political realm, characteristic of traditional political framework (even liberal ones), tends to promote a regulation of differences that contributes to the fixing of static and limited sense of identity and to the marginalizing of the “other”’. The IC and donors may introduce terms such as spoilers, warlords, ex-combatants, youth, women, or the government ‘in

379 Fukuyama 2004 p.xvii, Call Ed. 2008, among many others  
380 Heathershaw and Lambach 2008 p.272  
381 de Guevara 2010 p.116, Stedman 1997  
382 Mitchell 2002  
383 Heathershaw and Lambach 2008 p.273–276  
384 de Guevara 2010 pp.116–117  
385 Berdal 2009 p.24–16  
386 in Berdal and Zaum 2012 p.118  
387 Heathershaw and Lambach 2008, p.268–270
the search for objects of, and partners for interventions”. The Liberian post-conflict society has been organised according to these categories in order to subject it to international state-building. Arguably, the choice of partners is always political. In its search for partners and objects, state-building introduces manageable categories, draws boundaries in the fabric of society and begins to exclude society elements from the *formal* state subjected to state-building. In so doing, state-building excludes not just the population, but also their representatives from building their own state.

Whereas the executive has been championed by the media and described as *the reformist or the iron lady* and awarded a Nobel peace prize, opposition politicians and legislators have been labelled as *spoilors, incompetent* rent seekers, *Taylor-supportors* or illiterate. The IC supported Johnson-Sirleaf because, among the Liberian politicians, she was the easiest to relate to and had established relationships with donor community and the US for decades. Although she allegedly had financed coup d’état attempts before financing Charles Taylor, she was seen as the morally righteous leader for Liberia. In 2011, the ICG wrote, ‘President Johnson Sirleaf’s personality and earlier international career reassured external partners that she had the political will to build a new Liberia’, but the legislature is ‘notably, […] peppered with former warlords and NTGL members’. The IC was uncritical towards Johnson-Sirleaf’s political past and personified state-building reforms around her. With the strong support of the IC during her first term, she has gained unchecked executive power. Toward the end of her second term, however, the IC, including international advocacy NGOs and even the US, have become increasingly critical of the government’s nepotism, corruption, and executive dominance, as well as lack of political will.

In general, the opposition has been excluded from state-building, and the poor and ex-combatants are managed by subsistent livelihood projects and reconciliation programmes. The traditional chiefs and their treatment in the framework of state-building are an example of this confusion. Their role in state administration is left unclear. Chiefs are not really state officials, yet they are on the payroll. They linger between traditional structures of governance selected by community members, but are paid by the state administering communal land rights and traditional justice.

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The political power bargaining is shaped by the IC, by choosing its partners in state-building. The IC categorises domestic politicians as reformist, spoilers, and ex-warlords, ignoring the fact that they all might represent the same group of recycled political leaders. Perceptions of local elites may be based on superficial characteristics, such as language skills, a specific set of western credentials, such as education, use of donor vernacular (reform, civil society, markets), or identification of themselves as reformers. This selection creates information asymmetry, which further determines who gets to participate in decision making and state-building. Moreover, the evaluation of state-building experience can be distorted toward the elites’ experience and the way the elite prefers to feed information. Richmond (2009) observes that local elites tend to have a substantively different experience than local non-elites. Nevertheless, data collection on parameters of state-building is often limited to local elites who are easily accessible, have a formal education, speak English and have access to information and power. In comparison, poverty, illiteracy, isolation and marginalisation limit data collection among the non-elite population.

Call (2008) observes that international actors may even circumvent capacity building by shaping strategies around a western-educated ‘reformer’, a notion which is worth exploring because the first elected post-conflict Liberian president is a former member of the IC. To champion the first elected African female head of the state, gender equity was translated to female and used as a qualification for appointed positions, to the extent that the integrity of the Ministry of Gender has been openly questioned. In general, expatriates were perceived as educated technocrats (TOKTEN).

Transfer of Knowledge through Expatriate Nationals
The educational bias persists, peculiarly in post-conflict Liberia. A CV, a curriculum vita, is a curse word in Liberia with this phrase resulting from programmes like the Emergency Senior Executive Service Project (ESESP) and Transfer of Knowledge Through Expatriate Nationals (TOKTEN). The word CV indicates qualification requirements for government, public sector and donor funded positions, many of which exclude those who had stayed in Liberia for 15 years and survived the conflict. Comparatively, both in East Timor and Liberia, a set of elites ‘neither international nor purely domestic’ exists. These elites consist of recycled elite and returning exiles, many of which feature prominently in the state-building process. Those who escaped the

397 Narten in Paris and Sisk 2009, p.261
398 Richmond 2009 p.334
399 Millar 2014 p.22
400 Call 2008 p.9
402 Jensen in Call Ed. 2008 p.135
conflict and returned from the US or Europe were able to present a CV indicating the fulfilment of educational and professional requirements, fill positions and be prioritised again. Consequently, the indigenous population felt that their lower educational levels were once again being used as a justification to exclude them from newly created civil servant positions, committees, and from the state-building of their state.

The TOKTEN is an example of a standard international programme implemented in post-conflict states. It is justified by the need to fill the human capacity deficit created by brain drain during prolonged conflicts. Nevertheless, TOKTEN’s usefulness in Liberia should be re-evaluated in light of the systemic denial of access to education and consistent failure to improve the educational sector. TOKTEN, which appears to be perfectly logical and justified in theory, had entirely different connotations and consequences in the Liberian setting, in which educational bias is commonly used in politics.

Likewise in the earlier republic, public office is a gateway to important sources of patronage, government positions for relatives and supporters, exemptions from taxes, free housing, trips abroad, and perhaps most importantly, access to the president’s favours, and in the acquisition of land in the hinterland. It follows then that one of the major aspirations of the average Liberian is to gain access to a public office of some significance. The ruler’s human resources policy plays a key role in the staffing the administration, making strategic choices about who controls state institutions and whose institutional memory take precedence.

Shortly after taking office in 2006, the president annulled all concession agreements, claiming that this was a condition of GEMAP. In a similar fashion, the president also retrenched hundreds of government employees claiming that she was cleaning the ghost workers from the payroll; some observers argue that these moves served the president to empower herself ousting some of the parallel authorities that have challenged central-state power since the Liberian civil war in the 1990s. Bliesemann de Guevara (2010) argues that when seen from this angle, GEMAP may have initially contributed to ‘reversing the extreme fragmentation of state power, yet it was unsuccessful in bringing about a liberal-democratic state as it strengthened the traditional centre of hierarchical patronage, i.e. the president’. Several years since the GEMAP was concluded, the structures have again fragmented as every agency competes for power positions. Nevertheless, personnel are appointed by the president and serve under her discretion.

403 Liebenow 1969 pp.134–135
404 USAID 2013, Bilseeman Bliesemann de Guevara 2010
405 De Guevara 2010 p.112, see also Andersen
In 2006, TOKTEN was launched to fill the positions in the cabinet and state agencies. In the state-building framework, the TOKTEN programme was packaged under the Interim PRS (2006) and sold as a Liberia National Capacity Development Strategy (2011).

TOKTEN was initially funded with US$2 million by donors (UNDP and USAID) to create an immediate influx of professional expatriate nationals who presumably had the professional capacity and fulfilled the educational requirements (i.e. technocratic experts).

The initiative was justified by a massive brain drain during the conflict and the low educational standard of public sector employees. At the time, only 14.4% of Liberian public sector employees held a graduate degree or above. From 2006 to 2008, TOKEN recruited over 125 public sector employees, including the Ministries of State, Commerce, Education, Foreign Affairs, Health, Justice, Labour and Planning and Economic Affairs, the University of Liberia, Civil Service Agency, National AIDS Control Programme, John F. Kennedy Hospital, National Investment Commission, the Liberia Telecommunications Corporation as well as the Liberia Reconstruction Development Committee (LRDC); in other words, key position in the government.

The TOKTEN oversight committee is comparable with other independent commission in general. Most include donor representation and ministries or other agencies. TOKTEN was implemented through then the UNDP Direct execution (DEX) Service Centre. A project implementation committee consisted of members from the Civil Service Agency (chair), the UNDP (co-chair), and the ministries for planning and economic affairs, while the state was represented through the Liberian Reconstruction and Development Committee, and the GRC.

The number of independent commissions and agencies in Liberia has mushroomed. They have been tasked with some of the most crucial reforms, including governance, law and land reform, anti-corruption and the oversight of state-owned enterprises (e.g. petrol, electricity, oil), resulting in the creation of powerful positions for the executive’s allies. Many of these commissions have been chaired either by the president herself (e.g. the Economic Governance Steering Commission [EGSC], the LRDC) or by her appointees. Legislative functions have been handed over to the independent commissions. This practice undermines the constitutional division of powers and checks and balances. Laws have been prepared between the executive, the

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406 GOL, the MPEA 2011
commissions and the IC without proper consultation with the House, subject area experts or the civil sector. The House is expected to pass these bills. In the process, elected representatives become secondary to the bureaucratic-technocratic administrative functions of the state. Consequently, the form of government is not a democracy, but rather a technocracy.

The main criticism against TOKTEN is that in order to assess and modify pre-existing institutions, public servants and external advisers need to understand those institutions, their norms and rules, as well as public needs and demands. Institution building can only be successful when it identifies and is answerable to public demands and needs. Such institutional mapping ought to catch pre-existing practices.\[^{410}\] This was not the case with those recruited and paid by TOKTEN to return to Liberia. After 15 years of conflict and one transitional government term, the returnees were disconnected from post-conflict realities. They met a country they had never seen before. Some of them had left in the 1970s before the coup or during Doe’s presidency. A younger generation of professionals returning from the US had never worked in Liberia.

Because returning expatriates lacked even an elementary understanding of the post-conflict society, it came as no surprise that in the long-run TOKTEN failed to build sufficient local human resources and institutional capacity. In 2013, before the upcoming 2016 presidential elections, USAID conducted extensive stakeholder interviews to assess the political economy and governance situation. The *sensitive but unclassified* Liberia Governance Stakeholder Survey was leaked to the press and caused considerable debate over the competence of the government:

*…kinship ties among those elites are strong, and everyone knows one another and their personal and business affairs. There is a cultural trend towards hiring people that you know well and not creating a stir when a family member, friend, colleague, or even an acquaintance does something that is clearly wrong or illegal.*

As of 2014, the elites comprised less than 10% of the Liberian population and yet they still control Liberia much like they have for the 150 years prior to the conflict. Elite members fill the most lucrative government positions in ministries, agencies (e.g. National Port Authority, General Executive Service Agency), commissions (e.g. GRC, Land Commission, Law Reform Commission, AAC, GAC), in SOE (e.g. National Oil Company, Liberian Petroleum Corporation, Liberian Electricity Corporation, etc.). These officials further award their friends and clientele, who are also members of the same elite cadre, with lower-level positions.\[^{411}\] Government positions create a pathway to economic and political hegemony.

\[^{410}\] Jensen 2008 in Call Ed. p.131
\[^{411}\] USAID 2015 p.10
The government payroll in Liberia is ‘dominated by syndicates of corruption that operate at all levels of the public administration’. It follows that the government payroll is increasing and that there is no sincere political will to implement public financial management to control it. The GOL is the largest employer. In 2014, thirty-six thousand civil servants were on the official civil service payroll, which according to the USAID stakeholder survey (2014), accounts for 40% of overall government expenditure. Four separate public payroll systems lack internal controls and allow for an extraordinary level of discretion. For example, in addition to actual employees, the syndicates operate payrolls of ghost employees. Ministries and banks systematically conspire and as a reward split the profit. They often carry out these activities with the blessings of senior officials and ministries who may order a ghost to be put back on the payroll. The purging of ghost employees primarily serves the purpose of getting rid of disloyal and problematic individuals.

In addition to the payroll, about 20% of civil servants receive allowances paid in US dollars. Allowances paid to some ministries and agencies can be three times that of an employee’s annual salary. The allowances are so beneficial that some employees are not even on the payroll, but only paid in allowances. The phone cards or gas coupons paid out as allowances are commonly sold. The market for gas coupons is organised and businesses are run based on these allowances. For example, a specific petrol station chain accepts the government petrol coupons. These allowances constitute a form of currency and feed the reciprocal patronage and clientele networks. When an official receives his allowance, he is obligated to distribute it down to members of his clientele.

To set the payroll scandal into a context, the 2005 monthly salary for most civil servants was around US$15. In 2006 it raised to US$30, and in the mid-2007 it was around US$50. Meanwhile local employees by international NGOs were paid US$200. In the 2006/07 fiscal year the total wage bill of the civil service was budgeted at US$46 million. In 2007/08 fiscal year the provision was US$70 million. The size of the civil service payroll has been consistently around 42,000. The size of the civil service has been fairly constant, but the salaries and allowances have grown:

The Liberian Government, since its ascendency to power, has collected US$3.1 billion in revenue, and that 60 percent of that money is being spent on government administration which includes

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412 USAID ‘sensitive but unclassified’ Liberia Governance Stakeholder Survey. Method: A nine member team of American and Liberia researchers conducted an extensive qualitative research interviews with more than 100 people in Liberia from January 30 to March 7, 2013. http://futurepresent-past.blogspot.co.uk/2014/08/liberia-governance-stakeholder-survey_27.html;

413 USAID 2015 p.23
414 USAID 2015 p.16-17
415 USAID 2015 p.31-32
416 WB 2007 p.5
417 WB 2007 p.37
allowances, salaries and other benefits to government officials which represents 40,000 people out of the four million population.

(Finance and Development Planning Minister Amara Konneh, in a meeting of Liberians in the United States, April 2015)  

Because civil service positions provide open access to public and private resources, which can be capitalised to recruit clientele, public sector positions function as a stepping stone to political power. In this fashion, the implications of TOKTEN did not end with the handing over of government positions to returning members of the elite, but also enabled them to extend and re-establish their position in charge of the state.

Generally, commitment entails ‘those connections on which people rely when engaging in long-term, high-risk and socially contingent activities’. The primary orientation of the returning expatriates was towards the US rather than rural Liberia. Unquestionably, Americo-Liberians were able to skilfully navigate donor politics and state-building frameworks far better than their indigenous counterparts, who had spent their conflict years in Liberia. Consequently, the recycled elite were further able to direct projects and resources for their own benefits. Critics also claimed that those benefiting from TOKTEN were unqualified, hugely overpaid and biased against the indigenous population.

A more reasoned criticism would question how feasible a selective personalised programme like TOKTEN is in a society which is organised around the principles of clientelism. As the prevailing form of social organisation in Liberia, clientelism distorts accountability and democratic relationships between the political and the administrative, because technocrats are not chosen based on their merits and accountability, but rather based on reciprocal network arrangements making them tools to be instrumentalised by partisan politics. Whichever is the case, TOKTEN amplified class conflict and compromised confidence in the administration.

Similar programmes have been initiated in other countries: Bosnia and Herzegovina, Lebanon, Mali, Pakistan, Palestinian Territories, Rwanda, Syria, Sudan, among others. Also, other states undergoing state-building have experienced a returning elite power capture. As in Liberia, the East Timorese elite was neither purely domestic nor international. Jensen (2008) maintains, that the ‘contribution of this group to East Timor’s post-independence phase are questionable’ because they came from a lusophone background and were eager to establish formal statutory systems.

419 Tilly 2004 p.47
420 Clapham 2011 p.80
421 New Republic, Friends Fall Apart - Ex-Ellen Govt Official Turns ‘Sword’ On Her and Others Dr. Vandi in New Republic, 12.4.2104 “were in the recent past unemployed, and/or holding menial jobs and occupying marginal positions in the United States, the European Union and the Diaspora” http://allafrica.com/stories/201405120887.html (accessed 22.1.2015)
giving much less attention to traditional systems. In East Timor, less than 5% of the population speaks Portuguese.\footnote{Jensen in Call Ed. 2008 p.135, see also Chesterman in Berndal Ed. and EEconomicus Ed. 2007 pp.202-204} Also in Liberia, many indigenous do not speak Liberian English, and even fewer still speak Standard English, which is used in the courts and government documents. International state-builders have difficulties understanding Liberian English and hastily confused it with being poorly qualified. Jensen (2008) observes, ‘some would argue that few measures can alienate people from public institutions more effectively than to create language barriers to access’.\footnote{Jensen in Call Ed. 2008 p.135} In East Timor, the language barrier was created when the returning elites took over the state institutions. In Liberia, the language barrier was created with the establishment of the republic and carefully cultivated to ensure that no government documents were translated to the indigenous languages as spoken by the majority of citizens. Moreover, the elite has overwhelmingly sent their children abroad to be educated. These language differences have formed a distinct cultural border between the elites and the indigenous.

While this might not be the case in other post-conflict countries, some argue East Timorese elites are uncommitted to informal customary systems, thus leading to them being systematically undermined.\footnote{Jensen in Call Ed. 2008 p.135} In other words, by handing over their state institutions to the elites, institutional choices were made without the consultation or interests of the indigenous. Similarly, in Liberia preferences were given to statutory institutions and TOKEN was instrumentalised to occupy key government positions. The former Auditor General accounts in an interview about his selection to the position and motivation to stay in it:

> I wanted to keep the relationship with the president. I know her very well. Most of the people in the cabinet come from her village: the Defence Minister, the Finance Minister, he was then Budget Director, Gender Minister. The Vice President and my father were good friends, the president’s son, another good friend.\footnote{Morlu in Blair 2009 p1.7}

The challenge for expert recruitment, appointment and for governance in general is ‘that there is no distinction between a civil servant and a politician. Everybody is political’.\footnote{Morlu in Blair 2009, p.12} Donors were not just naive, they were overwhelmed by the need to build capacity and, in search of a quick fix, they viewed the Americo-Liberian elite as a resource pool.

Millar (2014) writes, if ‘projects administered for the provision of employment, opportunity, and local empowerment are instead experienced as disempowering, alienating, and distributive, then those projects will potentially have negative and destabilizing effects’.\footnote{Millar 2014 p.19} Given the systemic
denial of access to education and the deprivation of opportunities, TOKEN was experienced by the indigenous population as provocative and condescending, a bipartisan programme that contributed further antagonism, and not as reconciliatory or capacity building as intended. In 2014, a USAID governance report concluded that the issues that drove Liberia to violence remained just *under the surface*. If the exclusion of the indigenous population from state institutions is not addressed, ‘the potential for renewed conflict remains high’.428

The next chapter will undertake to discuss three major priorities of international state-builders: the securitisation of the state, the legitimation of the government through elections, and public financial management capacity building to restore revenue collection and debt servicing.

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428 USAID 2015 p.9
Chapter 4: Liberal and Electoral Democracy

Elections are considered a necessary precursor to state-building, strengthening the legitimacy of the state.\textsuperscript{429} In theory at least, elections produce elected leaders for the IC to work with. Legitimacy-focused state-building is a recent paradigm in the state-building discourse. Elections are one method of legitimising the political process and the government.\textsuperscript{430} This chapter proceeds to outline how legitimacy is obtained, sustained and consumed within a given society,\textsuperscript{431} and how liberal and electoral democracy is consumed in the post-conflict society. This chapter explores links between legitimacy and democracy in the framework of Liberian state-building, and asks if the legitimisation of the state is possible through elections. Nonetheless, the question must be asked, can an oligarchic system be transformed into a democracy without the internal legitimacy of a state? How do elections, which are often seen to measure the level of democracy, relate to the internal legitimisation of a state? Or does the argument hold that elections are only used to certify an internationally recognised government? Before discussing Liberia’s post-conflict elections, a theoretical framework of the liberal democracy agenda in state-building is provided. The chapter proceeds to outline the democratic support that preceded the 2005 national elections and the role of the IC in orchestrating elections. Following sections describe how the political landscape changed in the period between the 2005 and 2011 national elections. It appears that the involvement of the IC has not advanced multi-party institutionalisation. Comparing the political landscape and the results of the 2005 and 2011 elections reveals that, despite the support for democracy rhetoric, state-building may not have been supportive of the emergence of organic democratisation processes and multiparty institutionalisation. Executive dominance was re-established between the two election cycles, including control over the House. The last section of this chapter argues that the refusal to conduct local elections was a tactic intended to ensure that local officials remained submissive to the executive. Moreover, the cost of elections has been allowed to become prohibitive with regard to wider representation. It could be argued that the neoliberal international state-building framework allows little space for domestic policy options. Given this lack of realistic social and economic policy options, the electorate votes based on clientelism and tribalism. In essence, domestic politics reverts to personalised clientelism and tribalism. This makes the rural communities easier to ‘manage’. Localised and personalised politics inhibits collective action and silences questions over land rights and benefit redistribution, thereby making the commercial land acquisition and operations of extractive industries cheaper and easier. The ‘continuity’ and ‘predictability’ of the administration can be marketed as a secure

\textsuperscript{429} OECD, 2010b Putzel et.al. p.49
\textsuperscript{430} Papagiannis in Call Ed. 2008 p.60
\textsuperscript{431} Donais 2009 p.20
investment environment to attract FDIs. This chapter links the failure to tolerate and to nurture organic democratisation tendencies to the choice of economic policies.

**Electoral Democracy**

Elections provide a transition point from peace-building to state-building. Woodward (2007) argues the most striking implication of many aid policies is their position on democracy. While the economic-conflict school warns against the premature promotion of democracy, the political-regime school sees the promotion of democracy as essential from the beginning. The question is in the right sequencing of different components. Alao and Olonisakin (2000) state that the absence of reliable structures through which conflicts could be mediated is a factor in the slide to violence, ‘peacemakers in such environments must examine ways of not necessarily returning these countries to their pre-war state, but of creating strong and accountable institutions of governance that will manage group demand in a just and equitable manner’. Sen (2010) defines a peaceful transition from an authoritarian to more democratic governance as a process of internal dialogue in which public reasoning elaborates on the idea of democracy. Bratton and van de Walle provide an election-based definition for democracy, ‘at minimum democracy can be defined as a form of political regime in which citizen choose, in competitive elections, the occupants of the top political offices of the state’.

A minimalist approach to democracy does not include the principals of rule by people, which is instead verified by the process of democratic elections. In this type of electoralism, elections are used as a proxy to democracy. On the contrary, the comprehensive consultative concept of democracy cannot be satisfied only by elections. However, in absence of any other measures, elections remain a method to certify a democracy in a post-conflict situation and to legitimate a non-democratic political system.

**Democratic Deficiency**

Fearson (2011) postulates that countries with partial democracies run a greater risk of violence than democracies or autocracies. The earlier Liberian republic provides an example of such a partial democracy, a hybrid form of governance, neither a totalitarian autocracy nor a democratic system. The system is still a hybrid political system, ‘neither fully democratic nor full

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432 Woodward 2007 p.153
433 Alao and Olonisakin 2000 p.25
434 Sen 2011 p.326
435 In Manningen 2005 p.708
436 Richards and Gelleny 2007 p.505
437 in Anten et al 2012 p.19
authoritarian’ and the country is ‘at stalemate’. Nonetheless, political exclusion was systematic. In fact, until ‘1963, 97% of Liberians were not permitted to vote’.

At least six factors inhibit democratic transition in post-conflict Liberia. First and foremost, Liberia lacks a democratic tradition. Second, despite the donor rhetoric for decentralisation, the Liberian government is highly centralised. Third, state-building reforms are centred and personalised around the executive branch of the government. The legislature is side-lined in its attempts to exercise its oversight functions. Fourth, external conditionality directs policy-making. Aid dependency and conditionality narrow the selection of political platforms available for parties, ‘leaving little room for inter-party competition based on economic ideology or major political changes’. Fifth, poor access to information and low human capacity hampers the meaningful participation of citizens in the democratic process. Sixth, Liberia is a clientelist society, whereas clientelism is an earlier form of democracy.

Electoral processes are assumed to address economic mismanagement. Economic policies are supposed to transform significant parameters, such as labour relative to capital or income distribution, but the state dominance over the economy and weak private sector creates a situation in which the distribution of income is often not affected at all. Instead, only the degree of access to resources controlled by the state is modified. Further, the lack of flexible pluralism, limited private sector, and predominance of state involvement in the economy limit socioeconomic change and pluralism.

IFIs guide macroeconomic policy-making in post-conflict Liberia. The claim that politics is personalised is directly linked to the limited policy options. Because the state-building political-economic framework does not allow for alternative policy options, the role of ideology in a political party’s formation remains understated and constrained by international economic-political models and conditions. In other words, the range of economic policy positions available to Liberian political parties is severely limited by external conditionality. Furthermore, in post-conflict Liberian politics, democracy is confused with the right to press for benefits, a power struggle between the executive and the legislative, and individual freedoms without citizen obligations. In this context nepotism, cronyism and corruption prevail.

438 Tripp et al. 2012 p.10
439 Ebo 2005 p.4
440 Manning 2002 p.720
441 AfT 2013 p.x
442 Fukayama 2014
443 Acemoglu and Robinson 2008
444 Manning 2002 p.707
445 Tripp et al. 2012 p.10
The deficiency of democracy in Liberia is not unique. Transitional countries typically ‘suffer from serious democratic deficits, often including poor representation of citizen’s interests, low level of political participation beyond voting, frequent abuse of the law by the government officials, elections of uncertain legitimacy, very low levels of public confidence in state institutions, and persistently poor institutional performance of the state’.

This is because the disparity between the political elites and population is rooted in structural conditions that elections alone will not bridge. In Liberia elections are a zero-sum game over control of the state and, therefore, control over access to resources.

The multiparty political concept originates from western political history whereby representative democracy is known as party representation. Dual systems of governance, kinship networks, neopatrimonialism, the elite hegemony on political-economic power, deep poverty combined with illiteracy, low level of education and systemic corruption are all obstacles to multiparty democracy in Liberia. Harris (2006) notes, ‘The electorate and even party officials were not viewing political parties with the importance that is often attached to them in other African states and elsewhere.’ Thus Liberia has no multiparty tradition.

The CSOs in post-conflict Liberia engage in a variety of political issues, directly competing for support with political parties. In 2005, the NGO sector was still largely unregulated; but in 2007, more than 400 NGOs were registered with the Ministry of Planning. During the 2005 elections, many of the NGOs were politicalised and used to channel funding to candidates. Archibald (2005) points out that several local organisations engaged in politically loaded areas, such as governance and constitutional reform, human rights, gender issues, and served as a facade for Liberians in diaspora with political ambitions. Internationally funded NGOs engaged in political work and had a comparative advantage. It is not uncommon for candidates to run on a NGO platform and to instrumentalise an NGO to generate financing for their election campaign. For example, Senator Siakor, who won in 2005 in Bong County, was known for his years of community development with Development Education Network-Liberia. He allegedly used the NGO to channel funds to his campaign. This case was no exception. Nevertheless, the state-building and democracy agendas assume an independent civil society, as if civil society elements are not connected to the competition for political power.

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446 Carothers 2002 p.10
447 Manning 2002
448 Harris 2006, p. 340
449 Archibald in Fuest 2010 p.8
450 Archibald in Fuest 2010 p.8
451 Harris 2006 p.382.
In addition to CSOs, ideas of social justice are organised around traditional governance structures and tribalism, thus bringing them into competition with mainstream political parties over their representative function. In order to be elected from a constituency, a leading politician is not only required to support his party, but also his ethnic group. In other words, representation is locally confined and not based on political platforms, economic policy options or ideology. In this environment, political ideologies and platforms hardly win over the support of a local constituency. For instance, in the 2005 elections, most of the presidential candidates won in their home counties, even when their party did not. This is possibly because historically Liberian presidents, those who had ties to Liberia, had directed funding to the counties of their origin.

In theory, democracy could also be understood as a mechanism to recruit people to higher political offices. From this point of view, it is not relevant if a candidate was elected based on ethnicity or political party membership as long as various segments of the population are represented in the national government. In practice, in Liberian executive-dominated system, the president appoints cabinet members and all higher state officials, including security and judicial sectors. Therefore, the opposition has no access to political power and the election results only translate into permanent exclusion from decision making processes and benefit sharing. Hence, in the absence of a political dispute mechanism, the electoral process may in fact have destabilising effect.

Low literacy rates, poor educational standards and a poor information environment underscore the collective action problem. In 2005, elections estimated that 75–85% of the electorate was illiterate. When citizens lack the education necessary to meaningfully participate in political dialogue and to comprehend issues beyond their immediate communities, they are unable to make demands of the government and elected officials. The poor information environment and the culture of secrecy further limit citizens’ participation in national politics. The lack of transparency and information thus further reinforces the patrimonial nature of politics.

A field study conducted by USAID points to the increasing level of collective forms of patrimonialism. A constituency may agree to support a candidate, who in return commits to certain obligations toward the constituency. These rewards are increasingly collective public goods, such as the improvement of roads, schools, health clinics or other infrastructure projects, which are sometimes also provided by concession companies or aid agencies, but presented to the public as being a politician’s achievement. As previously stated, this type ofclientelism is an early form of democracy.

452 AfT 2013
453 USAID Democracy report 2013
454 USAID 2013 p. 29
455 Fukuyama 2014
2005 Elections
The way elections are administered has a profound influence, not only to their outcomes, but also their legitimacy and the legitimacy of the elected government. This section outlines the democratic support and preparations for the 2005 first post-conflict national elections, including the treatment of internally displaced population (IDP), voter education campaigns, voter registration, rules of political parties and the role of the NEC.

The Electoral Law Reform Act, approved 17 December 2004, established the legal framework for the 2005 elections, including IDPs’ and returnees’ right to vote, eligibility requirements, voter registration, voter identification, set limitations to electoral funding and re-established electoral districts. It suspended certain constitutional provisions, such as the requirement of having been in country over the past 10 years in order to be eligible to run in the election and the provision requiring residency. In elections process, the international aid system entangles with internal policies.456

The IC played an instrumental role in every aspect of the election process, from drafting the law reforms, the electoral rules, establishing a code of conduct for political parties, designating the electoral districts, conducting voter education campaigns and resettling IDPs. The UN was responsible for the operational aspect of the elections. The UNMIL Electoral Unit and the European Commission coordinated donor assistance with the NEC. The National Endowment for Democracy lists at least 17 democracy assistance related activities in Liberia during the election period (2005–2006). Much of the democracy assistance and election funding was provided by government agencies and private or quasi-governmental foundations originating from established democracies, such as the International Republican Institute (IRI), the Consortium on Electoral and Political Processes, and the Electoral Reform International Services. The US alone contributed US$10 million. The International Foundation for Electoral Systems (IFES) was involved with providing technical assistance in polling. IRI engaged directly with the political parties. The National Democratic Institute (NDI) for International Affairs conducted civil education. International election observers included long-term missions by TCC and EU, and short-term delegations by the African Union, Economic Community of West African States (ECOWAS) and the IRI and the NDI.458 The Guidelines for Elections Observers, issued by the NEC, gave foreign NGOs the right to observe the election. According to Section 3d, international

456 Hayman in Whitfield 2009 p.178
457 The Journal of Democracy is published by The National Endowment for Democracy (NED) a private, nonprofit foundation with funding from the US Congress, NED supports more than 1,000 projects of non-governmental groups abroad in more than 90 countries. http://www.ned.org/
458 Harris 2006 p.378
NGOs had the right to exercise their activities in accordance with the laws effective in their home countries.

The NEC was established by the 1986 Constitution, Article 89B. During the absolute hegemony of the TWP, the NEC’s only function was to decide if a candidate could be placed on a TWP ticket. In comparison, in the 2005 elections, the NEC was in charge of the elections, but closely guided by IFES. The functions and powers vested in the NEC were wide-ranging, from administration and the enforcement of laws to conduct elections, to the accreditation of political parties, the conducting of elections for public offices, the formulation and enforcement of guidelines for conducting elections, maintaining voter registers subject to inspection, the establishment of electoral districts, the maintenance of registration documents for political parties and independent candidates, prescribing how such records should be kept, the administration of voter and civil education campaigns, and proposals to the National Legislation on the modifications of laws. In the 2005 elections, although critics claimed an alleged familial relationship between Johnson-Sirleaf and the chair of the NEC, Frances Johnson-Morris, the NEC enjoyed wide popular confidence and the chairman demonstrated admirable impartiality. Whereas in the 2011 elections and their aftermath, the NEC was criticised for being partisan and for a lack of competence, especially when a defeated legislative contestant from the 2011 elections was appointed as the chairman of the NEC.

In April 2005, the first Code of Conduct for Political Parties in Liberian history was signed by 18 parties. The Code of Conduct obligated parties to uphold and defend the 1986 Constitution, bound parties to adhere the role of the NEC and the 2004 Electoral Law Reform. IRI’s Political Party Empowerment Programme (PPEP) facilitated the drafting of the political party Code of Conduct, trained poll-watchers and ‘aimed to build long-term capacity of parties to contribute to governance and political participation’. The Code of Conduct obligated parties to acknowledge the presence and the assistance of the IC, formalising its role in the national elections. ‘Appreciating the binding nature of the Code of CPA of 18 August 2003, the presence and assistance of the IC, the political parties of Liberia hereby voluntarily commit to this Code of Conduct’. In general, the atmosphere between parties and candidates were surprisingly cordial.

459 Harris 2006 p.378
461 Harris 2012 p.164–165
462 IRI Quarterly Report 2005 p.3
464 Harris 2006
Campaign Financing

The IFES drafted the political financial regulations based on their experience in other developing countries.\textsuperscript{465} In the Liberian context, the comprehensive guidelines for Campaign Finance Regulations proved difficult to enforce.\textsuperscript{466} For example, while candidates were required to open a bank account, there were few banks in Monrovia and none in the rural areas. A trip to Monrovia to open a bank account may have exceeded a rural candidate’s entire campaign financing budget. Additionally, the request to provide a current tax clearance certificate was unrealistic, because the GOL was not able to issue accurate tax clearances. Moreover, in kind contributions to voters were forbidden. Liberian tradition holds that any visitor who wishes to hold a meeting in a community must provide rice or a meal. People walk considerable distances to these meetings, usually with no commercial food shops along the way. There were widespread allegations of all kind of contributions, including allegations that elected Vice President Boakai had bought votes by distributing rice.\textsuperscript{467} Furthermore, there were reports of the widespread misuse of state funds, channelling illegal foreign funding to campaigns and exceeding the US$2 million election campaign financial ceiling.\textsuperscript{468}

While the Campaign Finance Reform Act obligated candidates to report their funding sources, there was no such obligation for the NGOs participating in campaign financing, civil educational and political work. Political parties rejected the draft NEC Party Finance Regulations and instead formed their own technical committee, which presented an alternative proposal to the NEC. Party finance regulation remained controversial. Campaign financing regulations required candidates to establish campaign committees to report contributions and expenditures 10 days before and 15 days after elections. In reality, less than 31\% were able to file the pre-elections and fewer than 18\% submitted post-election disclosures. A practical solution came 19 December 2005 when the NEC issued certificates to all winning candidates irrespective of them having fulfilled the reporting requirements. According to TCC, political parties complained about inadequate resources to inform voters about their political positions.\textsuperscript{469}

Manning (2005) postulates that free markets in electoral competition are effective in distributing resources, ‘The outcome will be determined jointly by initial resources allocation and the rules of the game. And those with the greatest resources at the outset are typically those who are writing the rules’.\textsuperscript{470} When political power and economic power go hand-in-hand as they do in Liberia, the domestic private sector is weak. Opposition parties find it harder to challenge the incumbents

\textsuperscript{465} IFES Report 2006
\textsuperscript{466} Carter Center Observation Report 2005 p.49
\textsuperscript{467} The Carter Center Observation Report 2005 p.49
\textsuperscript{468} The Carter Center Observation Report 2005 p.49, p.14
\textsuperscript{469} The Carter Center final election report 2005 p.10
\textsuperscript{470} Manning 2005 p.722
who have easier access to public resources and, at the same time, can use their position to intimidate the private sector, thus preventing it from financing the opposition. Consequently, the checks and balances of state power by the private sector or civil society is inhibited, thus creating a self-reinforcing cycle of power concentration, a zero-sum game.\footnote{Manning 2002 p.707-722}

Nonetheless, the 2005 elections were an exception to the rule. The political playing field was exceptionally level and open for three reasons. There was no presidential incumbent. The warring factions were not strong politically organized factions to begin with, but rather groups formed during the long conflict. Moreover, the CPA disbarred key members of the NTGL from running in elections. The exceptionally low cost of an elective seat in 2005 made the elections the most competitive in Liberian history, a situation which is highly unlikely to be repeated.

Unlike CSOs and NGOs that can tap into international donor funding, political parties are economically disfranchised as they are left to operate without any reliable financial support. Consequently, political party financing is solely dependent on a few wealthy individuals and their access to state resources or to private capital. It follows that parties are centred on wealthy individuals, leading to personalised politics. To address the lack of financing options for political parties, the NTRC recommended that public funding be made available for three winning political parties. The funding could support capacity building between elections.\footnote{Final Report NTRC 2009 p.278} In 2013, a legislation for political party financing was introduced in the House of Representatives.

Because political party structures were weak, most candidates used their personal funds for campaigning. Collier (2008) observes that to get elected as a senator in Nigeria costs around half a million dollars, ‘With spending like that, no wonder politics is corrupt. To raise that sort of money candidates have to sell their houses, borrow and beg, and then if they win they have just four years to recover their investment’.\footnote{Collier 2008 p.149} The payback time for the election investment in Liberia is six years for representatives and nine years for senators. The cost of an elective seat skyrocketed between 2005 and 2011. In 2005 it was possible to get elected with just a few thousand US dollars or with pure luck. This enabled indigenous candidate to win seats in the House and even in the Senate. By comparison, in 2011, the price a seat had risen to a minimum of US$30,000–US$50,000. In 2011, even the candidates for the House had campaign budgets reaching to US$1,000,000.\footnote{Siahyonkron 2011, http://www.theperspective.org/2011/0818201103.html (accessed 9.7.2015)} The next elections in 2017 are predicted to be even more expensive.
In a clientelist society like Liberia, a candidate’s ability to provide determines his potential as a future patron. Voters expect returns in exchange for their support. Moreover, the miserable road network can make the cost of campaigning prohibitive, because a personal appearance is necessary due to the high illiteracy rates and the absence of any media outlets. The candidates’ ability to reach their voters shows in irregular voting patterns, which do not seem to follow party lines or any apparent logic.

**Logistical Challenges**

Campaigning for the 2005 elections took place under extraordinarily difficult conditions. For example, a roundtrip to Maryland County would take nearly 18 hours.\(^{475}\) A number of concerns were expressed about the logistical conditions faced by the election administrators, political parties and voters. Approximately 10% of the electoral votes were in voting locations, which were one hour to four day’s walk from the last point where polling materials could be transported by vehicle. Some of the areas were difficult to reach even with UNMIL helicopters.\(^{476}\)

Out of the 1.5 million eligible voters, over 1.3 million (approx. 90%) registered to vote in 1,511 voter registration centres. Half of the registered voters were women and 40% were between the ages of 18 to 28 years of age. Some of the voter registration centres identified by international experts based on maps and population density estimates were inaccessible. Out of 1,420 precincts, 273 were considered totally inaccessible. People had to walk up to two days just to register to vote. The criticism of candidates was ignored. In every stage of the election process, from voter registration, to campaigning and to run-off elections encountered extraordinary logistical challenges.\(^{477}\) Candidates were tirelessly rallying for and providing transportation assistance in their constituencies. Again, those with access to cars and fuel had a clear advantage.

The UNMIL, in charge of operational election support, distributed election materials to the inaccessible areas via helicopter and transmitted election results via e-mail to the national data centre. Despite the helicopter transportation, more than a one-day’s hike was required from the drop-off point to some of the polling precincts.\(^{478}\) UNMIL helicopter transportation became controversial when the UNMIL was allegedly providing transportation to Johnson-Sirleaf’s campaign.

The campaign period began on September 1st and ended October 10th. The six-week limitation was challenging for those candidates campaigning in rural districts. The ICG reported that

\(^{475}\) IRI Quarterly Report 2005 p.4, see also Carter Center elections reports

\(^{476}\) Carter Center Election Observation Report 2005 p.46

\(^{477}\) Carter Center election Observation report 2005 p.46

\(^{478}\) IRI final a report page 2005 p.8
candidates were planning to concentrate their campaign on the Monrovia–Ganta corridor, where just four counties accounted for over 67% of all registered voters (908,072 voters), which equalled to 50% of the seats (31) in the House of Representatives. The six southeast counties had 16 seats, a disproportionately large number considering that they represented only 12% of registered voters.\textsuperscript{479} Voters in rural areas were sceptical that they would not matter in the election process and had less confidence in the due process of the elections; stating, ‘you people already know who will be the next president’.\textsuperscript{480}

**Democracy Support and Voter Education**

Paradoxically, the state-builders’ insistence to include liberal democracy education to voter education campaign may have contributed to having compromised the popular legitimacy of the elections. Eighty-six CSOs and 17 local NGOs participated in the discussions facilitated by the NDI and IFES over the voter education campaign. It was decided to produce two separate voter education manuals, one for voter education and one for civil education.\textsuperscript{481} The civil education manual explained citizens’ rights and responsibilities in a democratic system, the concept of democracy, and provided information about the electoral process to stakeholders.\textsuperscript{482} The actual voter education manual provide more hands-on advice about electoral proceedings. The two manuals were confusing and not well understood considering the very low literacy rates and the lack of access to information in general. Education over the electoral proceedings was compromised. Consequently, many voters did not fully understand the proceedings; for example, the purpose of the run-off elections. Voter education was insufficient and failed to adequately prepare voters.\textsuperscript{483} Because many voters did not comprehend the voting procedure, they required assistance in registration and even in choosing a candidate. Presiding officers assisted voters, which raised the question of confidentiality and influence.\textsuperscript{484}

Additionally, the ballot papers were difficult to understand. Some candidates stuck to the same clothing in order to be recognized; because for illiterate voters, the candidates’ photos were the only way to identify them. The ballots ‘with 22 small images and logos of presidential candidates, and similar papers for senator and representatives, would be taxing for a literate electorate’.\textsuperscript{485} Due to the poor understanding of the process, a relatively high number of invalid or spoiled ballot papers were cast, which further diminished the public’s confidence in a fair election process.\textsuperscript{486} Harris (2006) argues that the number of invalid ballots were comparatively low, ‘In other post-

\textsuperscript{479} ICG report, 2005 p.3
\textsuperscript{481} NEC 2005 report p.9
\textsuperscript{482} ibid. p.10
\textsuperscript{483} Carter Center Final Election Report 2005 p.17
\textsuperscript{484} Harris 2006 p.379
\textsuperscript{485} Harris 2006 p.381
\textsuperscript{486} The Carter Center Observation Report 2005 p.50
conflict African elections, invalid votes totalled 10.4% in Angola in 1992; 8.5% for presidential and 11.7% for assembly in Mozambique in 1994; and 5.4% in Guinea-Bissau in 2005. Ghana, which has a relatively well-educated electorate and has conducted four consecutive nationwide multiparty elections, still recorded 2.1% invalid votes in 2004’. Voters’ inadequate understanding of the electoral process lowered confidence in the election results and ultimately compromised the popular legitimacy of the elections. In retrospect, it may have served democracy better to have conducted a more robust campaign about electoral proceedings and to have cut the ideological liberal democracy education shorter.

**Special Groups**

The 2005 voter and civil education programme aimed to direct a special focus on disadvantaged groups such as women, citizens with disabilities, IDPs, ex-combatants and refugees. One can only ask, who in 2005 did not belong to one of these groups. Each group was subjected to a different type of intervention. For instance, the NEC held consultative meetings with traditional leaders. Based on lessons learned in other countries, international state-builders assumed that the traditional leaders could influence voter behaviour in their areas.

The electoral law reform established that IDPs were allowed to vote in the presidential elections, but not in the legislative elections if they stayed in the camps. The IDPs threatened to burn their voter registration cards and protested the insufficient support given to facilitate their return to the rural areas. Consequently, only 30% (61,189) of IDPs registered to vote.

In essence, the IDPs’ right to vote was conditioned by their compliance with leaving the camps and a re-settlement programme. The conflict had lasted 15 years and 40% of the voters were between 18 and 28 years old. Many IDPs had nowhere to go in their ‘home’ counties. There was no housing or land available. Moreover, re-settlement to the counties contradicted the strong trend of urbanisation that Liberia was experiencing. Many IDPs accepted the transportation provided by trucks from the camps, collected the re-settlement benefits (consisting of local hand tools and insignificant sum of cash), and took the next ride back to the capital city of Monrovia.

Those, who refused to leave Monrovia lost their right to vote in the legislative elections, the 1.35 million registered to vote did not include estimated 150,000 eligible voters from the estimated 300,000–400,000 refugees. More than 25,000 IDPs lost their votes for the Senate and House of

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487 Harris 2006 p.381
488 Harris 2006, also IRI 2005, Carter Center 2005
Representatives. The close to 200,000 IDPs accounted for close to 15% of voters in total. Approximately 71% IDPs returned to their home counties to vote.

The Electoral Reform Law distributed 64 seats between 15 counties so that each county received at least two seats in the House. Monserrado County, where the capital city Monrovia is located, received 14 out of the 64 seats. The reminding 30 seats were allocated between counties based on the relative number of registered voters in each county. The international experts drawing the electoral districts had limited knowledge of local administrative boundaries, ethnic lines or how the areas connected to each other logistically.

The distribution of IDPs to the counties and the allocation of legislative seats opened a fundamental question about equal political-economic representation. When natural resources are in the interior, but the population is concentrated in the capital, how can democratic representation be balanced so that the rural areas will not become the revenue base for the capital like in the past? This answer is political, not technical-statistical.

Former Vice President of the Republic of Nigeria, Dr. Alex Ekwueme, summarised the 2005 Liberian national elections:

While the CPA brought an end to the war, transitional government ultimately did little to address its root causes. As a consequence, the election campaign brought many unresolved issues into focus, particularly in the increasingly tense period before the November 8 run-off election. Competition for political office at all levels exposed longstanding differences between Liberia’s educated elites and the impoverished majority, gender divisions exacerbated by the high incidence of rape and mistreatment of women and girls during the war, the generation divide between elders and a burgeoning young population with limited access to education, employment and land resources, and conflict over the control or revenues derived from Liberia’s natural resources.

2005 Political Landscape

Because the centre of socioeconomic-political advancement in most African states is the state, political party pluralism is rare. The resources gained through access to public office—including salaries for party leaders and activists, the potential to provide various sorts of in kind patronage to supporters, or even state subsidies for parties represented in parliament, are of vital importance for the survival of these new parties. It follows that while the absolute number of parties and candidates may be high, the number of strong candidates and parties is low. In fact, the NTRC (2009) recommended a limitation on the number of parties. In fact, the NTRC (2009) recommended a limitation on the number of parties.

Harris 2006 p.381
IRI final report 2005 p.8
Former Vice-President of the Republic of Nigeria, Dr. Alex Ekwueme, in the NDI/Carter Center Preliminary Statement of Runoff Elections 2005 p.58
Manning 2002 p.721-723
Final Report NTRC 2009 p. 296
Table 5. The 2005 Political Landscape in numbers

- 205 candidates for 30 Senate seats — 6.8 candidates per seat
- 513 candidates for 64 House seats — 8.0 candidates per seat
- 22 candidates for the presidency
- 25 parties
- 90% of eligible voters registered to vote
- 74% turnout in the first round for the House and the Senate and the first round of the presidential elections
- 61% turnout in the second round for the presidential elections

Presidential Candidates and Political Parties

International football celebrity George Weah was the presidential candidate of Congress for Democratic Change (CDC). Weah’s popularity was also founded on his philanthropism and on the fact that, contrary to many other successful Liberians, he had continued to assist Liberian football players. Weah’s wealth made him a viable candidate.494 Weah “‘was able to present himself as “a new breed”, a facilitator of hope, and a candidate of national unity, unencumbered by previous political baggage’.495 While an educational bias was used against Weah, his supporters turned it into a slogan, ‘Him know no book, I know no book, I’ll vote for him’; imitating Taylor’s election slogan, ‘You killed my mom, you killed my pa. I vote for you’. Weah was marketed as the peoples’ candidate who represented the majority of the Liberian people, those who for generations had been denied access to education.

On the other hand, Liberians remembered how previous indigenous uneducated presidents (e.g. Doe, Tolbert and Taylor) had fallen out of the favour with the IC and how the aid pipeline was turned off. It was argued that Liberia could not afford to have another uneducated president. Weah’s supporters claimed that their educated leaders had let the country down and that it was time for a peoples’ president. This argument, however, brought back the memories of the Doe regime. In the first run, many voted for the educated candidates: Brumskine, Sherman or Tubman.496 Johnson-Sirleaf was perceived as the candidate with the capacity to attract aid and with the support of the IC.

Weah and the future Speaker of the House, Edwin Snow, were connected through the Fédération Internationale de Football Association (FIFA). When Edwin Snow was the president of the

494 Armstrong 2007
495 Armstrong 2007 p.238
496 Harris 2006 p.391
Liberian Football Association (LFA) between 1998 and 2002, Liberia received US$5 million under the National Assistance Programme from FIFA. Snow was also funded by FIFA while studying in the US.\textsuperscript{497} Before the elections, Snow had a lucrative position as the head of the Liberia Petroleum Refining Corporation (LPRC), from which he was forced to step down in 2007.\textsuperscript{498} Snow was re-elected in the 2011 elections.

The international actors had difficulties reading local politics. The ICG reported, that CDC was nothing more than a vehicle for Weah’s personal campaign: ‘The strength and level of party’s organisation will show itself particularly in the legislative elections, which could become especially significant if the elected president does not have many supporters in the Senate and House of Representatives. By all accounts, the National Patriotic Party and the Liberian Action Party are the best-organised national groupings, with the Unity Party catching up fast’.\textsuperscript{499}

Johnson-Sirleaf ran for the Unity Party, although she has previously run on a Liberty Party ticket. The Unity Party became the president’s party, calling for ‘unity of the country’. The gender issues played in her favour and was capitalised as a campaign platform, ‘When all men failed Liberia, let a woman try’ and ‘all the pants couldn’t stand up for one lapa’\textsuperscript{500} were her slogans. By far, she was regarded as the candidate best positioned to negotiate with the IC.

The All Liberian Coalition Party (ALCP) was surrounded by its leading figure, Alhaji Kromah, who was the Liberians United for Reconciliation and Democracy (LURD) former warlord, and his support was localised and restricted to Krahn and Mandingo.\textsuperscript{501} In his constituency, Kromah, received 95\% of the votes, but only total of 18\% of the votes in the entire Lofa County.

Sherman was perceived to represent the Americo-Liberian elite,\textsuperscript{502} and was the standard bearer of the Liberian Action Party (LAP). Sherman, the \textit{concession lawyer}, was instrumental as the leading lawyer in the hasty and lucrative concessions and NTGL deals, and was suspected for having benefitted from them.\textsuperscript{503} Although Sherman allegedly had access to state funds, because of his position as the \textit{concession lawyer} and representing big corporation, he was not politically popular in Liberia. He was practising corporate law before the conflict, and in the post-conflict era he continues to represent some of the biggest concessionaires.

\textsuperscript{497} Armstrong 2007
\textsuperscript{498} The Analyst April 2nd 2007
\textsuperscript{499} ICG report 2005 p.5
\textsuperscript{500} Lapa is a, wrap skirt, a wide piece of clothing commonly worn in Liberia.
\textsuperscript{501} Harris 2006 p.376
\textsuperscript{502} Harris 2006 p.384
\textsuperscript{503} Harris 2006 p.377
The Liberty Party was centralised around Charles Brumskine, who had previously acted as the National Patriotic Front of Liberia’s (NPFL) and Firestone’s lawyer, and served as president pro tempore of the Senate for two years after 1997. Brumskine took the smaller regional block of the central counties of Grand Bassa with 58% of the vote and River Cess with 46%, and came second in Margibi.⁵⁰⁴ totalling 14% of the votes in the presidential elections.

Tubman, who was to be the runner-up candidate in the 2011 presidential elections, had his UN credentials, but was perceived as a member of the elite. In 2011, to compensate Weah’s ‘educational deficit’, but still to gain from his popularity, Tubman ran with Weah as his vice.

The claim that many of these politicians were Taylor associates or had risen to power through warlordism is historically inaccurate. Many belong to the Liberian political elite and have been in politics or in powerful positions since the 1960s. For those who stayed in Liberia during the conflict, it was hard to avoid some form of involvement.

In the first round of presidential elections, while also voting for the House and the Senate, 1.3 million registered voters cast their votes for 22 presidential candidates. Five candidates emerged as favourites, each receiving more than or close to 10% of the votes, and the two competing leading candidates receiving close to 20% and 30% of the votes.

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**2005 PRESIDENTIAL CANDIDATES**

<table>
<thead>
<tr>
<th>Candidate</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>George Weah (CDC)</td>
<td>28.3%</td>
</tr>
<tr>
<td>Ellen Johnson-Sirleaf (UP)</td>
<td>19.8%</td>
</tr>
<tr>
<td>Charles Brumskine (LP)</td>
<td>13.9%</td>
</tr>
<tr>
<td>Winston Tubman (NDPL)</td>
<td>9.2%</td>
</tr>
<tr>
<td>Varney Sherman (COTOL)</td>
<td>7.8%</td>
</tr>
<tr>
<td>Roland Massaquoi (NPP)</td>
<td>4.1%</td>
</tr>
<tr>
<td>Others (16 candidates)</td>
<td>16.9%</td>
</tr>
</tbody>
</table>

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Figure 2. The result of the October 11th, 2005 presidential elections (first run)

⁵⁰⁴ Harris 2006 p.382
In the presidential run-off elections, Johnson-Sirleaf was endorsed by other candidates and collected more votes from their supporters than Weah. Weah’s supporters were also less likely to cast a vote in the run-off elections, in which the voter turnout was 61% compared to the previous 74%. TCC reported on the lack of understanding of voting procedures and that many voters did not understand the reason of the runoff elections.\textsuperscript{505} Accessibility was also a factor. Already in the first round, there were significant differences between the remote counties and Monsserrado, ‘seven counties with large rural areas showed a drop of over 20% in voter turnout’.\textsuperscript{506}

**Appeals, Complaints and Legitimacy of the Election Results**

The unquestionable legitimacy of the outcome was extremely important for the stability of the country. The UNMIL was responsible for the operational execution of the election. The authority of the NEC was respected by all parties, not the least because of the integrity and impartiality of the NEC demonstrated. Unlike in the 2011 elections, the complaints and the appeals were taken to the court seeking a peaceful and legal process to resolve grievances.

There were a number of complaints. The initial NEC procedures allowed only one vote per a voter for the senate. The Coalition for the Transformation of Liberia (COTOL) challenged this procedure in the Supreme Court and voters were entitled to two votes, one for each senate seat. Four cases of appeals were brought to the Supreme Court challenging the NEC ruling of 11 October 2005. Several minor candidates had been barred for procedural reasons from running for the presidency. When they appealed the ruling of the NEC to the Supreme Court, the Court ruled in their favour. The situation threatened to delay the elections until at the last minute when the candidates agreed to stand down. The contestants were taken to Abuja, Nigeria, where a settlement was negotiated. People in Monrovia at the time, from taxi drivers to diplomats, told Crisis Group they believed that part of the deal had involved judges and candidates being paid off to settle the affair. “While we have no evidence to prove that such payments took place, the easy assumption by many in Liberia that the country's Supreme Court could be so easily corrupted indicates a serious crisis of confidence in the judicial system.”\textsuperscript{507}

All in all, 30 official complaints were filed following the October 11 elections. Eight of the cases were dismissed on the grounds that the complaints encompassed criminal misconduct beyond the NEC’s jurisdiction. The complainants were advised to pursue the cases with the Ministry of

\textsuperscript{505} Carter Center Final Election Report 2005

\textsuperscript{506} Harris 2006 p.380,389

Justice. In a case in Monserrado County, Monrovia, an assistant magistrate changed the result of a worksheet from multiple polling places during reporting. There were rumours that the ballot boxes were exchanged during transportation from the polling place to Monrovia. TCC reported that ‘the procedure for reconciling ballots at the end of the day was not followed in a few instances; number of ballots received were not always registered on the presiding officer’s combined worksheet and record of the count at the beginning of polling as required. Observers were informed that large sample ballots posted in ballot booth were in some instances marked indicating the choice of candidate, though when polling officials were informed these ballots were immediately removed’. The IRI reported, ‘in the actual election process observers noted a dispute in the voter count. In the presidential runoff elections pre-marked ballots were found. In some polling locations, sample ballots had been placed inside the polling booth. Some of the sample ballots had been marked in favour of one candidate’.

The CDC filed a complaint with Weah claiming that he had actually won more than 50% of the vote in the first round and accusing the NEC of bias. TCC (2005) reported, ‘A fight between NEC Chair Frances Johnson-Morris and presidential aspirant George Weah on election day garnered much media attention. The NEC Chair called Weah “reckless”. Regrettably, the NEC’s intemperate response was unhelpful, and the dispute contributed to an atmosphere of distrust and suspicion as the results began rolling in’. The CDC presented evidence of inconstancies in tally sheets and statements by various witnesses. The NEC dismissed the complaint and the CDC appealed to the Supreme Court. Negotiations between presidential candidate George Weah and members of IC took place. According to a rumour, Weah was offered a position in the new government but declined the offer. Weah’s first reaction to the second run-off results was to claim electoral fraud. It was also claimed Weah received some US$3 million from the Nigerian government in exchange for dropping his case. The electoral fraud accusations fuelled debates for years to come in Liberia. Some were ‘utterly convinced that presidential candidate George Weah was cheated out of his victory by these perfidious Americo-Liberians’. A song, Simple mistake and you are out, become a hit. These accusations may have played a role in presidential candidate Tubman’s unwillingness to participate in the run-off elections in 2011.

TCC recommended an expedited complaint process to facilitate fair resolution that would have still allowed the NEC and Supreme Court to keep with the election timeframe. TCC reporting

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508 Preliminary Statement of the NDI/Carter Center 2005 p.56
509 IRI final election report p.13
511 IRI Final Report 2005 p.14
512 Armstrong 2007 p.242
513 Posthumus 2007 p.24
514 The Carter Center Observation Report 2005 p.51
posits, ‘the scenario surrounding these developments raised tensions and illustrated potential problems in the legal framework, particularly concerning redress of electoral disputes, which may have implications for the broader election process’.515

The IRI recommended that in the future the NEC should establish a separate body to hear electoral disputes. Unfortunately, these recommendations were not implemented for the 2011 elections, in which the dissatisfaction with the NEC and low confidence in a fair process escalated to violence. Nonetheless, the NEC concluded that there was insufficient evidence of fraud to question the results of the elections and the CDC decided not to pursue its claims through the courts.516

2005 Internationally Orchestrated and the Most Competitive Election in Liberian History
The 2005 elections were the most competitive and democratic elections in Liberian history,517 and they may remain in Liberia’s political history as being the only competitive elections. Moreover, they were exceptional in that the majority of eligible voters participated and procedural complaints were filed to the courts.

Several factors contributed to the competitiveness of the 2005 elections; firstly, election campaigning was affordable, even for indigenous candidates. Secondly, the elites had not yet returned and their message did not resonate with the indigenous population who had survived the conflict. Thirdly, gender equity was turned into a campaign platform and women were encouraged to vote. Fourthly, there was a sense of enthusiasm, as demonstrated by the high voter registration and turnout. Fifthly, the elections were funded, organised and tightly monitored by the IC, which added neutrality to the elections. The 2005 elections were one of the rare cases in which 100% of the aid pledged was actually funded.518 Sixthly, there was no overbearing incumbent. Lastly, fast urbanisation and increased mobility due to the conflict had shaken the locally confined representation. As the sum the political field was remarkably open. Bates (2008) postulates that the level of urbanisation correlates with the formation of multi-party politics in Africa. Because urbanisation generates less locally confined identities and common political agendas, countries where urban dwellers compose over 60% of the population are more likely to adopt multiparty rule.519

The 2005 House and Senate elections resulted in a remarkably diverse constellation in the legislature. Five political parties had 15% or more of the votes. Thus, the 2005 national elections

515 Carter Center Final Election Report 2005 p.47
516 The Carter Center final election report 2005 p.2
518 OECD 2009
519 Bates 2008 p.165
produced a unique political constellation and provided a widow of opportunity for multiparty representation to emerge. As Figure 3 demonstrates, the strongest parties had relatively equal representation in the House and the president’s party did not hold the majority in the House. For the first time in history, political power was split between the executive and the legislative.\textsuperscript{520}

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{2005_election_results.png}
\caption{The 2005 national election results: The House of Representatives by political parties}
\end{figure}

\textbf{2011 Elections and the Lack of Multi-Party Institutional Capacity Building}

While the 2005 elections were conceived as free, fair and competitive, this was no longer the case with the 2011 elections. The 2011 elections were the first post-conflict elections conducted according to the 1986 Constitution and the first in which the NEC was responsible for organising all aspects of the electoral process.\textsuperscript{521}

The political manoeuvring and electioneering begun early in the midterm. Several procedural changes were introduced, each of which became a political battleground. Eighty-five percent of the eligible voter registered to vote in the 2011 elections,\textsuperscript{522} 10\% less than in 2005. A hike in candidate registration fees, intended to reduce the number of candidates, but essentially excluded the indigenous and poorer candidates. In 2005, presidential and vice presidential candidates paid US$2,500 and US$1,500 respectively. In 2011, they were required to pay US$7,500 and US$5,000 respectively, which is not that high for a presidential candidate. However, the fee of US$4,000 for house legislators and US$3,500 for senators\textsuperscript{523} needs to be seen in the context of the majority of the population earning less than US$400 a year.

\textsuperscript{520} Jaye 2009, p.13
\textsuperscript{521} The Carter Centre 2011, p.4
\textsuperscript{522} ICG 2011 p.6
\textsuperscript{523} ICG 2011 p.7 New Democrat, 5 April 2011. P.7
According to the Constitution, the electoral districts are drawn based on the national census. The national census was conducted in 2008. However, the census results were compromised due to several problems in planning and execution. Nevertheless, following the national census results being released in 2008, a threshold bill was introduced. The president vetoed it twice and the ruling Unity Party filed a complaint in the Supreme Court. However, the Supreme Court refused to interfere claiming that the question was political, not legal.524

The president insisted that the threshold for legislative districts be set at 48,000, but opposition legislators demanded the threshold to be set at 40,000 per constituency. The IFES, which is the USAID’s implementation partner for electoral support and funded the NEC with a US$17.5 million grant for the 2011 elections, closely supervised the NEC. The president of IFES, Bill Sweeny, urged the legislators to pass the bill. ‘It was very critical to pass the bill. We are not here to advise the lawmakers to pass the bill because it is their responsibility’. Mrs. Elizabeth Nelson, co-chair of the NEC stated, ‘There will be no elections in 2011 without a threshold being set. There must be a constitutional elections here and we cannot avoid that, we need the threshold’.525

After two years of political toing and froing, the threshold bill was passed in May 2010 with the threshold set at 45,000. The threshold bill created nine new seats in the House and a corresponding nine new districts in the counties with the highest population, namely three in Monserrado (17 of 73), two in Nimba, and one each in Grand Bassa, Lofa, Margibi and Bong. The Liberty Party sued the NEC in May 2011 on the grounds that the agreement was illegal and unconstitutional. The Supreme Court, which had previously sided with the president (e.g. in the appointment of the local government officials) ruled that the NEC could continue the demarcation.

A national referendum in August 2011 addressed candidacy requirements, the system for determining the outcome of legislative elections, the mandatory retirement age for justices and the election date. The referendum was not understood by the voters, who mostly did not participate. Consequently, the results were inconclusive. The constitutional amendment reactivated a residency requirement for public office, but reduced it from 10 to five years. It raised the retirement age of judges from 70 to 75 years and shifted the voting from October to November in order to avoid the raining season. It changed the voting system for public officials from an absolute to a simple majority instead.526 The referendum was held on 23 August 2011, and the NEC announced on 31 August that all four amendments had been rejected. Following litigation, the Supreme Court ruled on 20 September that the NEC had improperly calculated the results and

526 ICG 2011 p.1, p.4
that the amendment replacing the absolute majority requirement and run-off elections for non-presidential elections with a simple majority requirement had been ratified.

The NEC has accredited over 180 CSOs and community-based organisations to conduct civic education around the 2011 elections. The opposition had the perception that the NEC was biased towards the president’s Unity Party. Prior to the 2011 elections, ‘government officials at multiple levels denied opposition parties access to public facilities to hold campaign events’. Allegedly, the president closed down a popular radio station, Star Radio, and several other radio stations. When Weah arrived in Liberia, the Ministry of Public Works closed the only road to the airport was closed to prevent a welcoming rally by Weah’s supporters.

Additionally, according to TCC there was the misuse of state resources, especially by the ruling Unity Party. This practices created tensions and limited the opposition’s ability to engage with supporters and lobby for support. Because of the use of public funds for election campaign, the opposition has comparatively fewer resources than Unity Party candidates, the president’s party. For example, the Unity Party in Bong County was funding two competing candidates, one of which allegedly received US$1 million campaign funding from the president to defeat the incumbent CDC representative. The UN special investigative panel reports that during the 2011 election campaign, a number of Private Use Permits (PUPs) were issued by the Forest Development Authority and signed by the Minister of Agriculture to a corporation owned by the president’s campaign manager by a 30% share.

**Political Landscape**

Sixteen candidates competed for the presidency and 900 for the Senate and the House. The leading parties were mainly the same as in the 2005 elections; namely the incumbent president’s party the Unity Party, the CDC, the Liberty Party, which built a coalition with the Unity Party; and the National Union for Democratic Progress (NUDP), led by Nimba County Senior Senator, Prince Johnson, who also ran for president and was popular in his constituency.

Despite her promise not to run for a second term, the president announced her intention to run in the 2011 elections. She was openly supported by the IC and many Liberians said that she was ‘the

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527. ICG 2011 p.9
528. ICG 2011 p.1, p.4
530. The Carter Centre 2011, p.4
531. USAID 2013 p.51
532. Ibid.
533. UN 2012, S/2012/901
534. The NEC 2011
candidate of the IC. Let the foreigner vote for her’.\(^{535}\) Her slogan was, ‘Monkey still working, let baboon wait small’, meaning that she was not yet done with her work as the president reforming Liberia.

Winston Tubman, a nephew of ex-president William Tubman (1944–1971) and a former UN diplomat and lawyer, ran as the presidential candidate for the CDC. Like so many of the Liberian re-cycled elite, including Johnson-Sirleaf, Tubman was a legal adviser to the MoPEA during his uncle’s administration, and justice minister during President Doe’s term. His later positions as a representative of the UN Secretary General and head off the UN Political Office for Somalia added to his credibility and approval by the IC.

In 2011, in order to compensate for Weah’s ‘educational deficit’ but still to capitalise from Weah’s popularity, Tubman ran as the presidential candidate with Weah as his vice. The CDC was weakened by internal disciplinary problems and personalised inter-party competition. Some leading figures were also dissatisfied with Weah, but due to his popularity, still decided to carry him on the ticket. The opposition was divided by difficulties. A coalition building between the CDC and the National Patriotic Party and the Liberty Party failed. It was claimed that a Tubman-Brumskine ticket would not be successful because the electorate would not accept ‘a ticket that has two Congo names on it’.\(^{536}\) Sherman, who ran in 2005, decided to support the incumbent and the president built a coalition with the Liberian Action Party (LAP) led by a long-term political figure and one of the prominent corporate lawyers, Varney Sherman.\(^{537}\) The LAP became one of the beneficiaries of government appointments after the 2011 elections.

Two international news stories created a populist notion that the IC was too involved in Liberian national elections. Firstly, the former president Taylor was waiting for the verdict of the Special Court for Sierra Leone in The Hague, expected August 2011. Secondly, the incumbent President Johnson-Sirleaf was awarded a Nobel peace prize shortly before the elections. Some critics argue that the US, being the biggest and dominant donor,\(^{538}\) was sending a message of endorsement to the Liberian people.

**Boycott and Electoral Violence**

In the 2011 elections, Liberia returned to the tradition of electioneering and suppressing opposition. The opposition had no confidence in the due electoral process and called for a boycott.

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537 ICG 2011 p.5

538 USAID 2010, 2013
There were widespread accusations of electoral fraud and less than 40% voted in the presidential run-off elections, which were marked by boycotts and fatal shootings. Pre-election intimidation of the opposition, lack of confidence in the NEC, a boycott and electoral violence compromised the legitimacy of the 2011 elections results. In the first round of the presidential elections, incumbent President Johnson-Sirleaf of the Unity Party led the presidential field with 43.9% of the vote, followed by Congress for Democratic Change candidate Winston Tubman with 32.7%.

The confidence in the NEC was so low that in October, a month before the November run-off elections, 10 opposition parties asked to meet with the Special Representative of the UN Secretary General to UNMIL, Ms. Løj, and asked the UN to oversee the run-off elections in place of the NEC. Their request was denied. ECOWAS announced that it would send a larger contingent of election observers and urged the opposition to use constitutional means to address grievances. The judicial sector, however, is appointed by the president and the recommendation to improve the appeal and grievance process, based on the 2005 experience, had not been implemented.

After the UN’s refusal to oversee the elections instead of the NEC, Tubman announced a boycott unless the NEC leadership was replaced. The CDC had received a letter from the NEC stating that it had won the first round with approximately 44% of the votes. The NEC claimed that the letter was a typing error and fired its communication director. A demonstration in front of the CDC headquarters led to clashes between the police and CDC supporters. The Special Security Services (SSS) began shooting and at least two CDC supporters were shot dead and several wounded. The protestors had planned to march to the UNMIL headquarters and the US Embassy to present a petition protesting the second-round elections.

The final voter turnout for the 2011 presidential elections was less than 40% of the registered voters. It was widely reported that Tubman’s supporters or CDC supporters boycotted the second round of the presidential elections. The incumbent president called the boycott ‘a violation of the Liberian Constitution’. The standard bearer of the CDC, Tubman, stated that ‘Liberians

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540 Liberian opposition demands transparent run-off polls”. AFP. 17 October 2011
543 The Carter Centre, 2011 p.54
have the right not to vote as an expression of displeasure with the government”. Given that less than 40% of registered voters voted in the second round, it could be argued that those who did not vote, expressed their unwillingness to certify the elections, and those who did vote, wanted to express their support to the incumbent. In any event, the 2011 presidential elections raised question about legitimate electoral standards and practices, and about the popular acceptance of the elections results with a weak legitimacy.

Figure 4. The 2011 national election results: The House of Representatives by political parties

Table 6. Largest Parties in the Legislature after 2011 elections (in 2013)

<table>
<thead>
<tr>
<th>Party (Leaders)</th>
<th>House Seats (% out of 73)</th>
<th>Senate seats (% out of 30)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unity Party (Johnson-Sirleaf)</td>
<td>26 (35.6)</td>
<td>11 (36.7)</td>
</tr>
<tr>
<td>CDC (Tubman/Weah)</td>
<td>9 (12.3)</td>
<td>3 (10)</td>
</tr>
<tr>
<td>Liberty Party (Brumskine)</td>
<td>9 (12.3)</td>
<td>3 (10)</td>
</tr>
<tr>
<td>NPP (formerly Taylor)</td>
<td>3 (4.1)</td>
<td>6 (20)</td>
</tr>
<tr>
<td>NUDP (Johnson)</td>
<td>6 (8.2)</td>
<td>2 (6.7)</td>
</tr>
<tr>
<td>Other</td>
<td>20 (27.4)</td>
<td>5 (16.7)</td>
</tr>
</tbody>
</table>

Come the October 2011 legislative elections, the Unity Party gained a majority of votes in both the House and the Senate. No party secured an absolute majority in either chamber. Incumbent retention was low; only two of the 14 incumbent senators seeking to retain their seats won re-

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election, while only 25 of the 59 House incumbents running were re-elected. Due coalition building and because several representatives jumped party lines, the CDC had lost its majority in the House. The Unity Party and the Liberty Party combined had over 50% of the seats in the House. This finally gave the president the control over the House and the legislative.

In the 2011 elections, the appointment of an NEC chairman by the president became controversial. To ensure a fair process in 2015, close to 60,000 citizens who participated in the constitution review process, proposed that the NEC board members should be elected. Furthermore, the NEC should not handle the complaints process. Instead, it was recommended that a special Election Court should hear the cases. However, this recommendation was made earlier 2005 by TCC, among other election observers.

The electoral process is just as important as the outcome. Democracy is supposed to be messy. Power-sharing arrangements or in local level elections are long overdue in Liberia, and they could have distributed the political-economic power from Monrovia to counties more effectively in real terms than any administrative reforms. It is unfortunate and potentially destabilising that these institutional changes have been pushed back and the emerging organic democratisation tendencies were not recognised.

Local Elections
Historically, electoral and legislative accountability in Liberia was unheard of. The Liberian Constitution mandates that local officials are elected for a term of six years. The last municipal elections were held prior to the conflict in 1985. Since the 2005 elections, the legislative has requested that municipal elections for paramount and clan chiefs, and superintendents are held.

The case to hold local election according to the Constitution was filed by the Chief Justice. The Chief Justice approved the executive to appoint local chiefs and superintendents. The Chief Justice, Johnnie Lewis, had previously presided over controversial judgements, which called into question the independence of the judicial sector. The executive maintained that there was no funding to conduct local elections, yet the legislative branch had made a budget allocation for conducting the municipal elections.
The ICG reports that citizens are increasingly frustrated because local officials and traditional chiefs are loyal to the executive and do not prioritise the interest of their constituencies.\textsuperscript{552} The question of representation is increasingly critical when concessionaires are extending their operations into rural areas and more than half of Liberian land is under concession agreements.\textsuperscript{553}

Local elections and public financial management are interrelated. The decentralised recruitment and payroll system extends the indirect control and patronage networks to rural areas. Public sector jobs function as a welfare system.\textsuperscript{554} The executive opposes local elections because elections would eliminate the direct control over rural civil service appointments, such as the superintendents, who on behalf of the executive control local appointments and the GOL payroll; and in so doing, exercise considerable influence in rural patronage politics. The efforts to clean the payroll and benefit systems have been rather symbolic and an answer to donor criticism on public financial management rather than genuine reform efforts.\textsuperscript{555}

Opposition legislators compete with the executive appointees over clients. Competitive conflicts between superintendents and legislators are common. Precisely because the public sector jobs perform the generic welfare function for extended families and networks, the constant competition over rural population’s support through clientelist networks undermine efforts to establish a merit based bureaucracy, but also inhibits political collective action.

The chiefs control rural communities. The superintendents oversee the local administration. Control over local level positions including commissioners and paramount chiefs enables the executive to undermine the political power of opposition legislators and to extend executive dominance to rural areas. According to a USAID field team, executive dominance has been maintained by appointing unqualified commissioners.\textsuperscript{556} During the first term (2006–2011) the president’s party did not control the House. At that point local elections would have been politically even more volatile to the executive. The local elections would have inevitably and instantly strengthened the local indigenous legislators’ position in rural area. Although during the second term the president has successfully won over the control over the House, the local elections in rural areas could still produce undesirable or unexpected results.

To sum up, although the 1986 constitutions provides for the election of local officials, no municipal election has taken place during the post-conflict era. The debate over local elections is

\textsuperscript{552} ICG 2011 p.17  
\textsuperscript{553} DeWitt 2012b p.2  
\textsuperscript{554} USAID 2014 p.16  
\textsuperscript{555} USAID 2013  
\textsuperscript{556} USAID 2014 p.30
centralised around the *pulling-rope* power bargaining between the legislative, who advocates for the elections, and the executive, who by the appointments of local officials exercise control over traditional governance structures through superintendents and chiefs. The municipal elections, likewise the control over County Development Funds, are both linked to decentralisation of the overly centralised and executive dominated state.

Rather than exogenous state-building, domestic organic processes are gradually albeit slowly changing the political playfield and power bargaining. The social mobility, the long conflict, and the first free elections modified the institutional arrangements, from an imperial president to an emerging parliamentary oversight and a power-sharing between the branches of the government.

Electoral democracy and democracy support as a central component of liberal state-building has done little to change the underlying structures that inhibit political participation in Liberia. Putzel et al. (2010) point out that donors should be cautious whether electoral completion actually leads to a more inclusive political settlement. Nilsson and Söderberg (2006) postulate that neopatrimonial and autocratic states and are more prone to armed conflict, especially when the state fails to move beyond initial build-up of democratic institutions.

While in the 2005 elections there was enough confidence to use constitutional means to redress grievances, the 2011 elections turned violent. Hopefully, the 2005 elections will not remain the only competitive election in Liberian history. The socially heterogeneous and politically pluralistic 2005 elections resulted in a unique new political constellation, in which there was an opposition to the executive in the House. Harris (2006) comments the 2005 constellation. The diversity could have alongside the promised constitutional reform, nurtured ‘a culture of compromise, balancing and coalition building’. The legislative bodies did ‘represent a very diverse range of interests’ that could have been ‘advantageous in the vital process of reconciliation and a check on an overbearing executive’.

In the aftermath, the opportunity to tolerate power-sharing and nurture emerging political party representation, as well as initiate institutional reforms, such as party financing to strengthen political party institutionalisation or make the NEC positions elective, were missed. The re-emerging of executive dominance, nepotism and elite corruption have only caught the international actors’ attention towards the end of the president’s second term rising questions of a true political will to implement reforms to achieve more equitable and inclusive society.

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557 Putzel et al. 2010 p.11  
558 Nilsson and Söderberg 2006 p.406  
559 Harris 2006 p.392-393  
560 USAID 2013
legislature and the opposition have been repeatedly condemned by international actors, who openly supported the president prior to the 2011 elections. Executive powers have gone largely unchecked. The legislative and the opposition have not been included in reform planning or given seats in independent commissions or steering committees, and in general have been side-lined in the state-building project. Nevertheless, the legislature has exercised its constitutional oversight function in calling the US private defence contractor to testify in the House and by scrutinising the Public Financial Management Act.

The later phase of Liberian state-building, after the second post-conflict elections of 2011, has paid more attention to the non-inclusive governance system. Constitutional reform, land reform, electoral reform, and judicial reform aim to address cultural, political and economic inequity dividing Liberian society. Debatably, the 1986 constitutional provision do not serve the public interest, and a constitutional review by the Constitution Review Committee is necessary to modernise the governance system. Electoral reform and decentralisation efforts financed and initiated by the IC try to address these issues. However, there is a lack of political will to decentralise the technocratic GOL and to tolerate political pluralism. The constitutional review process revealed that most Liberians are more concerned about their socioeconomic rights than about political rights. There are two seemingly obvious reasons: First, is the lack of democratic tradition and low public confidence in fair process. Second, and perhaps more importantly, the political rights have not been translated into socioeconomic rights.

561 King 2013, p.15
Chapter 5:
Security

Public security provision is one of the core functions of a state. The SSR, as one of the central concepts of state-building, is usually pushed through early after a peace agreement has been signed. The CPA, which mandated Liberian SSR, saw the SSR as a purely technocratic exercise and failed to take into account wider security sector governance issues. Ideally, SSR ought to begin with the design of a national security sector architecture and by defining the future functions of the security forces. At the very minimum, the security sector consists of the army, security forces, police, detention system, judicial system and a wider concept of the rule of law. No such design process was integrated in the Liberian SSR. The SSR was negotiated exclusively between the president and donors, primarily with the US and the UN, while the population at large was excluded from any decisions concerning what role the security forces should play in post-conflict Liberia.

The Liberian SSR has been extensively researched and discussed, among others by the Conflict Security and Development research team of King’s College London. Although it is not necessary to repeat the discussion here, this chapter will briefly outline some key elements and show how they relate to the wider state institutional architecture and the political economy of state-building. The chapter briefly presents the ideological background of the Liberian SSR. The notion of the securitisation of development is introduced as the guiding principle of the Liberian SSR. Second, it outlines how the SSR was instituted and how roles were divided between donors. It further outlines how the restructuring of the Liberian national army was privatised and internationalised by outsourcing it to private US defence contractors, implicating a wider trend toward the commercialization of aid. This section argues that what was labelled as an SSR in Liberia was in fact not a sectoral reform, but a range of disconnected donor activities. The third section outlines how the weak capacity of the police continues to hamper efforts to establish a rule of law. The chapter synthesises how the SSR contributes to the continuing problems of the Liberian security sector. The fractured security sector architecture, with its multiple agencies with poorly defined functions, and the lack of parliamentary and civilian oversight, have compromised wider human security and led to the re-emergence of regime security. It argues that the lack of oversight and disagreement over strategic objectives seriously compromises the legitimacy of the SSR. The Liberian SSR was exclusive and commercialised, geared toward the quick securitisation. The chapter concludes that the chronic failure to improve human security

perpetuates the weak legitimacy of the Liberian state and reinforces the lack of acceptance of its authority, further compromising the rule of law and creating a mutually reinforcing negative cycle.

Historically, the Liberian state has resorted to foreign military assistance to protect it from its own citizenry. After a decade of state-building and despite the country now heading into its third cycle of national elections, the state-building state is still dependent upon the UNMIL for the provision of internal security. This chapter links the down-grading of the SSR to a commercial contract awarded to a foreign defence contractor to the narrow exclusionary definition of the state institutions and to the concessionary political economy. While the citizenry remains outside the state’s security provision, the ‘reformed’ security forces primarily protect a regime and private property rights, including FDIs. Economic activities associated with the security sector, such as the multimillion dollar contracts on the one hand, and petty economic activities of check points on the other, reflect an economic policy based on duality and concessions, in which foreign investors are the corner stone of the state’s economy and informal or illegal activities sustain those who lack access to rents.

The Securitisation of Development

OECD Development Co-operation Directorate (DAC) Handbook on SSR (2007) defines SSR as the transformation of the security system, which includes the core actors of a formal state and the management of oversight bodies, including civil society, the legislative and its committees, the executive and ministries of defence, foreign affairs, justice and finance, the judicial sector and the rule of law, and the non-statutory security forces.\(^{565}\) According to Hänggi (2004), ‘A security sector can be considered as dysfunctional if it does not provide security to the state and its people in an efficient way or, even worse, if it is the cause of insecurity’.\(^{566}\) According to this wider normative definition, post-conflict Liberia has not undergone a SSR, but only a retraining of the AFL and LNP by international donors. It should be noted, however, that this broader definition of SSR was formulated after the Liberian SSR. Instead, the Liberian SSR was primarily guided by the post-9/11 securitisation of development and fragile state discourses. Consequently, the design and mandate of the Liberian SSR lacked any framework for civilian oversight or legislative democratic control. Both were excluded from the design process and later prevented from exercising their oversight functions.

\(^{566}\) Hänggi 2004 p.4
In state-building discourse, the definition of the state is left vague; nonetheless, state institutions are strengthened as an instrument of foreign policy in order to securitise fragile and failed states and prevent them becoming international security risks. In regard to contemporary state-building, Duffield (2011) presents an image of a neoliberal frontier, which is measured in terms of influence and attraction. It is ‘a contested and moving frontier of loosely demarcated zones of market fundamentalism and accumulation through dispossession’. While the definition of the state is left vague, the underlying theory in state-building emphasises capacity building of state institutions to contribute toward a more securitised and developmental state.

The security provisions can be categorised as regime, state and human security. Legitimacy is inherent to security provisions because durable security entities cannot be built on cohesion alone. Fundamentally, legitimate order is a precondition for accountability in reforms and democratisation within the security sector. If a state has no internal legitimacy, its monopoly on violence is experienced as a threat and predatory, not as protection by the population, which has historically been the case in Liberia.

The weakness of the state concept is an ideological construct that can be politically instrumentalised. The use of the state concept as a cohesive foreign policy tool appeared long before the state-building discourse emerged. In aftermath of the Second World War, a discussion emerged in the American political sciences, if the instrument of state was too narrow in order to become an instrument to be used for ‘imparting our experience to other nations and integrating scientifically their institutions into a universal pattern of government’.

The ending of Liberian conflict coincided with the post-9/11 securitisation of development and the fragile state discourse. ‘After 9/11 the promotion of liberal values became a matter of national security for the United States’. The US drastically changed its aid policies and the discourse on fragile states emerged. The terms failing and fragile state became central to US aid interventions. US foreign policy assumes that a fragile state poses a national security threat. A vulnerable state is unable or unwilling to adequately assure the provision of security and basic services to a significant portion of its population. Such states include those that are failing or recovering from crises.

567 Foreword in Pugh et.al. Ed.2011, ebook edition
568 Egnell et al. 2009, p.29
569 Lowenstein in Mitchell 1991 p.78
570 Lownestein p.547 in Mitchell 1991 p.78
571 Sorensen 2007 p.369
572 Andrew Natsio, USAID, USAID Strategy Paper for Fragile States 2004
573 Wagner and Kanter 2005 p.4
574 Woodward 2004
575 USA Fragile State Strategy 2005

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Liberia became the very definition of a failed and fragile state presenting a potential security risk and terrorist hub, a subjected to be stabilised. Karl Wycoff—Office of the Coordinator for Counterterrorism—in his testimony before the House International Relations Committee, Subcommittee on Africa, stated:

The end of conflict in Liberia and on-going efforts to stabilize Sierra Leone and Cote d’Ivoire are fundamental to our interest in stabilising the wider region. The U.S. in cooperating with other countries needs to address the enormous security, development, and other needs of Liberia and to support efforts in neighbouring countries to ensure that this region does not become a haven for terrorist and criminal activity.577,578

In fragile state discourse, fragile states that fail to provide security in their territory are assumed to become stronghold areas for terrorism.579 In 2004, allegations of Al-Qaeda money laundering linked to the diamond and weapons trade in Liberia were leaked to the media. Additionally, US intelligence speculated that the Lebanese militant group, Hezbollah, tried to raise funds among the large expatriate Lebanese communities of Guinea, Sierra Leone and Liberia.580 The securitisation of development includes addressing terrorist threats and narcotic, human and weapons trafficking. However, the rapid securitisation of the state, motivated by the fragile state discourse and neoliberal ideology, failed to sufficiently stabilise post-conflict Liberia. The opportunity to avoid Liberia becoming a regional transit point for illegal trafficking and money laundering was lost.

Additionally, the US interests Liberia was motivated by strategic and economic interests. In an article, The U.S. Must Confront Terrorism in Africa, Air Force General Charles F. Wald stated: ‘We have a huge interest in Africa from a security standpoint, from a strategic standpoint, and from the standpoint of protecting our security interests and investment interests’.581 In states like Sierra Leone, Angola and Liberia, specific intervention policies are less influenced by the ideology of the War on Terror and the securitisation of development, but by the concrete economic and strategic interests of the developed world.582 Particularly in post-conflict Liberia, US interventions were motivated not just by fragile state discourse and securitisation of development, but by specific economic interests.583 Due to their historical ties and strategic-economic interests, the US assumed a leading role in the Liberian SSR.

577. Washington, DC April 1, 2004 Karl Wycoff, The Office of the Coordinator for Counterterrorism in his testimony before the House International Relations Committee, Subcommittee on Africa
578. USA Fragile State Strategy 2005
579. USAID Fragile Sate Strategy 2005 p.1
580. Farah 2003
581. Miles 2004
582. Schwarz 2005 p.440
583. ibid.
Internationalised, Outsourced and Privatised SSR

The Liberian SSR was limited to the re-structuring and training of the Armed Forces of Liberia (AFL). The re-structuring of the AFL was outsourced to private US defence contractors, who was contracted to train a 2,000-man strong army. The US State Department gave the contract to DynCorp. In 2006, an estimated US$100 million was allocated to DynCorp in the form of bilateral aid commitments by the US. This marked the first time that an African national army was trained by a foreign corporation, raising concerns over neutrality and national ownership. The privatisation and outsourcing also indicated an increasing trend toward the involvement of private US defence contractors in development business. Cole (2010) postulates that the defence contractors and increasing outsourcing to security companies are ‘US soft power as an instrument of US foreign policy’.

The GRC conducted a security sector assessment in August 2006 with legislative input limited to consultations with the national legislature. The direct involvement of the GRC in the SSR was backed by the president, who stated, ‘the GRC provided intellectual leadership and injected critical thinking into the process’. The GRC was supported by the UNDP, the African Security Sector Network and the Kofi Annan International Peacekeeping Center. In fact, the national security strategy was adopted two years after the SSR, in January 2008, with the policy only having been drafted because of the external pressure. The PRSP had to include a national security strategy. The PRSP was a requirement in the HIPC process, which the administration was desperate to fulfil in order to qualify for new lending. In 2008, the president approved the national security sector strategy, which outlined the architecture of the security sector and regulatory frameworks.

The new national security sector strategy included decentralisation from the national to county and district levels (as was done previously in Ghana and Sierra Leone), new legislation and the abolishment of redundant security sector structures. None of these reforms had taken place by the time of the UNMIL’s phased withdrawal. In 2015, in close consultation with the UNMIL, a detailed security transition plan was drafted. Liberian authorities are to assume responsibility for all security matters performed by the UNMIL as of 2015. The transitional plan is intended to patch the planning deficits of the SSR and describes and clarifies the roles of the Liberian government institutions in reference to the security sector.

584 Ebo 2005
585 Cole 2010
586 GRC assessment report on SSR 2006 p.2
587 Jaye 2009 p.4
588 Jaye 2009 p.1–3
589 Jaye 2009 p.1–3
590 Landgen 2015 (accessed 20.5.2015)
Fractioned Security Forces

Traditionally the Liberian security sector has been fragmented and dependent on foreign support. The AFL is responsible for external security. The Liberian National Police (LNP) is responsible for law enforcement. The Drug Enforcement Agency and National Bureau of Investigations are separate agencies from the LNP. The National Bureau of Investigation (NBI) is tasked with crime investigation. The SSS provides protection to the executive. The National Security Agency (NSA) is the intelligence unit. The SSS and NSA are under the Office of the President, whereas the LNP and NBI fall under the Ministry of Justice. Previously, the AFL was under the Ministry of Defence. In addition, there are numerous other security agencies, including the Monrovia City Police, the Bureau of Immigration and Naturalisation, Roberts International Airport Base Security, the National Port Authority, Liberia Seaport Police, the Bureau of Customs and Excise, the Financial Security Monitoring Division, the Drug Enforcement Agency, the security forces of the Liberian Petroleum Refining Corporation, the Liberian Telecommunication Corporation Plant Protection Forces, the National Fire Service and the Coast Guard of Liberia. All these various agencies have overlapping, unclear and poorly defined mandates, have generally weak capacity, poor discipline and are of questionable integrity.

In 1877, a 500 man strong the Liberian Frontier Force (LFF), the predecessor of the AFL, was established to patrol two borders, namely that of the hinterlands against British and French territorial expansion, and the border between the settlers and indigenous to prevent disorder. The LFF collected taxes, labour and established control by force over the indigenous population. The LFF was brutal, undisciplined and corrupt. Poor remuneration compelled the LFF to live off the communities’ resources where they operated. The LFF ‘plundered towns and raped women’. Later, ethnic tensions were created by disproportionately recruiting from some areas and excluding others. An adviser to President Johnson-Sirleaf stated, ‘the army has always been unprofessional. In the past, its officer corps was seen as the dumping ground for the wayward sons of the elite. It was a form of punishment for those who did not do well in school’. The security agencies were patrimonial networks competing with each other. They were used to protect private property and keep the indigenous population in line.

Foreign Military Assistance

The UNMIL established in 2003 was not the first foreign military assistance mission in Liberia. Historically, the links to foreign military assistance have been strong, ‘from the early twentieth

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591 Aboagye et al. 2005 p.258
592 Aboagye et al. 2005 p.258
594 ICG 2009
century, the problem of Liberian security forces abusing civilians has been intimately linked to interventions by other governments, including those of the U.S, the UK, France and Israel.\textsuperscript{595} In 1912, US president William Howard dispatched three African-American officers to train the Liberian army. In the late 1950s, Washington began training Liberian officers in the US. In 1959, Liberia signed a mutual defence agreement with Washington.\textsuperscript{596} In 1961, President Kennedy authorised military assistance to the LFF which became the AFL. US landing rights, which were previously revoked by President Tolbert, were quickly restored by President Doe. During the Cold War and the Reagan administration, Liberia was the telecommunication and intelligence hub in West Africa.\textsuperscript{597} In the 1970s, the AFL was well-equipped and received massive supplies of weapons and training by US personnel, while the Special Anti-Terrorist Unit was trained by Israel. In the 1990’s Taylor’s 120 hard-core fighters were trained in Qaddafi’s Benghazi camp by African revolutionaries and in Burkina Faso. During the conflict, the AFL was dissolved and confined to barracks for much of the conflict. In 1992, Amos Sawyer established a parallel military structure, the Black Berets, which were trained in Guinea. The Black Berets were headed by Brownie Samukai, the post-conflict defence minister and trained by Fombah Sirleaf, the president’s son, later appointed as the head of the NSA.\textsuperscript{598}

After the post-conflict elections in April 2007, the Deputy Commander of the US European Command (USEUCOM), William E. Ward, signed a new bi-lateral mutual support agreement, the Acquisition and Cross Servicing Agreement (ACSA), with the Ministry of Defence, which restored the bi-lateral military co-operation between Liberia and the US. Liberia would provide security assistance during port visits by the U.S. Navy and Coast Guard vessels, and would permit the exchange of logistical support, supplies and services between the US and Liberian military forces. Likewise the Regan administration in the 1970’s, the Bush administration saw Liberia as one of its strategic counterterrorism centres in Africa.

The SSR Legal Framework
The legal framework of the SSR was vague. The 2003 CPA, UN Security Council Resolution 1509, and the 1986 Constitution of Liberia provide the legal framework for the SSR.\textsuperscript{599} The 2003 CPA suspended all previous constitutions, laws and powers of the executive. However, the CPA did not provide a clear framework for SSR. In theory, the constitution was reinstated by national elections and the inauguration of the elected government in 2006.

\textsuperscript{595} ICG 2009, also NTRC Final Report p.2
\textsuperscript{596} Hansen 2006 p.96
\textsuperscript{597} Easterly 2006
\textsuperscript{598} The ICG Jan 2009 report p.3–4
\textsuperscript{599} Government Reform Commission, assessment report, unpublished
Ebo (2005) criticised the privatisation of the army and UN involvement. Ebo claims Jacques Klein, the UN special representative of the Secretary General, was not conducive to the reform of the armed forces and this may have delayed SSR planning. Klein favoured a well-trained police force with the addition of a 600–700 strong border security force, preferring to have abolished the army if he could. According to Klein, ‘armies sit around playing cards and plotting coups’. According to Ebo, ‘UNMIL unlimited’ and Klein had too much influence. Ebo (2005) further criticised Klein for having too cordial a relationship with the head of the NTGL, ‘The former UNSG was fast becoming part of the problem for which he was appointed to find the solution’. Klein’s influence may have contributed to delays in addressing SSR and the significant role played by the US.

An ‘Affordable’ Army

The notion of an affordable army became a guiding principal in the Liberian SSR. Allegedly, in 2005, over lunch with Bryant, the chairman of the NTGL, US Ambassador John Blaney decided the number of soldiers Liberia could afford to pay regularly. The calculation was scribbled on a napkin based on estimated revenues, the budget and the cost of army salaries. It was decided that the US would be responsible for the training of a 2,000 man Liberian National Army. It was claimed that there was insufficient funding for a SSR and that Liberia could not afford a larger army. However, the cost of the SSR was comparatively minimal in relation to the cost of UNMIL peace keeping forces. From 1 July 2008 until 30 June 2009, US$50.3 million per month was appropriated by the UN General Assembly for the maintenance of the UNMIL, ‘The total outstanding assessed contribution for all peacekeeping operations at that date amounted to 1,671,4 million USD’. In comparison, the estimated US$300 million needed to train the Liberian National Army equalling six months the cost of the UNMIL.

Although the Ministry of Justice has oversight of the Liberian Armed Forces, a complete withdrawal of international peace keeping forces was still not in sight until April 2015 when the United Nations Security Council resolved to resume the withdrawal of the UNMIL. The UNMIL withdrawal’s last phase was delayed due to the Ebola outbreak in 2014. The list of responsibilities yet to be assumed by the Liberian security forces is daunting and includes VIP protection, explosive ordinance disposal, prison security, management and monitoring the importation and use of fire arms, maritime security, border management and patrol, static

600 Ebo 2005 p.16
601 Ebo 2005 p.28
602 UN Security Council’s 17th progress report p.14
603 Landgren, Karin, 2015, The Drawdown of the UN Mission in Liberia Resumes, theWorldPost, the Huffington Post, 29.4.2015 (accessed 20.5.2015)
guarding and cash escorts. These tasks are divided between various security agencies and problems with inter-agency coordination are already anticipated, underscoring the lack of attention given to the wider security sector architecture.

In addition to the cost of the international peace keeping forces, the notion of an affordable army need to be referenced to the cost of social problems and high unemployment. Ebo (2005) argues that the national army could have participated in reconstruction efforts and reintegration. Ebo further advocated for a more development-orientated security sector, ‘in which armed and security forces deploy their specialized skills to contribute to civil engineering, agriculture, and health. […] The mission and structure for the new armed forces should reflect the threats that face the country, and should go beyond its historical links with the United States’.

Post-conflict Liberian society is burdened with the heavy weight of the social cost of war, including the breakdown of traditional social order, male and female prostitution on a scale hitherto unseen in the tiny country, broken family structures, HIV becoming commonplace, and widespread psychological issues, such as post-traumatic stress disorder and consequent reactive attachment disorder in children. In 2006, Liberia had the highest population growth rate in the world at 4.50% per annum; and in 2010, 43.5% of Liberians were below the age of 15 years.

The challenges faced in establishing a rule of law and improving human security are considerable. Furthermore, in 2007, the estimated 40,000 ex-combatants were yet to benefit from reintegration and rehabilitation programmes, including job opportunities. Nonetheless, the opportunity to absorb soldiers and ex-combatants was lost by disbanding the AFL. Ex-combatants were managed through a disarmament demobilisation reintegration rehabilitation (DDRR) programme, including short-term vocational training programmes; however, these training programmes were implemented at the conclusion of the Disarmament Demobilization phase when no jobs were available for the professions that they were trained for. The international actors were overwhelmed by the number of ex-combatants during the rehabilitation and reintegration phase. In 2007, UNDP official, John Ohiorhenuan, wrote that ‘employment opportunities are perhaps the single most important factor for sustaining the fragile peace’ in Liberia. There were no educational or employment opportunities. Consequently, armed robberies and cross-border recruitment to rebel forces continued to poses a security risk. The lack of opportunities,

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605 Ebo 2005 p.20
606 Aboagye et al. 2005 p.254
marginalisation of the youth in public sector, fast urbanisation and demographic changes led to devastating social problems, many of which continue to obstruct internal security.

The decision was between dismissing the army, resizing, or building a national army which could have absorbed unemployed youth and provided a social security network, much like the civil service payroll does. The beneficiaries of the civil service payroll are the relatively well-off educated elite class, while the beneficiaries of the national army could have been indigenous youth, who otherwise have few opportunities available for them. On the one hand, a larger national army could also have addressed the regional security situation and Liberia could have participated in regional peacekeeping ECOWAS Standby Forces. On the other hand, a large national army is seen as a security risk because, historically West African armies have often been involved in violent coup d’état. Nevertheless, the notion of an affordable army guided the restructuring of the AFL. By 2006, the restructuring and resizing of the national army became the only component of the SSR. Former members of the AFL were dismissed and compensated. The venting process of the new recruits was meticulous and slow.610

The Role of Private US Defence Contractors and the Lack of Oversight

The CPA envisioned that the US would have the leading role in re-training the Liberian National Army, but the US was the only donor involved. UN Security Council Resolution 1509 provided for the involvement of UNMIL.611 The US took an exclusive role in training the AFL, and the UN was in charge of training the LNP Force. While other African countries have undertaken SSR with minimal external involvement, the Liberian SSR was internationalised.612 Questions were raised about the US’s motivation, funding, and assistance.613 In 2009, possibly because of the change in the White House, the US abandoned its exclusive role in training the AFL and other donors, among them China and the EU, got involved.

In addition, for being internationalised, the responsibility of the restructuring the national army was outsourced to a private defence contractor.614 The US State Department selected DynCorp International as the implementation partner to train the AFL. The contract was for US$35 million, compared to the total funding of US$200 million pledged for the Liberian SSR.615 DynCorp and Pacific Architects and Engineers (PAE) had a five-year monopoly contract for all State Department security-related services in Africa, which means that they gained the contract to rebuild the Liberian National Army without any competitive bidding process. The restructuring

610 Mattis 2011 p.278
611 Ebo 2005
612 Ebo 2005
613 Jaye 2009 p.6
615 UNSG Fifth Report 2004 p.7
of Liberian armed forces was contracted to PAE and DynCorp. PAE, which specialised in logistics and construction, was granted a separate contract to refurbish the Camp Schieffelin military base and was subcontracted to train officers. PAE further proposed a subcontractor, Military Professionals Resources Incorporated (MPRI), which had trained in Nigeria. In August 2008, the Liberian armed forces had 1,631 recruits who had completed basic training. By late 2009, the new army was expected to go through the Army Readiness Training and Evaluation Programme, at which point DynCorp and PAE would have been finished with their contract and the Ministry of Defence would take over.

As previously stated, the involvement of US private security contractors in the Liberian security sector indicates a trend toward the increasing role of private defence contractors in development assistance. By being among the first to get involved in projects funded by bi-lateral or multi-lateral aid agencies, they gain a first-mover advantage in a post-conflict market and in future government contracting. ‘Defence firms are going into an area that was the domain of smaller firms and nongovernmental organisations, not shareholder-minded corporate giants’. The US defence corporations’ contract was followed by additional US security corporation contracts. Although previously the NTGL had denied to accept foreign judges in Liberian courts, in 2006, Lockheed Martin was hired to mentor Liberian prosecutors. Lockheed Martin opened an office in Liberia and it was awarded an operational contract for the national airport. The airport project was the first contracted directly by the Liberian government and could lead to further contracts down the road, such as selling computer networks to the Liberian government. Lockheed Martin was also training prosecutors in Liberia’s Justice Ministry. ‘Since 2006, contractors hired by Lockheed have mentored Liberian prosecutors as part of a project to bolster the country’s judicial system. They also helped to establish a cadre of public defenders. PAE, a Lockheed Martin subsidiary, remodelled parts of Monrovia’s battle-scarred Temple of Justice, installing a new roof and new electrical wiring’. The president supported Lockheed Martin, and ‘believes encouraging Lockheed to expand its presence in Liberia will allow the country to attract more American investment in the future. Lockheed is very much part of our longer term attempts at creating security architecture that keeps us and the entire region’. However, the extensive involvement of private US security corporations in areas of national security interest have caused a lot of controversy. The legislature, which was excluded from decision making involving matters of national security and the contracting of US companies, have raised serious questions about

616 Ebo 2005 p.19, Jaye 2009
617 Cole 2010
619 UNMil Review
620 Cole 2010
how such contracts benefit the Liberian people. These contracts are negotiated between the US and the executive, justified as attracting foreign investment and strengthening the special bi-lateral relationship.

Although, the Constitution provides the legislature with authority and responsibility in regard to the security sector, for instance ‘providing security of the Republic’, to declare war, authorise the executive to conclude peace and to appropriate money for the armed forces, the legislature has been repeatedly prevented from exercising its oversight function. The fact that the SSR was not funded from the national budget diminished the legislative oversight function. Furthermore, the use of private military companies (PMCs) is problematic because the employees of PMCs are not subject to the same kind of oversight and legal liability as are employees of professional armies. Oversight is provided by the US State Department, not by the GOL. PMCs have no obligation to report to the GOL and did so only as a courtesy.

Several instances have demonstrated these compromised oversight functions. In 2006 for instance, the House Defence and Security Committee summoned DynCorp to explain its role in Liberia. DynCorp refused to appear, claiming that it was only accountable to the US government who had contracted them. However, a US Army War College report states that the US shared information with the Liberian Ministry of Defence on a regular basis. In March 2008, the Liberian army received its first arms delivery. The following day, in the legislative session, several members of the House expressed their profound frustration with the unilateral actions of the executive in issues concerning national security. The House Committee on Security had not been informed about the weapons import by the executive. In May 2009, a US delegation, including members of the US House of Representatives, visited Liberia and met with legislative representatives, who pointed out that there had been no workshop with the legislative regarding the SSR and that their legislative oversight functions in the security sector had not been supported by the US government. In March 2010, the president left the Minister of Defence in charge as the acting Head of State. A veteran politician noted, ‘we don’t want a situation where just one person has the ear of the president in intelligence matters. The idea of an intelligence czar is not new in Liberia. In the past, the position was abused so dangerously that it contributed to the war. If there is a czar today, it is the president’s stepson, Fombah Sirleaf, who was trained at the US Military Academy at West Point and heads the NSA.”

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621 UNMil New Review: http://unmil.org/1article.asp?id=3799&zdoc=1
622 McGovern 2005 p.763
623 Jaye 2009 p.14
624 Malan 2008
625 Observation of the House session in 2008
626 Statement of a legislator
627 The ICG Jan 2009 report p.20
The SSR was negotiated exclusively between the president and donors, primarily with the US and the UN. The internationalised and commercialised security sector lacked parliamentary and civilian oversight. The lack of oversight and disagreement over strategic objectives seriously compromised the legitimacy of the SSR. The way roles were divided between donors neglected the design of wider security sector architecture. The lack of accountability and oversight mechanisms led to a fractured security sector architecture with multiple agencies that had poorly defined functions and no oversight. This has further led to tensions between the Armed Forces of Liberia (AFL) and civilian population. It also poses a risk that the reformed security forces could once again be used against the population.\(^{628}\) Fundamentally, there are no accountability links between the private foreign defence contractors and the Liberian citizenry. Jaye (2009) urged the administration to share a broader and deeper notion of security. The oversight function is the responsibility of the national legislature. The overconcentration of power at the executive results in an imperial level of personalised control over state security agencies.\(^{629}\) Weak legislative and civilian oversight contributed to a return to regime security. The way the Liberian SSR was designed illustrates what can occur when state institutions are divided between donors, as if they were not interconnected. The Liberian SSR was privatised and internationalised, and consequently disconnected from the wider security sector architecture.

**Police: The Economy of Checkpoints**

The SSR failed to take into consideration a wider security sector architecture. The consequent weak rule of law has hampered efforts to reform the police forces and perpetuated the culture of impunity. The LNP’s task in internal security is vital; it needs to address the culture of endemic and systemic violence and lawlessness. This is not possible without changing the mind-set of the police forces, but it also requires investments in human resources and logistical infrastructure. Even more importantly, the security sector architecture needs to include law enforcement, judicial and corrective services. None of these measures will suffice, however, unless they are accompanied by accountability links, security sector governance, and reforms that take into consideration the wider security sector architecture and the future functions of the security forces in Liberia.

The UN Security Council Resolution 1509 specified a role for the UNMIL in reforming Liberia’s police.\(^{630}\) Bilateral donors Germany, Norway and the US contributed to police reform. Regrettably, after years of on-going reform, the capacity and professionalism of the police forces

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\(^{628}\) Nilsson 2009 p.39, also Jaye 2009  
\(^{629}\) Malan 2008  
\(^{630}\) Aboagye et al. 2005
shows few improvements. Liberia has reverted to many of its pre-war practices. The problems are financial, a lack of capacity, low levels of education, systemic corruption, and a *let live* mentality where everybody takes care of themselves.631 Disciplinary problems, misconduct, low morale, and demonstrated systematic weakness in command and control are major concerns. One of the most controversial issues in the national police is its upper management. The LNP faces low morale, poor discipline and extremely poor leadership. In 2009, opinions regarding Inspector General Beatrice Muanh Sieh varied widely and there was consistent criticism by those below her.632 The critics claimed that gender-based selection is not always the right choice—gender is not a qualification—and that such ill-advised nominations do not improve the acceptance of women in upper positions. Furthermore, despite their poor performance, many officials appear to be untouchable. The president rejected a board of inquiry recommendation for the dismissal of Inspector General Muanh Sieh despite a case of her instigating a gun battle between the LNP and Seaport police in July 2007. Instead, she was sent to leadership training courses in China and the US.633 President Johnson-Sirleaf appointed the next Inspector General of the LNP, Marc A. Amblard, who was also ill-received by the public. The lessons of earlier police fatalities were not learned. In 2011, the security forces opened fire on civilians and again in 2015 during the Ebola epidemic. In 2015, a group of police beat to death an innocent man who was having an affair with the wife of a policeman. Reports of police misconduct continue and public confidence in the police is low.

In 2008, LNP had 3,996 officers and 190 staff, 35 cars, and one vehicle for every 114 officers. The ICG recommended deploying the LNP over the entire national territory, but by 2010 the LNP was still primarily restricting itself to the Monrovia area. Four years later, 4,100 police officers were stationed in 151 police stations across the country.634 This equals roughly to one police officer for every 1,000 citizens. However, the LNP still faces budgetary problems, infrastructure and logistical challenges, and even a lack of petrol.

The lack of confidence in the police hampers efforts to establish a rule of law, leaving people to resort to self-organised security measures. In early 2008, citizens burned down police stations in Lofa and Maryland, expressing their frustration with police and justice sector failures.635 Communities have organised self-defence patrols and have avowed to use deadly force. In a suburb Monrovia, a man who supervises a civilian night patrol team said that the security situation

631 USAID 2013
632 The ICG Jan 2009 report p.19
633 Kantor and Persson 2010 p.18
634 Interpol, http://www.interpol.int/Member-countries/Africa/Liberia (accessed 20.5.2015)
635 The ICG report 2008
was so bad that, ‘We have no choice but to provide security for ourselves’. In 2008, locally made shotguns were making a comeback and a number of armed robbers are reportedly killed by them. Violent incidents have increased; the latest being the murder of a corruption whistle-blower who was found dead in the sea. He was hired by the National Legislature to draft a new oil law. His death sends a message that fighting corruption is deadly in Liberia. Such incidents are not investigated and public figures commonly fear for their lives. In 2015, anticipating the UNMIL withdrawal, the UN expressed serious concerns regarding the security situation.

Critics argue that there was no coherent national security policy, yet alone a national crime prevention strategy. However, the biggest problem faced by the NPF may not be its poor leadership and incompetence. The security sector architecture includes the army, security forces, police, judiciaries and penal system. Because the SSR did not incorporate any reform of the judiciary, nor penalty system, it failed to establish a rule of law. A functional police force in the absence of functional courts and a justice system is an oxymoron.

The Liberian SSR threw a wedge between the security forces and the population. The special armed units are particularly detested. The Emergency Response Unit (ERU), the paramilitary unit of the police force, received their training from the US and Ireland. The ERU’s training was negotiated with the US embassy, but the funding of US$1.4 million was channelled through the United Nations Police (UNPOL). The 300 man strong ERU handles riots, anti-crime patrols and provides assistance in disaster situations. Concessionaires frequently call the ERU to assist to suppressing riots and social unrest in concession areas. The local slogan mocks the ERU, as ‘Ellen’s Response Units’.

The SSS is the special executive security force. The US funded the SSR with US$5 million. In 2008, the ICG reported abusive and unprofessional behaviour by the SSS. Those critical toward the president have commented that her convoy has begun to resemble that of Taylor’s: Convoys with a fleet of jeeps, cars, flashing lights and pointing guns at traffic to force them to yield.

*Pay as you go* and the *economy of checkpoints* subsidises police salaries. When the UNMIL begun training the LNP, it removed the checkpoints from the roads. The Bureau of Immigration and Naturalisation asked for US$2.7 million to demobilise 1,228 former officers who did not meet eligibility requirements. The custom of collecting fees at checkpoints had served as their source of revenue.

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638 Malan 2008
639 Kantor and Persson 2009, p.18

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of income. When the UNMIL first cleared the road checkpoints, many of the officers were forced to look for other sources of income. But with no other opportunities or jobs available, the checkpoint economy was quickly restored on Liberian roads and the UNMIL abandoned its effort to eradicate the practice of harassing travellers for small payments. In addition to the regular checkpoints, especially during the weekend nights, there are additional ad hoc checkpoints on streets. Moreover, concession companies isolate their concession areas with checkpoints. Villages and communities build speed bumps to slow down traffic. If the potholes and miserable road conditions were not enough to make travelling on Liberian roads a tiresome endeavour, police, immigration checkpoints and speed bumps add to the obstacles. Liberian roads are emblematic of the strange mixture of NGO advocacy, economic activities and failed efforts to establish the rule of law.

While these irregular activities, such as the checkpoint economy, are entrepreneurial and part of the everyday life in Liberia; the use of police positions as small business licences is a serious misuse of a public office and lowers public willingness to accept state authority and rule of law. While the national army was resized, the wider security sector, both state and private, is mushrooming. In the absence of a rule of law and the security situation being persistently fragile, private citizens, corporations, state-owned enterprises, and various state agencies operate their own security forces.

The UN Security Council’s progress report (2008), among others, note that due to the weak operational capacity of national security forces and the judiciary, the public has lost confidence in those institutions, which in itself poses a serious security threat. The weak operational capacity of security sector and rule of law makes it difficult to contain threats to public safety, including mob violence. In light of the history of human right abuses by the state security forces these developments are troubling.

**The Absence of Security Governance: Regime Security**

The Constitution provides a board range of authority to the legislature and yet the manner in which the SSR was initiated undermined the oversight function of the legislative. Historically, the security sector has been controlled by the executive. According to Article 54(e) of the Constitution, the president serves as commander-in-chief of the LAF and, therefore, appoints all military officers above the rank of lieutenant and oversees the broad direction of the armed forces. The National Security Council (NSC) was created in 1999 by an Act of parliament assigned with a number of responsibilities, including: defining the national security goals; initiating discussions

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640 The UN Security Council’s 2008 progress report, also Nilsson 2009, and Jaye 2009
641 UN Security Council 17th progress report p.8
and debates about national security policies, proposing alternative courses of action and supervising the security agencies of the government under the direction of the president.\textsuperscript{642}

Overall security sector policy coordination lies with the NSC, headed by the president. The NSC comprises of key ministries, namely the ministries of justice, defence, and internal affairs. Key internal security agencies such as the LNP, Bureau of Immigration and Naturalisation, and the NBI function under the Ministry of Justice and the president appoints all the heads of those agencies and retains control over them.\textsuperscript{643} The Ministry of National Security bears dual responsibility for providing intelligence briefings to the president and coordinates with other security services.\textsuperscript{644} As of 2014, the Ministry of National Security was in the process of being abolished, with its responsibilities and personnel being merged with the LNP in accordance to the 2011 National Security Reform and Intelligence Act. County Security Councils (CSCs) were launched in 2009. A CSC is a county-level version of the National Security Council. CSCs comprise the local heads of police, immigration, NSA and Liberia National Fire Services and are chaired by the superintendent.\textsuperscript{645} Likewise, the superintendents and the chiefs the CSC reports to the Ministry of Interior, which is also a member of the National Security Council. This means that ultimately all security agencies report to the executive and the appointments are made by the executive giving it an exclusive and imperial control over the security sector agencies. This poses the question, what happens in case of a future regime change. Will all security agencies agree to report to a new president, who may represent a previous opposition; or do they agree to step down, or will the security agencies use force against the opposition and the population? The constitutional review process, still on-going as of 2015, highlights the need to reducing the powers of the president in appointing key security officials and to restore the democratic oversight functions of the legislative.\textsuperscript{646} This would be an important step away from regime security toward a broader notion of human security.

Neither the national police, nor the national army can provide adequate security, thus creating a need and space for various security force and agencies. A 2014 review of the security sector financing revealed that there is a gap between revenues, foreign assistance and targets set by the national security strategy. Although the review omitted the affordability of the LAF altogether, the review raised questions about the feasibility of the CSCs and the outreach of judicial services

\textsuperscript{642} Malan 2008, unpagedinated
\textsuperscript{643} Nyei 2014
\textsuperscript{644} Jaye 2008
\textsuperscript{645} Nyei 2014
\textsuperscript{646} Nyei 2014
in counties, especially because of popular distrust in security forces and that land grievances remain unaddressed.\textsuperscript{647}

In 2005, prior to the SSR, Aboagye and Rupiya (2005) wrote:

Against the background of the country’s history and the objective performance of the security forces, Liberia’s security forces should exist for one purpose only, to provide and guarantee the security of its citizens, where human security becomes a public good and not an evil. Consequently, pursuant to relevant international norms and conventions, these forces should not be employed on tasks that jeopardise the security of the country’s population and people. The reforms should transcend the notions of regime security to instil a culture of democratic civil-military relations.\textsuperscript{648}

Nevertheless, state-building prioritised the quick securitisation of the state, and resizing the army took precedence. The Liberian SSR was marked by liberal peace ideology and the post-9/11 securitisation of development discourse, as well as the domination by strong bi-lateral US–Liberia relationship. As to a sustainable SSR should incorporate a wider security sector architecture and security governance, include mechanisms of oversight and, most importantly, be a part of the national reconciliation process; otherwise, the regime security provision may as well be contracted to foreign defence contractors as was done in Liberia.

Liberian state-building state continues to exist as a fragile and negative peace, in which every group from a slum community to a multi-billion-dollar transnational corporation provides for its own security forces. The quick securitisation of the state and consequent regime security, combined with the questionable integrity of security forces as well as the police, creates a sense of insecurity and unpredictability. Thus, the population resorts to mob violence, traditional governance structure, clientelist and patrimonial networks to provide security and public order. Throughout Liberian history the indigenous population has experienced state security forces as unpredictable, predatory and brutal. Regrettably, state-building has not brought a change to this experience. The reluctance to accept state authority is expressed in ‘everyday forms of refusal’.\textsuperscript{649}

In conclusion, one of the planning deficits in the Liberian SSR was that it was bifurcated such that, since 2004, the AFL, police and the judicial sectors were pursuit as separate—not interdependent—programmes. Consequently, less attention was paid to the provision of comprehensive human security, public and internal security. There are genuine concerns that Liberia will revert to a conflict after the UNMIL withdraws in 2016. The incomplete SSR, as well as the low level of police deployment across the country, against the background of land disputes, consequences of pervasive poverty, massive unemployment, electoral violence, and Liberia’s


\textsuperscript{648} Aboagye and Rupiya 2005 p.270-271

\textsuperscript{649} Mitchell 2002, Introduction, 39th paragraph (eBook edition)
vulnerability to disasters and emergencies pose threats to stability. Securitisation without reforms in corresponding sectors, especially the judiciary, are predisposed to fail in establishing any legitimate peace, internal security or rule of law. The links between the judicial and security sector are particularly important for the rule of law. The next chapter will turn to the judicial sector and Liberian legal system.
Chapter 6:
Rule of Law: Which Law?

This chapter discusses the rule of law aspect of Liberian state-building. The first section introduces different levels of rule of law and links them to the Liberian judicial sector, which has consistently been corrupt and weak. The second section outlines the dual legal system of Liberia, and how, under the auspices of respecting customary legal systems and structures of governance, the duality is in fact appropriated to advance neoliberal economic policy. The section outlines both the statutory system and the customary legal system; explaining how the chiefs, who administer traditional justice, are on the payroll of the Ministry of Interior and how the traditional legal system is used to control the indigenous population. The dual legal system encourages forum shopping between the two conflicting legal systems and breeds corruption. What purpose does this legal forum shopping really serve? This chapter advances the argument that the rule of law must recognise changes in circumstances. Although the Rules and Regulations Governing the Hinterlands, under which the indigenous population was denied access to statutory legal system has been revoked, the Liberian Constitution still regonised two distinct judicial systems. The dual legal system mirrors the quasi-apartheid governance arrangements, in which the poor, rural and indigenous were excluded from the formal state institutions. Just because in the past the indigenous population was not considered as citizens of the Liberian state, is it acceptable that today they should be provided justice through customary legal practices? Are the Constitutional provisions that allow for the recognition of the customary legal system still relevant, when it is widely recognised that customary rulings are arbitrary, unpredictable, corrupted and often in violation of widely accepted notions of human rights? The 1986 Liberian Constitution was written for an entirely different political life and does not demand ‘equal protection of laws’. In the words of Dworkin (1986), denying that community has the power to change its public sense of purpose ‘means denying that it can have public purpose at all’. Because the NTGL refused to recognise foreign judges in Liberian courts, the judicial sector support was delayed, thus compromising the sequence of state-building activities. Consequently, both legal systems, the customary and the statutory, have weak capacity, are outdated and corrupt. Nevertheless, the judicial branch of the government must assume its functions, if the state is to establish a rule of law.

While the international state-building has introduced modern notions of international human rights and advocated for democracy, little to nothing has been achieved to address the inequalities in access to justice, especially in the rural areas. The pressure to provide equal legal protection to all segments of the population is circumvented by the claim that customary legal practices provide rural communities with a working system of justice. The central argument of this chapter is that

650 Dworkin 1986 p.365
the customary legal system has been appropriated to exclude the poor and rural population from being equally protected by law and their rights are thus unprotected against the increasing transnational commercial interest in land and resources. The last section of this chapter turns to the mechanisms of transitional justice. The chapter posits that although the IC may give a preference to transitional justice during the peace-building, these transitional justice mechanisms may not have been the most appropriate method of reconciliation in Liberia.

This chapter analyses the Liberian state-building state from the perspective of Jensen’s (2008) approach to judicial sector support in state-building. What orders behaviour? What is the rule of law in Liberia? What is the Liberian legal system? What can realistically be done to strengthen the rule of law? Judicial support and judicial reform should begin with these analytical questions and identify which rules can be enforced by bureaucracy and which require to be judicialised.

The Urgency to Address the Weak Judiciary and the Dual Legal System

The weak internal legitimacy of the state translates into a weak rule of law. Theoretically, the definition for rule of law ranges from thin to thick. The thin definition for the rule of law is ‘whatever the sovereign utters is law’. This describes the rule of law as understood by most Liberian leaders. Formal legality requires that laws are general in their scope, ‘prospective in their application, clear in their formulation, and certain in their application’. Neither the Liberian state, nor the traditional systems of governance have achieved this level of predictability. The democratic rule of law focuses on the consent of those governed. The substantive rule of law has additional content requirements stressing limitations on government action. ‘A thicker social welfare version of substantive rule of law includes the affirmative duty of the government to make the lives of citizens better, distributes resources justly and, recognize the right to dignity’. In theory, the thick substantive definition of the rule of law is the primary objective of state-building.

Law reform in post-conflict Liberia has its basis in the thin understanding of the rule of law and in the years of anarchy. This is because Liberia’s weak legal system cannot be blamed on the conflict. Even before the conflict, the judicial system was corrupt and the statutory system did not extend into the hinterlands. Many counties, for example, had no court houses. Before the rule of law, traditional systems of governance were based on self-enforcement and fear or spiritual powers. After the introduction of indirect ruling by the state, the traditional systems were

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651 Jensen in Call Ed. 2008 p.120
652 Jensen in Call Ed. 2008 p.125
653 Ibid.
654 Jensen in Call Ed. 2008 p.123
655 Jensen in Call Ed. 2008 p.123
increasingly cohesive. The Liberian state has imposed its rule of law by violence and force rather than by the consent of the governed or democratic rule of law.

Much like its governance systems, the Liberian legal system is characterised by dualism, in which two parallel systems have co-existed without modifying each other. The population and politicians navigate between state institutions and the traditional governance structures on a daily basis. The concept of ‘hinterlands’ or in contemporary expression ‘customary governance’ and ‘traditional justice’ identifies the realm more in descriptive terms than in geographical terms. According to the Rules and Regulations Governing the Hinterlands the ‘natives’ were a sphere, which the statutory law did not regulate. Also the post-conflict state tactically avoids to intervene in the ‘hinterland’ realm. This is a political choice and an abdication of responsibilities. The hinterland sphere is described as ‘traditional’, ‘customary’ and even ‘informal’ to mask the socio-economic exploitation. Drawing a line between the statutory and customary legal systems reinvigorated the quasi-apartheid structures.

In a post-conflict society, the state’s monopoly on violence in its territory may be weak and the first priority is the establishment of order. Consequently, SSR is often given a higher priority than other elements in state-building. During the government’s first term (2006–2011), the statutory legal sector received significantly less attention than public financial management capacity building or the security sector, both of which were considered priority areas. However, because the core functions of a state are interconnected, the weak judicial sector compromises other state-building reforms, such as the capacity building in policing, land reform or anti-corruption efforts. Moreover, unlike in other countries for (e.g. Sierra Leone), the reform of the judicial sector was not synchronised with the SSR. This compromised the success of the SSR, because ‘rule of law functions require higher levels of interagency coordination to achieve credible enforcement’ (e.g. the courts, police, investigative capacity, prosecutors, public defenders and other civilian agencies, a functional penal system). The lack of synchronisation between sectoral reforms rendered them incapable of functioning and bred corruption. Even when the police do investigate a crime, the courts cannot handle the cases and criminals are not prosecuted. Suspects are frequently detained without having been convicted. In fact, few laws are enforced. Businesses are largely unregulated, and while taxes are collected, this also provides the tax collectors with an opportunity to press for small bribes.

In general, justice is not administered in accordance with the Constitution (e.g. refusal to hold local elections) and the Constitution has been undermined by the international state-building

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656 Jensen Call Ed. 2008 p.124
framework (e.g. security sector oversight and budgetary process).\textsuperscript{657} Although traditional legal practices are often in direct conflict with international norms and human rights, and thus create conflicts between international state-building ideologies and practices, projects seeking to strengthen and support traditional legal systems have circumvented efforts to provide improved and equal access to justice. Nevertheless, Jensen (2008) posits that not all sectors need to be judicialised or be dealt with as a legal issue.\textsuperscript{658} Some needs are better addressed through administrative functions. For example, the abundance of land cases overwhelming the Liberian court system could be better addressed through a special land court or by an administrative office. Furthermore, instead of assuming that the traditional systems of rural justice as administered by chiefs is appropriate and desirable in family matters, it should be clearly defined which family matters can be culturally resolved in towns and rural areas, irrespective of the geographic location, and which should be addressed for instance by the criminal justice system.

The obvious need for judicial sector reform was overlooked in the state-building enterprise. During the two terms of the post-conflict administration, in spite of on-going state-building activities, no fundamental reforms to the judicial sector had taken place. GEMAP, the comprehensive framework for addressing issues of governance, initially included judicial support. However, because the NTGL and incoming president resisted the idea of having foreign judges with co-signing authority in Liberian courts, the judicial component of the GEMAP agreement was removed. Consequently, donor funding for the support of the judicial sector was delayed, and when it did eventually come, it was a case of too little too late.

**Statutory and Traditional Legal System: Do They Meet in the Court?**

Liberia has a dual judicial system. The national court system falls under statutory system accessible by the civilised elite, while the native indigenous population lives under a customary legal system. According to the 1943 *Rules and Regulations Governing the Hinterlands*, the indigenous were not permitted access to the statutory system. Until 1964, the statutory system applied to only five coastal counties and its use was prohibited for the indigenous population.\textsuperscript{659} The settlers used the statutory legal system to confiscated customary land from the indigenous and to bring it under the legal protection of statutory private property rights. Consequently, the indigenous felt a deep sense of mistrust toward the statutory system.

Article 65 of the Liberian Constitution stipulates, ‘Judicial Power shall be vested in a Supreme Court and such subordinate courts as the legislature may from time to time establish’ and that

\textsuperscript{658} Jensen 2008
\textsuperscript{659} Gongloe 2005 p.23–24
these courts ‘shall apply both statutory and customary laws’.660 The statutory justice system consists of the Supreme Court, headed by the Chief Justice and four associate judges, all of whom are appointed by the president. The Supreme Court has jurisdiction over all cases affecting ministers and can also declare legislation unconstitutional. In post-conflict Liberia, the Supreme Court has interfered in politics; for example, by ruling on electoral complaints; the case of the former Speaker of the House, Snow; and by allowing violations of the Constitution, such as not holding municipal elections and allowing the president to appoint chiefs and superintendents. The Supreme Court is the final arbiter in constitutional matters and exercises final appellate jurisdiction in all cases, not only from courts but administrative agencies, ministers and other authorities.

Subordinate courts were established by the 1972 Judiciary Law. The subordinate courts are: circuit courts, specialised courts (e.g. debt, tax, traffic, and juvenile delinquents), magistrate courts and justices of the peace courts.661 The powers and structure of the court are determined by Article VII of the 1986 Constitution. There was one circuit court per county, and additional magistrate and justice of peace courts. The magistrate courts are the first point of contact in civil and criminal cases, but more serious cases are referred to the circuit courts, which have jurisdiction over more serious crimes. The magistrate court’s jurisdiction is limited to civil matters up to a value of L$2000 (ca. US$32) and petty crime. Justices of peace have jurisdiction over minor civil and criminal cases up to L$1000 (ca. US$15).

Liberia’s judicial sector is challenged by the dual systems of law, the rural–urban divide, high rates of illiteracy, limited access to information, low human capacity, corruption, impunity and dependency on the executive. There are three key questions in establishing the rule of law in post-conflict Liberia: Firstly, how to provide equal access to justice and the same rule of law to all segments of society; secondly, how to reconcile the dual justice system; and thirdly, how to separate the judiciary from the executive.

The CPA established the GRC, which prepared a justice reform concept paper in 2007. In 2009, the Law Reform Commission was established.662 In 2008, the Justice Ministry wrote to donors asking for assistance. The strategy plan for the Ministry of Juristic was not finalised before 2009, four years after the post-conflict elections.663 The UNMIL mandate included a national legal framework that was inclusive of judicial and correctional institutions. The UNMIL adopted a state-centric approach to justice sector support, and the Legal and Judicial Systems Support
Division focused on formal justice institutions and statutory law reform in conjunction with the Ministry of Justice and the Chief Justice. In Liberia, the customary legal system falls under the Ministry of Internal Affairs, yet the donor framework was not modified to accommodate the context-specific state institutional architecture. Although the judicial sector falls under two different ministries, the UNMIL chose to work primarily with the Ministry of Justice. By spring 2009, UNMIL had provided training for 336 magistrates, 220 justices of the peace, 226 prosecutors, 191 court clerks and 1,000 immigration officers.

The private security corporation, Pacific Architects and Engineers-Homeland Security Corporation (PAE-HSC), which was contracted by the US State Department to train the Liberian National Army, assumed responsibility for a broad range of the judicial sector’s responsibilities. This raised concerns about their neutrality. The judicial sector support assistance included training magistrate judges, training a national public defender, establishing a probation system and supplementing the salaries of prosecutors. However, training for the judicial sector was provided in an ad hoc fashion, without much coordination between UNMIL and other actors, including the American Bar Association (ABA), the International Legal Assistance Consortium (ILAC), PAE, TCC, the United Nations High Commissioner for Refugees (UNHCR) and the American Refugee Committee, all of which had provided training or technical assistance to different stakeholder groups. The international NGOs, including the US Institute for Peace and TCC worked with the customary legal sector.

Furthermore, judicial sector reform was stalled due to frictions between the Ministry of Justice, the Ministry of Interior and the Chief Justice. Historically, the judiciary has been dominated by the executive and no division of powers existed. The Chief Justice took the position that the judiciary should be independent from the executive. This strained the relationship between the Ministry of Justice and the Chief Justice. The friction between the Chief Justice and the ministries was not only personal, but resulted from different interpretations of constitutional powers. Although the Rules and Regulations Governing the Hinterlands has been abolished, the Ministry of Interior was loath to lose its monopoly on police power and its assumed legitimacy for exercising judicial powers through customary judicial system. This seriously compromised judicial independence and the separation of powers.

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664 Carlowitz 2011 p.37
665 Carlowitz 2011 p.46
666 Rawls 2011 p.12
667 Carlowitz 2011 p.47
668 Carlowitz 2011 p.37
669 Rawls 2011 p.13
670 Rawls 2011 p.13
Obtaining a complete set of laws in Liberia is virtually impossible. The only written laws are those of the statutory system, while the customary practices are uncodified. Moreover, what statutory laws and codes exist are not accessible. For example, as late as 2008, law students did not have access to current laws in the School of Law library. USAID funded a project to compile the current laws, but those working for the project refused to release the legal texts and instead demanded copyright payments. Legal information is monopolised by a small group of elites who are reluctant to lose out on the benefits they obtain from their unparalleled access to information. However, the statutory legal system is based on the US legal system. The Liberian legal system contains a reception statute according to which US and UK common law is applicable if a subject matter is not regulated by Liberian law.

In addition, after 15 years of conflict, missing laws and outdated legislation possess a challenge for establishing the rule of law. Many of the existing laws had supported the previous injustices that provoked the conflict in the first place. Laws are usually modified over time. In the words of Dworkin, ‘today’s law is challenged by possibilities of tomorrow’s law’. Therefore, changes that enrich and modify the law ought to flow from the contemporary law and provoke further changes. Due to the long conflict, neither legislation nor the constitution have undergone a process of being modified to fit the current realities in Liberia and the surrounding fast changing world.

The international state-building framework introduces international standards, conditionality, projects and programs, and chooses its domestic partners. All these activities and laws, as an external conditionality, limit the scope of the domestic legislative process. In Liberia at least three agendas dominated the legislative process: laws necessary for the lifting of UN sanctions (e.g. the Liberian Forestry Management Act), laws as required per HIPC conditionality (e.g. Public Financial Management Act and Liberian Investment Act), and the concession agreements which are individually passed into law. These ‘laws to be passed’ are prioritised and set the agenda of the legislative process.

Confidence in statutory legal system is low. The judicial system is corrupt and incompetent, and judges and juries are frequently bought. Justices of peace are not required to be lawyers, only literate. In spite of the literacy requirements, 75% of justices of peace were illiterate as of 2006. Magistrates should be qualified lawyers, but in 2008, only five out of 200 were law graduates and...
most had no college degree at all. Nonetheless, some progress had been made. In 2012, County Attorneys were assigned to all 15 counties, and public defenders have been hired and deployed. Still, a significant number of magisterial courts function poorly and many of the magisterial and circuit courts have very low case flows. In most of the counties, only one circuit court judge operates. According to a Justice Sector Working Group paper (2011) access to justice is limited. Overall, the justice system is perceived as slow and inefficient. On a positive note, the Professional Magistrate Training Programme ‘was the first effort in more than twenty-years to replenish the ranks of magistrates with 61 magistrates graduating from the program in June 2011’.

The deep mistrust towards the statutory judicial sector originates from several factors. Firstly, the indigenous were forbidden by law to access the statutory system. Secondly, there were no courts in rural areas. The statutory system was used by the settlers to confiscate customary land and to title it under statutory law as private property. The indigenous population could not afford to go through the statutory system, no legal assistance existed, and the poor rural population lacked sufficient English proficiency with which to follow court proceedings. The judges frequently sided with the elite and the executive. Rulings have been partisan, arbitrary and predatory. In general, judicial competence was and still is extremely low. Furthermore, in practice, statutory rulings are not binding and are not enforced. In rural communities, where chief administer traditional justice, there is no guarantee that a local chief will respect a statutory court ruling and may even exercise their power against it. The regional justice and security hubs, an initiative to extend the reach of the statutory judicial sector and security to the rural areas, was launched as late as 2013. However, such infrastructure projects alone will not provide equal access to justice or establish a rule of law.

Liberian citizens are not equal in front of the law and different segments of the population enjoy different rights. The Liberian legal system was formally divided into statutory and traditional judicial sectors. The *Rules and Regulations Governing the Hinterlands* provided the legal framework for courts in the rural areas. The courts fell under the executive. The *natives* (i.e. the indigenous population) were denied access to the statutory legal system, which was exclusionary, non-functional and corrupt. They were seen as being too *uncivilised* to access the statutory courts. A separate special court was responsible for hearing cases between the *civilised* and *natives*.

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676 Sriram 2011 p.40
677 Judiciary SWG 2011 p.4–5 and IFM 2012, p.32
678 Judiciary SWG 2011, p.3 in IMF 2012, p.33
The indigenous population practised a traditional form of justice administered by their chiefs and elders. In reality, the indigenous population was cut between conflicting legal systems because criminal justice and private property rights fell under the statutory legal system. In addition, the allocation of customary land use rights is a matter under the administration of the traditional justice system, thus affording the chiefs a considerable source of power.

The *civilised* Americo-Liberians were subject to the statutory legal system, which protected their *private property*, including the land they had taken from the indigenous. The statutory courts were used by the settler-elite to claim large portions of the best agricultural land. Consequently, a deep mistrust toward the statutory system prevails among the indigenous population. According to the *Agenda for Transformation* (2013), these conflicting traditional and statutory legal systems exist in parallel. Consequently, the rule of law is undermined by inconsistencies resulting from the dual justice system.679 Furthermore, the security sector is compromised due to the conflicting norm systems of patrimonial –clientelist and customary rule systems on the one hand and statutory laws on the other hand.680

To the date, rural Liberians have virtually no access to the formal justice system. The perception of rural communities or indigenous preferring the customary judicial system is based on a romanticised idea of grass-root traditional practices rather than actual facts. Many international actors do not have sufficient ethnographic knowledge concerning traditional legal proceedings and cannot distinguish between the customary legal system, cohesion and mediation practices, all of which aim to preserve collective social order in a patrimonial system of governance. The traditional justice system privileges the elders and chiefs, and discriminates against the youth and women. Rural communities rely on the traditional justice system for one reason alone, because they have to, not because they necessarily prefer it. Due to distances, mistrust, illiteracy and the prohibitive cost of formal legal networks, neither the police nor the statutory courts are accessible to them.

In reality, however, the *traditional* customary justice system in Liberia is neither traditional, indigenous nor customary. It is foreign system organised and sponsored by the state. Historically, the customary legal system was organised by the state to exclude the indigenous population from the statutory legal system, which protected the elite. The Constitution recognised the dual legal system and the *Rules and Regulations Governing the Hinterlands* formalised and codified the customary legal system. For instance, the chiefs’ function to collect taxes and to administer justice

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679 AfT p.51
680 AfT p.54
to the indigenous population is formalised in the *Rules and Regulations Governing the Hinterlands*.

In the 1960s, during Tubman’s presidency the chiefs were included on the government payroll. Their oversight of the customary legal system falls under the Ministry of Interior. However, the *justice* dispensed by the chiefs is not part of the national court system. The final level of appeal in traditional justice cases was to the Ministry of Internal Affairs’ Office for Tribal Affairs in Monrovia, which was practically inaccessible to the indigenous. A special Joint Court of the District Commissioner and the Paramount Chief addressed any suits between *civilised* persons and natives.681

Liberia’s customary legal system is associated with human right violations. In many instances, traditional law comes into direct conflict with the statutory law system. Many traditional norms and rules, which form the basis of the customary system, are no longer respected. Consequently, the administration of customary law is increasingly arbitrary. Due to its arbitrary and ad hoc nature, the unwritten nature of the norms and lack of objective review processes, the customary system is open to abuse by chiefs and local officials, many of whom collect excessive charges or demand payments for their judicial services. Chiefs may also detain an accused person and use them as free labour.682 In addition to being denied access to the statutory legal system, the customary system fails to extend equal protection and the rule of law to those living under traditional systems of governance. Therefore, the indigenous population has found itself abused by both the statutory and traditional legal systems.

To illustrate why the segregation of the two legal systems is no longer a workable solution for providing universal access to justice, take the example of sexual violence. Prostitution, gender-based violence and the wider commercialisation of sexuality are widespread in all segments of post-conflict Liberian society. Customary law, administered primarily by older male chiefs from within the same community, is ill-equipped to deal with cases of gender-based violence. One might argue that the statutory courts are similarly dominated by older males; however, the legal process is codified and more transparent. More significantly, the customary legal system provides inadequate protection of communal land ownership rights against transnational concessionaires.

The traditional justice system has left the indigenous population at the mercy of the chiefs, while access to the statutory justice system has been denied. Supporting traditional justice system

681 Sriram 2011 p.48–50
curtails the demand to the justice. The statutory system, were it functional, professional and extended to the rural areas, could build citizens’ confidence in state institutions and, in so doing, foster the rule of law and the internal legitimacy of the state.

**Protection of the Land Rights under the Customary Law**

Customary law fails to protect the land and other rights of the indigenous population. Disturbingly, although some of the world’s largest transnational corporations are acquiring customary communally governed land granted to them by the GOL under concession agreements, customary land disputes do not reach the statutory court system. USAID, as the dominant donor, exerts considerable influence over the institutional design in post-conflict Liberian state-building. The agency has repeatedly opposed the establishment of a special land court, although the Ministry of Justice has appealed that such a special court is necessary to review the overwhelming caseload of land disputes at all court levels. This begs the question, is the USAID’s opposition to a special land court intentional, motivated by neoliberal economic policies and used a delay tactic to enable concessionaires’ on-going land acquisition? Unlike in other countries (e.g. Sierra Leone) in similar situations, the US opposes the establishment of a separate land court and none has been established.\(^683\)

The USAID claimed that there was no place for a separate land court in the Liberian judicial system. However, this statement is simply inaccurate, because the Liberian court system already includes several special courts. A land court to hear land disputes would provide access to a dispute mechanism and possibly advance the equality of all segments of the society in front of the law. This is an especially sensitive issue because a lack of dispute mechanisms and inequality has been identified as having been at the root of the Liberian conflict.\(^684\) Addressing land disputes faster and in a more pragmatic fashion could have stabilised the security situation, facilitated peace-building and supported domestic economic development, far more so than the transitional justice support and any other complex reforms initiated under international state-building.

**Forum Shopping in the Dual Legal System**

The majority of the rural population have no appreciation of the rule of law or the justice system, simply because they have no equal easy access to it. When rural citizens are asked, if they prefer customary or statutory courts, they may state that they prefer customary law. Liberia’s rural citizenry express such a preference for three reason. Firstly, statutory system has systematically been used to violate their rights. Secondly, they cannot relate to or understand the statutory

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\(^683\) USAID 2013 p.62
\(^684\) NTRC 2009 p.17
system. Thirdly, because they know that even if a statutory court was to deliver a decision, it would be irrelevant because they would still be required to live under customary legal orders.

The fact that the chiefs who administer customary justice fall under the Ministry of Interior and not the Ministry of Justice makes the two legal systems less accountable and opaque. The dual legal system inevitably leads to forum shopping, in which citizens, politicians and concession companies apply whatever rule system is the convenient. Needless to say, such forum shopping breeds corruption. Clientelism, bribery, even human rights abuses are claimed to be customary practices. Private property rights are protected and concessions are passed into statutory legal processes, but communal land is protected only by preserving the integrity of the customary land. The two conflicting legal systems invite forum shopping as it fits, and allows elites to instrumentalise the dualism. The weakness of the customary legal system is appropriated to obtain land from their communities. 685

Neither the state-builders nor the administration has been keen to implement judicial reform. Carlowitz (2011) observes, ‘Granting full local ownership to political elites in programs that aim at limiting their powers will most likely sacrifice the programme’s success’ 686 Consequently, technical assistance to the judicial reform has not provided any answers, how to eventually harmonise the judicial sector or provide universal access to the nation’s laws. As well-intended the international support for the customary legal system was, it has circumvented the people’s demands for access to the national court system. The indigenous population is still regarded as being members of their communities and not citizens of the state. Were Liberia to openly identify as a quasi-apartheid state, it is unlikely to be seen as morally acceptable to support and maintain the two separate legal systems. Judicial reform, as a central component of state-building in post-conflict Liberia, needs to move beyond providing technical assistance to the dual legal system and begin to address the structural inequality perpetuated by the dual legal system.

**Transitional Justice**

Instead of establishing a special land court or funding judicial sector reforms, international state-builders have funded transitional justice mechanisms. The TRC is a form of transitional justice which aim to address past injustices. The TRC has become a popular component of post-conflict reconciliation and transitional justice as facilitated by the IC. Jensen (2008) postulates that, surprisingly ‘in the transitional justice literature one finds no empirical proof of the effectiveness

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685 Carlowitz 2011 p.37  
686 Carlowitz 2011 p.3
of trials in deterring human rights violations or truth commissions and amnesties in contribution to reconciliation’.

This observation also holds true of the Liberian NTRC experience.

In 2005, when the Act to establish the NTRC was enacted, it was already popular knowledge among the donor community that the reconciliation process in communities had largely taken place without donor involvement, that these communities had their own methods of dealing with the reintegration of ex-combatants. Although the inquiry and reconciliation presumably addressed human right violations and crimes against humanity, the time frame of the inquiry was artificially capped at 1979, the year of the coup d’état, as if human right violations had not existed in Liberia prior to that year, ignoring the human rights violations that had occurred prior to the indigenous government. A testimony in front of the NTRC expresses why the 1979–2003 timeframe was found offensive:

Representatives of past Liberian governments must apologize and pay some reparation for injustices and brutality meted against the people of Liberia. We owe no one apologies for our role in fighting this oligarchy. Why should we apologize for what we proudly did? They imprisoned our fathers; we went to jail at the tender age of 18. […] They killed scores of unarmed demonstrators who were simply protesting and exercising their rights. Why can’t they apologize for those excesses? I owe no one, absolutely no one an apology.

Culturally, the concept of truth and reconciliation is ill-fitting. The TRC in Sierra Leone, which served as the model for the Liberian TRC, was criticised for imposing a western template of forgiveness by truth-telling. In Liberian culture and society, secrecy is currency. Although truth may be told and even be public knowledge, secrets are rarely discussed openly. People do not place special value in dwelling on the past when the central question is one of how to survive today. The Final Report of the NTRC was published in 2009. To date, there has been no legal or institutional course of action taken based on the recommendations of the final report.

Special courts are the second component of transitional justice. Sierra Leone was the only country subjected to both TRC and the International Criminal Court at the time. This is because it was claimed that Taylor’s trial would not have been feasible in Liberia given his political popularity. In a country where the GDP per capita was about US$200, the cost of the Special Court and defence witness protection per person was over US$23 million for each accused. The cost of the special prosecution for one individual in the International Criminal Court was unrelated to the funding provided to the entire judicial support in Liberia. The costly transitional justice aimed and failed to address past injustices.

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688. NTRC http://trcofliberia.org/about/trc-mandate (accessed 7.5.2015)
689. National security advisor in Doe’s government, H. Boimah Fahnbulleh in his testimony in front of the TRC, TRC web site and testimonies
690. Meyer 2007, p.18
691. Chernor Jalloh 2011, p.432
Historically, the rule of law in Liberia has been arbitrary. Jensen (2008) suggests that a generalised rights-based approach is ill-advised in post-conflict environments. It is assumed that when rights are created, institutions will respond to the demand and positive change will happen. The rights-based approach, especially the advocacy of individual human rights where the rule of law has not yet been established and social norms and rule systems are eroded, creates a situation in which citizens insists on their rights without any understanding of the obligations that accompany those rights.

The Act to reconstitute the death penalty in Liberia illustrates the conflict between international norms and the local understanding of justice. The president’s initiative to assent a bill for the reintroduction of the death penalty due to the high crime rate in 2008 was generally welcomed by a population fed up with armed robberies. However, it underscored the need of a holistic approach to security and justice and the need for greater inter-agency coordination. Against a backdrop of absolute poverty, the incapacity of the police to investigate and corrupt courts, the reintroduction of the death penalty is ill-advised. The UN Human Rights Committee expressed deep concerns, ‘The Act signed by the President of Liberia constitutes a clear breach by Liberia of its international legal obligations’.

In general, the legal system is one of the slowest to reform. In particular, Liberia has never had an independent judicial branch and other reforms continue to be seriously hampered by the weak and corrupt judicial sector. In terms of judicial sector support, the IC chose to fund a transitional justice mechanism, while the judicial sector lagged behind the security and other sectors in terms of governance. In conclusion, a number of reasons make the judicial sector extremely weak. The laws are not made public in the language understood by the population. The administration of justice is arbitrary. Judges are not independent and legal professionals are generally not competent to practice. Historically, the judiciary has been in the pocket of the executive. The systemic denial of access to education continues, albeit in subtler terms than in the past. Excessive poverty and the lack of literacy skills prevent the masses from meaningfully participating in public life, including seeking legal protection. The departure from the rule of law continues to be the rule, not the exception. The lack of rule of law continues to be a threat to peace and prevents economic development.

The poor access to justice and legal protection by the majority of the population has created a legal vacuum that allows for the advancement of transnational commercial interests in land and natural resources. On the one hand, the GOL circumvents the need to extend the statutory legal

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692 Jensen in Call Ed. 2008 p.127
system to the resource rich areas and communities. The National Capacity Building Strategy (2011) claims that the GOL ‘is committed to exploring the best balance of investments and support in both the formal and traditional dimensions of capacity in the Justice Sector’.\footnote{MPEA, The National Capacity Building Strategy, 2011 pp.66-67} On the other hand, the GOL claims that, for instance, ‘formalization of artisan’ and ‘underdeveloped’ mining sector is necessary in order to ‘establish a well-structured sector that will be well managed for sustainability and income generation’.\footnote{The Executive Mansion, 2015, President’s Annual Message on the State of the Republic 2015 p.24} This contradiction underscores the unwillingness to provide the statutory legal protection of property rights while formalising income generating sectors; in other words, absorbing resources under the statutory legal system with less regard to the simultaneous protection of customary ownership rights. Moreover, the customary ownership rights are not included into any statutory regulatory framework. The next chapters turn to the regulatory framework of economic policies.
Chapter 7: 
Political Economy: From Conditionality to Concessionary Economic Policy

The next two chapters focus exclusively on the political economy. In this work the term ‘political economy’ is understood as a measurable sphere of social action, scientific analysis and political regulation and as such is “the totality of monetarized exchanges within a defined space” or sphere of social action. In addition, this modern definition of the political economy is enhanced with the earlier definition. A second layer of meaning can be inferred as the proper governing of a polity. The chapter is structured as follows, first it discusses governance, decentralization and county development funds as a form of budgetary decentralisation. Decentralisation supports accountability when it brings corruption from the central state level, which is neither transparent nor accessible to the population, to the local level. The section outlines the role of the IFIs by the examples of Public Financial Management Act, GEMAP and LEITI. The chapter explores, how IFI conditionality and reforms have been instrumentalized to give the elites new opportunities to appropriate state-building practices to further modify institutional de facto power arrangements, as demonstrated in the case of the Public Financial Management Act. Guided by the conditionality of the IFIs, Liberian economic and concessionary policies have concentrated on the completion of the HIPC program and achieving GDP growth in order to qualify for lending. This chapter questions the assumption that the level of lending, which was previously unsustainable despite strong GDP growth and extractive sector FDIs, would be more sustainable today in the absence of economic diversification. The chapter further sets macroeconomic growth in the context of per capita income and economic disparity. Public financial management capacity building has a long history in Liberia. Nonetheless, it has consistently failed to address systemic predatory corruption, which has plagued Liberian state institutions. Despite massive FDIs and strong GDP growth, it appears that growth does not translate into sustainable economic and social development, creating a sense of déjà vu of returning to the political-economic trajectory of ‘growth without development’ (Clower et al. 1967) driven by extractive sector concessions.

Governance
Public financial management is typically framed as governance in state-building discourse. The role of the IFIs in Liberian state-building has been instrumental. To demonstrate its co-operation with international partners and its reform willingness, the executive has initiated a wide range of financial sector reforms, from a zero deficit cash budget to GEMAP, HIPC, PRS and Liberia Extractive Industries Transparency Initiative (LEITI); consequently, Liberian state-building has

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696 Mitchell 2002, Introduction p.94
697 Ibid.
been *sold* as a success story, a *poster child* of state-building, and its president was awarded a Nobel peace prize. Most of the *reforms* relate to the IFIs’ conditionality and the HIPC programme. The overarching role of IFIs in economic policy-making has silenced debate over national economic policy.

The term *governance* is commonly used in the state-building vocabulary and various state-building practices are labelled under it. Governance masks state-building as apolitical. Chandler (2010) postulates that international state-building depends upon framing it in terms of governance rather than government. This makes it possible to govern ‘without a formally constituted government’ or ‘what matters is the rationality of rule-making not the formal process of legitimizing the rules’. It follows then that *governance* begins to do what government is elected to do. Governance assumes legitimate authority from the government. Whereas the legitimacy of a government lies with the electorate, governance is a technical understanding of the role of government. In the process of state-building, governance pre-determines policy priorities and shapes the government.

According to the popular wisdom of donor organisations, the Liberian conflict was the inevitable outcome of *bad* governance. Programmes, reforms and independent commissions are supposed to improve governance, curtail corruption, create a more disciplined public sector and address issue of natural resource management. Governance reform aims to address systemic problems that precipitated the conflict. In a wider sense, governance reform includes public sector reform, security sector and justice sector reforms, and decentralisation.

**Decentralisation**

During the later phase of international state-building, the need to decentralise Liberia’s highly centralised state institutions was noted. When referring to decentralisation in the Liberia context, the term combines both decentralisation and de-concentration. Decentralisation refers to handing over decision making power to locally elected officials, whereas deconcentrating distributes the power of decision making among officials stationed at the local level, but who are still appointed by and report to the centre level. To date, decentralisation in Liberia has taken the form of deconcentration. *Decentralisation* encompasses both decentralisation and deconcentration.
In African countries, decentralisation has occurred with mixed results either through constitutional amendments led by either civilian (e.g. Kenya) or military (e.g. Ghana) leadership. In Liberia, the settler communities merged into a commonwealth, which evolved into the Republic of Liberia (i.e. the state). The indigenous population was not party to this process and the state and its institutions were centralised in Monrovia. Political and economic power remained with the presidency. In response to territorial claims by the British and French around Liberian territory, a local system of administration was introduced around 1904. In the process, indigenous communities were combined into chiefdoms and organised into administrative districts. The rural areas were divided to counties and administrative districts. While traditional structures of governance were fragmented and varied from region-to-region, the formal state institutions remained highly centralised and confined in the capital city.

Decentralisation is arguably expensive, politically difficult and inhibited by the weak capacity of state institutions. In the absence of state institutions and a rule of law in rural areas, the indigenous population is left with few options other than to turn to traditional fragmented self-governance structures and patrimonial reciprocal networks. However, traditional structures of governance are unable to provide public services or protect land rights, and have not adjusted to accommodate modern economic activities.

The fact that chiefs are on the government payroll and, therefore, fall under the executive branch of government ensures their loyalty and forces them to side with the interests of the executive regarding the cost of protecting the rights of those subjected to their power. Unlike other West African countries, most chiefs in Liberia have no independent wealth. They are typically just as poor as other rural citizens and depend on their monthly government salary. Consequently, a paltry monthly income from one to few hundred US dollars buys their obedience, ensuring their loyalty to the superintendents to whom they report in practice. Technically, chiefs report to the Ministry of Interior. While the chiefs’ formal position also strengthens their role as intermediates, it also reinforces indigenous governance structures. This in turn reinforces the structure of parallel governance and hampers efforts to build the capacity of local administrations, as is desirable under the decentralisation state-building agenda.

When addressing the problem of decentralisation in Liberia, it should be remembered that Liberia is only a small polity. The population is less than five million, an estimated 70% of which are

704 Smoke 2003
705 Oluwu 1995
706 Nyei
707 Sawyer 1995
younger than 25-years of age and the majority live in absolute poverty. The country is so small that, if there was a modern road network, it would be possible to drive across Liberia in few hours. At the same time, some areas of the country are practically inaccessible during the raining season. Under these circumstances, from the perspective of the average Liberian citizen, the centralisation or decentralisation of public services and the administration is irrelevant. What the average citizen worries more about is that these facilities exist at all, are available and that they deliver some rudimentary public services. The delivery of public services to the counties has been under-resourced, poor and non-existent. The conflict cannot be blamed for the lack of public services as service delivery was just as poor prior to the conflict. Some concession companies run schools, health clinics and provide electricity in their respective concession areas, thus becoming the key provider of said public services.

In theory, decentralisation is one of the normative objectives of state-building. In practice, however, efforts to decentralise the highly centralised state institutions have been less sincere. Several key issues have hampered decentralisation in Liberia. Firstly, the lack of genuine political will by those who advocate for unity and continuity. Secondly, the need for constitutional reform. Thirdly, the low penetration of literacy skills and poor educational levels. Most citizens in rural area do not have the necessary literacy skills and or education to meaningful participate in discussions about local government, politics and collective action. Fourthly, the presidential autocracy prevents decentralisation. Fifthly, the predatory nature of the state directs the flow of resource from the rural areas where they are located to the elite class in Monrovia where they are consumed.

Local administrative units report directly to the ministries in Monrovia. In every county, there are revenue collection agents reporting to the MoF. All taxes in Liberia are collected by the MoF and natural resources are under the sole control of the state government. The new Forestry Management Act and the Community Right Act (2009) established exemptions for forests and timber products.

The position superintendent and their functions are a left-over of the period of indirect rule. A county superintendent’s position is roughly equivalent to that of a governor in other political systems. In the 1970s, a new county development superintendent position was created. The county development superintendent functions much like a vice-superintendent. Previously, the position of superintendent was seen as a form of administrative punishment, a way of removing
someone whose presence was deemed undesirable in Monrovia, but later the position evolved into a stepping-stone toward a position in the central government or for running in national elections. However, county superintendents do not have a functional relationship with line ministries or their service delivery functions, such as education, health, agriculture or development. This autonomous and ambiguous role creates a competition for power and administrative chaos.  

Officially, local civil servants working for one ministry or agency have no clear relationship with those working for other ministries or agencies, and have no connection with the county superintendent, who are the highest ranking state administrators in each county. In praxis, however, all administrators know one another and the county administrative buildings are often located within the same compound or within close proximity to one another. All county-level civil servants are employed by ministries and agencies in Monrovia. The system lacks any local accountability mechanisms and breeds corruption. For example, the payroll syndicate corruption scheme is run by the central ministries. There are no merit-based hiring practices and positions are given to political allies. Therefore, there is little incentive to undertake productive work or to act for the benefit of the local population. The systemic corruption characteristic of the Liberian state exists at all levels, vertically and horizontally. In the best case scenario, decentralisation could create more local accountability and alleviate state-level systemic corruption by transforming the forms of corruption to petty and locally accountable reciprocal and patrimonial forms of corruption.

**Boundary Issues**

One obstacle to strengthening local governance is the dispute over boundaries, which is closely related to land conflicts. The boundary disputes originated from the drawing of administrative districts and electoral districts in a way that did not respect the traditional governance boundaries and from the confusing overlap of traditional governance units, district, county and electoral district boundaries. Moreover, there is confusion over traditional governance and statutory units; for example, townships existing on lands traditionally inhabited by clans. Additionally, there is competition at the chieftdom, clan, district and even county levels. Many districts in Liberia are not sustainable. For instance, half of the 149 cities are in one of the smallest and the poorest county in the southeast, Sinoe County. Communities insist on being an individual administrative unit because this guarantees civil service salaries. However, disperse communities, some of which consisting of just a few mud huts, complicates sensible social planning.
There is also a boundary dispute between two southeast counties, Sinoe and Rivercess, and between two western counties, Gbarpolu and Bomi. Country boundary disputes can be solved at the governmental level and between politicians. However, boundary harmonisation is complicated and potentially volatile because it intertwines with conflicts over land and resources.

The GRC, later named the Governance Commission, headed by the previous interim president Dr. Amos Sawyer, was tasked to ensure subsidiarity in governance through decentralisation and participation. The Governance Commission has produced impressive policy papers and strategies, although the political will to actually implement such policies has been less impressive. Dr. Sawyer later became the co-chair of the Liberia Decentralisation Support Programme (LDSP). The National Policy on Decentralisation and Local Governance (NPDLG), prepared by the Governance Commission, was launched in 2010, followed by the Deconcentration Implementation Strategy. Twelve ministries and two agencies are supposed to coordinate actives with county superintendents. These reform agendas and policies, like the PRS and associated county development strategies, are driven by the expectations of the IC as state-building components and primarily produced in exchange for aid and funding for various committees and the lucrative position they provide. ‘Evidence shows that most of the reform programmes have been financed through foreign aid, and in most cases, government has proven incapable of assuming financial responsibilities when donors withdraw’. Hence, in 2015, the draft Local Government Act was still pending in the legislature. The legislature has raised concerns about the role of traditional authorities, revenue generation and the role of local councils.

**Local Elections**

Local elections relate to both democracy support and the decentralisation agenda. The Constitution mandates the election of local officials. Legislators have advocated for local elections because local and municipal elections increase their political leverage in the counties. The president has opposed local elections, because they would inevitably lead to the loss of political control over rural areas.

In an extremely poor and unstable environment, access to financial resources is one of the most, if not the most, powerful political instruments. Irrespective of local elections, local officials remain financially dependent upon and under the financial control of the executive and state government line ministries; there is no de facto power distribution or transfer of autonomy.

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714 ICRC 2011 p.17
715 Governance Commission 2012
716 Nyei 2014 p.11
717 Nyei 2014 p.17
718 Nyei 2014
Ideally, local elected officials and the legislators should be able to count on non-discretionary financial transfers according to allocated budgets, however, this is currently not the case.

**Budgetary Decentralisation: The County Development Funds**

The flow of resource in the Liberian state has always been from the rural areas, the peripheries, to the capital, the centre. The County Development Funds (CDFs) were an exception to this rule and they were the first tangible effort to decentralise the government budget and delegate social development budgeting authority for projects to the county-level. The Social Development Funds, the County Development Funds (CDFs) and Community Development Funds are often confused. Nevertheless, they are all financed by contributions from concession companies, either directly or through budgetary allocations, and are allocated directly either to counties or to communities (Community Development Funds). According to the law, mining companies contribute to social development funds benefiting communities in the counties where extraction takes place. The General Audit Commission (2009) reports that county receipts do not exactly match the amounts companies are required to pay. Community Development Funds are defined in concession agreements. The concessionaires directly fund the communities in their operational areas. In reality few Community Development Funds have been established and their payments are minimal and delayed.

The Community Right Act (2009) was a by-product of the National Forestry Reform Law, which led to the creation of CDFs. After the inauguration of the elected government in 2006, the legislature passed an act to establish the County Development Budgets. CDFs mirror the first development budget during Tolbert’s administration. Each county was given an equal budget for development programmes. The policy was introduced after the Clover Report, *Growth without Development*, was published in 1967.

In the first year of CDFs, US$60,000 was allocated to each county. The following year, the annual allocation to the counties increased to US$200,000 and has increased since. Evidence indicates ‘that the CDF has introduced various accountability and participation channels for local citizens and county officials’. In most instances, decisions are made in meetings and through consensus. The CDFs are managed by the County Development Committees, which consist of county officials, traditional selected leaders, various citizen groups and the committees, and are overseen by members of the County Legislative Caucus. In 2012, the Act to establish County

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720 Nyei 2014
721 Nyei 2014
722 Nyei 2014 p.8
723 Yei 2014 p.12
Council in the Budget Act strengthened the process. The County Council replaced these earlier more informal meetings. The council includes a broad representation of chiefdoms and clans, citizen’s groups and district officials. The County Councils, like the County Development Committees, allocate the CDFs to development projects in the county.

These localised budgets instantly became a contested and politicised topic, because CDFs offered immense political benefits to the executive and legislative. The political battle over control of the CDFs has been fierce because the county development budget gave leverage to legislators and those in opposition, aiding their efforts to build support in rural areas. The CDFs diminish the executive oversight of the local level administration because legislators and local leaders appropriate the budgets for projects benefiting their support base. The executive has repeatedly tried to take control over the budgets. In 2013, under the auspices of aligning new projects under provision of the Agenda for Transformation (AFT), the economic development strategy, with the County Development Agendas the Ministry of Interior suspended the disbursement of CDFs.724 The president claimed that the County Development Budgets should be controlled by the executive, because they were wasted in corruption. The Speaker of the House claimed that the executive had failed to implement projects in those counties for which funding had been allocated in the national budget.725

On the one hand, the sense of local ownership has driven accountability.726 Local level autonomy holds the legislators and local official accountable. On the other hand, there are allegations of corruption and mismanagement of the CDFs.727 There is no accountability mechanism between the ministries and citizens. The misuse and political use of the social development funds and CDFs is the norm rather than the exception. For example, the Bong County superintendent, who has ambitions to run in elections, spent half a million US dollars on Independence Day festivities.728

Despite political manoeuvring, the alleged misappropriation of funds and corruption, the CDFs are noteworthy for two reasons. Firstly, the CDFs reverse the direction of resource flow. They allocate budgets back from the capital city to the counties where the natural resources originate. Secondly, the CDFs give the local population the opportunity to experience participatory planning in social development projects. The CDFs and associated local organic democratic process,

726 Nyei 2011
727 Nyei 2015
728 CICR 2012 p.21
although messy and confused, link concessions, politicians and local traditional structures. The CDFs have achieved more in terms of decentralisation and associated budget allocation than donor imposed technocratic attempts at decentralisation and administrative reforms. Overall, the CDFs have had a positive effect on the counties.

The administration claims that the decentralisation agenda advocated by the IC is further obstructed by the 1986 Constitution, which provides no legal framework for decentralisation and that decentralisation requires constitutional amendment. Paradoxically, according to the AFT, decentralisation is also hampered by the lack of physical infrastructure and service delivery capacity in counties. The lack of public service and infrastructure in counties would indeed indicate the failure of the central government to deliver them.

The constitutional reform process was initiated in 2012. Consultations and debates on constitutional reform have drawn attention to decentralisation issues, local elections, decentralised budget authority and the powers of local councils. In the consultative hearings held by the Constitution Review Committee, the population has repeatedly demanded elections for members of the National Elections Committee which indicates a lack of confidence in the transparency and fairness of the electoral process.

Like many other governance problems, the decentralisation of Liberia cannot be addressed without first addressing the management of natural resources. A decentralisation process without a decentralised budget authority and without the re-allocation of fiscal resources is not feasible. The process needs to encompass local taxes and royalties, especially from the resource extracting concession companies, to be allocated as a revenue for the provision of local public services, the establishment of the rule of law, access to justice and human security provisions, the protection of communal land rights and forests, and the basic needs of sanitation, health and education to improve living standards and to facilitate social-economic development. However, some of these objective, such as the right to land and resources, or better legal protections for rural populations, conflict with the commercial interests of the transnational concessionaires who have been funding the county level budgets.

**IFI Conditionality: Public Financial Management**

The role of the IFIs in Liberia has been particularly intrusive for following reasons. Firstly, today ‘all donor assistance and credits to countries emerging from war are conditioned on a prior
negotiated agreement with the IMF on the country’s foreign debt’ and on the formulation of a PRS that the IMF and the WB must approve.\textsuperscript{732} Secondly, the first post-conflict elected president worked for the WB and had close ties to the IFIs.\textsuperscript{733} Thirdly, Liberia has spent a disproportionately long time in the IMF’s programmes. Liberia spent 77\% of the time between 1963 and 1985 in IMF programmes. Afghanistan, Angola, Burundi, Liberia, Sierra Leone, Somalia, Sudan and Zaire all spent on average 55\% of the time between 1970 and 1990 under IMF programmes, while the average for all developing countries is 20\% of the same time period. Easterly (2006) argues that spending a lot of time under IMF programmes statistically correlates with a higher risk of state collapse; ‘In retrospect, it would have been better if the IMF were uninvolved in those cases’.\textsuperscript{734} Fifthly, after the conflict, Liberia had the highest level of indebtedness in the world, being US$4.9 billion in debt, which was the equivalent of 700\% of the GDP and 2,300\% the level of exports.\textsuperscript{735} Sixthly, Liberia has a particularly long history of hosting external financial advisers with co-signing authority in its institutions. Since at least 1871, Liberians have seen these missions come and go while business as usual continues.\textsuperscript{736} Lastly, the IFIs’ policies primarily seek an answer to debt crises and aim to ensure future debt servicing. They do not seek to resolve the underlying grievances which led to the conflict, nor do they seek to foster peace-building.\textsuperscript{737}

**GEMAP**

GEMAP, the Governance and Economic Management Assistance, in addition to the SSR, is among the most discussed state-building components in the literature. However, despite being widely referenced in the literature, there are few analyses of GEMAP’s long-term effects. It is important to outline GEMAP here to analyse it in a wider context and in connection to the state-building framework, and to review how GEMAP was appropriated.

GEMAP was one of the first governance reforms implemented after the 2005 elections. GEMAP’s predecessor during the NTGL, was the Liberia Economic Governance Action Plan (LEGAP). As a country perpetually dependent on external revenue flow, either in the form of loans or aid, Liberia has a long and peculiar history with governance, public financial management reforms and international interventions, including technical assistance and field missions of international experts. Since 1871, there had been at least two dozen similar interventions, including but not limited to those sent to Liberia in the 1930s by the League of Nations, in the 1960s by the IMF and in the 1980s by the Reagan administration. The last team was sent by the Reagan

\textsuperscript{732} Woodward in Call Ed.2008 p.140  
\textsuperscript{733} Johnson-Sirleaf 2009  
\textsuperscript{734} Easterly 2006 p.193  
\textsuperscript{736} Bayron Tarr interviewed by Jahr, Jahr 2006  
\textsuperscript{737} Woodward in Call Ed. 2008 p.145
administration during the President Doe’s administration. The USAID funded Liberian Economic Stabilisation Support Project,\textsuperscript{738} or the Operation Experts (OPEX) with a co-signing authority, was mocked as the ‘sixteen wise men’ who finally gave up, leading to the US withdrawing its assistance from President Doe’s administration.\textsuperscript{739} Liebnow reported in 1987, ‘Some advisers found inertia and lack of cooperation too much to bear and quit. On the whole, the Liberian government usually did not get its money’s worth from its foreign advisors’.\textsuperscript{740}

Tarr (in Jahr 2006) provides a plausible and logical reason for why these types of governance interventions are inefficient: Addressing financial management as a separate issue is bound to fail.\textsuperscript{741} All the sectors of government are interrelated. But the interventions, which focus on a single issue of governance, artificially break the links. Dealing with financial questions alone is not enough, the political elements of corruption need to be addressed as well. Additionally, the overwhelming concentration of power in the presidency has been a consistent critical factor.\textsuperscript{742} In the history of Liberian public financial management, external governance interventions have proven to be a failure for the lack of sincere political will and because corruption is systemic, not procedural, and lastly and more importantly, because the type of initiative has only addressed the technocratic aspects of public financial management.

Although some authors and donor documents may claim that the GOL instituted GEMAP, this is not exactly accurate.\textsuperscript{743} The elected government did not have an opportunity to consider GEMAP, which was imposed on the elected GOL as a continuum of the anti-corruption measures of the NTGL. This was nothing unusual. Fraser (2010) points out that, ‘Rather than recognizing that incoming democratically elected governments have significant legitimacy and a popular mandate and may want to pursue different policies […] donors have typically acted conservatively and protected policy concessions they secured in talks with previous regimes’.\textsuperscript{744} Moreover, ‘specific battles over submitting GEMAP for the endorsement of the Security Council, appointing an IMF-selected Chief Administrator to head the CBL and the lack of a clearly defined exit strategy caused the NTGL to protest the programme’.\textsuperscript{745}

Earlier discussions with the NTGL had proposed that West African judges with co-signing authority should serve in Liberian courts. The activities of the judicial sector, including the foreign judges operating in Liberian courts, fell under the anti-corruption component of GEMAP. The

\textsuperscript{738} Reno in Zaum Ed. and Cheng Ed. 2014 p.126  
\textsuperscript{739} Tarr in Jahr 2006  
\textsuperscript{740} Liebnow 1987 p.133  
\textsuperscript{741} Tarr interviewed by Jahr 2006, paraphrased  
\textsuperscript{742} Tarr quoted by Jahr 2006 p.26  
\textsuperscript{743} Clark 2008 p.26  
\textsuperscript{744} Fraser in Whitfield et al. 2010 p.86  
\textsuperscript{745} Clark 2008 p.26
NTGL refused this aspect of judicial reform claiming that it undermines Liberian sovereignty.\textsuperscript{746} Therefore, the final GEMAP agreement entailed only an advisory role for international legal experts. This may have led to excluding the judicial sector from GEMAP and delaying the badly needed judicial sector reforms. Consequently, the judicial component of GEMAP received less attention and no progress in the judicial sector was reported under GEMAP accomplishments. Unlike in most countries subjected to international state-building, state-building practices in Liberia excluded judicial sector reforms and donor funding from the SSR, thus having serious long-term consequences for the security situation, rule of law, elections and ultimately citizens’ acceptance of state authority.

GEMAP was signed in 2005 between the IC and the NTGL, and was taken over by the president elect in 2006.\textsuperscript{747} Under the GEMAP framework, international experts with co-signing authority, which also gave them veto rights, were placed in critical ministries and institutions to oversee the revenue collection of the GOL. Consequently, GEMAP was seen as an ‘intrusive intervention’,\textsuperscript{748} a ‘shared sovereignty arrangement’ and as ‘a forced donor trusteeship’.\textsuperscript{749,750} Collier (2010) claims that GEMAP was donors’ reaction to frustration with the NTGL. When donors ‘could no longer stomach what was done with their money, they threw sovereignty to the wind and introduced a system called GEMAP, in which the Finance Minister could not incur expenditure without a countersignature by the donors. GEMAP is portrayed as a great success, but it was in reality a despairing reversion to colonialism’.\textsuperscript{751}

The justification or legal framework for GEMAP can be found in the CPA in preamble,\textsuperscript{752} and in its provision to suspend the Constitution of Liberia. One could argue, however, the inauguration of the elected government restores the Constitution and sovereignty. Under the GEMAP framework, the donors’ oversight of state institutions was divided as follows, ‘the United States government took over the Budget Bureau, the WB and the IMF were dealing with the Finance Ministry and the EU took over the General Auditing Commission’.\textsuperscript{753} The American ambassador was the chair of GEMAP.\textsuperscript{754}

GEMAP was intended to provide technical assistance across six key areas: Financial management and accountability, improving budgeting and expenditure management, improving procurement

\textsuperscript{746} R. Dawn/L. Bailey (note 7), 10 et seq.
\textsuperscript{747} Jahr 2006 p.26
\textsuperscript{748} Lotz 2010 p.230
\textsuperscript{749} Nilsson and Soderberg 2006 p.408
\textsuperscript{750} For discussion on Liberian sovereignty, see Daase 2012 among others
\textsuperscript{751} Collier 2010 p.216
\textsuperscript{752} Arts XVI, XVII, XXIX, XXXIII, XXXV, XXXVI The Comprehensive Peace Agreement in Accra
\textsuperscript{753} Morlu in Blair 2009 p.1
\textsuperscript{754} Morlu in Blair 2009 p.24
practices and granting of concessions, establishing effective processes to control corruption, supporting key institutions and capacity building of key institutions; such as the General Auditing Office, General Services Agency, GRC and Contracts and Monopolies Commission; and to five SOEs, namely the National Port Authority, Roberts International Airport, LPRC, FDA and Bureau of Maritime Affairs. Positions in SOEs have been traditionally given to political allies, who then transform their hegemony over ports, airports, customs and the Liberian Maritime Office (i.e. international shipping registry) to their very own personal cash cows. More specifically, USAID’s assistance to GEMAP encompassed 11 institutions over three different functional activity areas, namely financial management (MoF, Bureau of Budgets, Department of Budget), asset management (Government Service Agency; Ministry of Land, Mines and Energy), revenue raising and financial management (SOE, Monrovia City Corporation), and lastly, combining asset management and development infrastructure (Ministry of Public Works, MoPEA).

Due to reasons of weak human capacity and poor infrastructure, many of the technological solutions for governance that might be commonplace in other countries, such as databases or electronic transactions, are not viable in Liberia because there is no access to electricity or the Internet. While some government ministry offices might have a few computers, rarely are these computers operational. They have oftentimes been destroyed by power surges or rendered inoperable by viruses, because virus software has not been updated. The attitude toward public property is just one indication of the commitment. During GEMAP activities, the international experts had a very hands-on approach working with and in various ministries and agencies. Consequently, GEMAP failed to build the local capacity.

Originally, GEMAP was to be dismantled once Liberia entered the HIPC programme. Instead of dismantling it, GEMAP was extended in 2008. The co-signing authority ended in 2009. That same year, the US contribution to GEMAP was US$6 million for public sector executive functions and half a million US dollars for anti-corruption reform. The total donor commitment to GEMAP between 2005 and 2007 exceeded US$19 million. The tax revenue raised from US$139.8 million in 2007 to US$190 million in 2009. No cost–benefit analysis of GEMAP activities has been conducted, because it is impossible to determine if the increased tax revenue can be attributed

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755 McGovern in Call Ed. 2008 p.354
756 USAID 2013 p.12
757 USAID 2010, Final GEMPA evaluation report
758 Daase 2012, USAID 2010
759 Clark 2008, p.28
760 Cohen et al. USAID 2010 p.ii
761 USAID 2010 p.6
762 USAID 2010 p.64
to improved capacity in revenue collection or an increase in FDIs and generally rapid post-conflict economic growth.

GEMAP’s steering committee, the EGSC, was chaired by the president, the donor community serving as deputy chair. Other members of the steering committee included the ministers for finance, planning, economic affairs, governance reform, justice, the CBL, the Contracts and Monopolies Commission, and a civil society representative. One of the functions of the EGSC was ‘to arbitrate all potential disagreements over financial decisions made in the Central Bank, ministries and agencies in the government, state owned enterprises’. As the EGSC chair, the president held ultimate authority, if arbitration was unsuccessful. GEMAP regulated ‘the redistribution of key resources’. The president’s position as the chair of GEMAP gave the president unilateral powers over financial decisions, which in turn, gave the president the unilateral financial powers to strengthen her position during the sensitive first years of the elected government. While GEMAP was aimed at improving public financial management, it was also instrumentalised to control revenue flows and payments to the political opposition. This happened at a point in Liberia’s history in which the House was for the first time controlled by an opposition party, note by the executive.

GEMAP’s first evaluation was conducted by the steering committee. GEMAP lacked any centralised or detailed work plan because it was intended to be instituted as a framework. Each of the SOEs and ministries involved developed their own individual work plans to measure the impact of GEMAP. However, these documents had vaguely worded programme indicators such as ‘assured productivity, efficiency, and effectiveness’. Daase (2012) reports that indicators were marked as achieved, suggesting successful GEMAP implementation. Ironically, the framework implemented to improve accountability itself lacked central coordination, systematic reporting mechanisms or standards, clearly defined objectives and objectively measurable indicators. This poor accountability between deliverables and outcomes, however, is not uncommon for aid funded public sector projects. On the lack of accountability, McGowern (2008) notes that by ‘checking all required boxes may allow for the particular problem that caused the war to continue as before’.

Clark (2008), among others, claims that transparency was improved by making government information (e.g. drafts annual budget) available over the Internet. It was also claimed that

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763 Daase 2012 p.505, also USAID 2010
766 ibid.
767 ibid., Liberia Petroleum Refining Company (LPRC), 2007, p. 2
768 McGovern p.336 in Call Ed. 2008
GEMAP increased transparency and therefore alleviated corruption.\textsuperscript{769} The argument that transparency was improved by publishing government documents on the Internet is often repeated. However, because majority of the Liberian population lacks electricity, not to mention access to Internet and the penetration of literacy skills is low, publishing government information on the Internet only targets the IC, showcasing progress, compliance and encouraging the pledging of further funding. Publishing information on the Internet does not provide a genuine opportunity for the Liberian population to learn about reforms or to participate in the discussion. Only the Liberian diaspora in the US and those few who have access to the Internet in Monrovia engage in online forums. The draft budgets, laws or reports have not been read over local radio, nor have they been translated into any of the local dialects spoken by the population. GEMAP was no exception. A representative from a civil society organisation stated, ‘We are not even able to criticise its (GEMAP) implementation because we don’t know what’s supposed to be done at what time’.\textsuperscript{770}

In comparison, the CDF and associated projects have been discussed in local forums. Paradoxically, not only has this enabled local level corruption, but it has also informed the public about the misappropriation. The fact that these projects are debated and initiated at a local level increases actual transparency, creates accountability and offers an opportunity for the local population to influence decision making and to participate in the process.

Generally, between 2007 and 2009, the administration reported progress and success in the implementation of reforms. GEMAP’s implementation was showcased to boost donor confidence. The US was the first donor to announce debt cancellation in the Liberian Partners Forum at the WB in 2007, followed by the African Development Bank, the WB and the IMF, clearing more than US$400 million in debt. In February 2008, the IFIs approved Liberia’s eligibility for assistance under the HIPC programme.\textsuperscript{771}

These reforms included invitational arrangements. For instance, revenue collection under the GEMAP was centralised under the MoF and government accounts were maintained at the CBL. Additionally, the position of the SOEs was solidified by hosting them under the GEMAP framework; consequently, opportunity to re-structure, nationalise, or privatise the SOEs was missed. The SOEs operate in several of the major revenue generating areas, such as the airport, port, and petroleum industry. They have consistently failed to improve upon the services they

\textsuperscript{769} Clark 2008 p.28
\textsuperscript{770} Jasper Cummeh, Cummeh’s Center for Transparency and Accountability in Liberia, interviewed by Jahr, in Jahr 2006 p.27
provide and SOE positions have been traditionally awarded to political allies as rewards. Although SOEs have a specific role in systemic corruption, GEMAP saw the governance and improved revenue collection of SOEs as a technical exercise ignoring their role in everyday politics.

GEMAP’s implementation was heralded as a ‘success story’.\textsuperscript{772} Liberia’s admission to the HIPC programme and the 75% increase in revenue collection during the 2005–2006 fiscal year have been attributed to GEMAP. Even critics of the president have acknowledged her role in fulfilling the IFIs conditionality successfully and for re-opening Liberia’s loan pipelines. GEMAP’s apparent success was used with great effectiveness to increase the donor community’s confidence in the president’s willingness to undertake reforms, ‘Sirleaf’s willingness and follow-through on commitments of resources and strict adherence to GEMAP guidelines has had far-reaching implications to date’.\textsuperscript{773} GEMAP was considered a model ‘for future good economic governance projects and post-conflict economic development’ and used ‘as a counterexample to the failed Chad-Cameroon-Pipeline project and as a possible model for a governance programme in Zimbabwe’.\textsuperscript{774} It has been claimed that GEMAP ‘deprived warlords of incentive to capture the state’.\textsuperscript{775}

Nevertheless, a more fundamental criticism of GEMAP and the reforms in general might be summarised along the following lines. While GEMAP and LEITI were intended to improve revenue collection, they were not designed to deliver any tangible outputs; in other words, while revenue collection might have improved, there were still no accountability mechanisms in place to follow how these revenues were actually spent. Secondly, the judicial sector was excluded from the initial reform agenda, including the GEMAP framework. GEMAP state-building components were exclusively negotiated between the executive and donors and GEMAP excluded key stakeholders from the process. GEMAP’s appraisal of the close partnership between the executive and the IC, underlines the lack of citizen, legislature and judicial participation in the process. Furthermore, although the reforms were introduced in highly contested political context, they lacked any political strategy.\textsuperscript{776} Although ArcelorMittal’s iron ore concession was reviewed and its conditions modified, GEMAP failed to address wider natural resource management, focusing only on its revenue collection aspect. In the Liberian context it made little difference, if revenue

\textsuperscript{773} Clark 2008 p.29
\textsuperscript{774} Daase 2011 p.519
\textsuperscript{775} McGovern in Call Ed. 2008 p.341
\textsuperscript{776} Dwan &Bailey, 2006, p.19
reached national coffers, because from there it was distributed among a tiny elite. The common perception was that because the revenues of the GOL do not benefit the population nobody cares if the money is re-distributed before it reaches the Central Bank.

GEMAP introduced two international programmes under the context of improving the process for granting concessions: the Kimberly Process for certifying diamonds and the Extractive Industries Transparency Initiative (EITI). USAID provided assistance to the Ministry of Land Mines and Energy in opening up the mining concession process. While both LEITI and the Kimberly Process are complicated international multi-stakeholder schemes that aim to improve transparency, they lack any clear mechanisms for enforcement. They do not address issues of accountability, fairness or participation in the concession negotiation process. The 2013 USAID governance assessment report indicates that the process for negotiating concession agreements remains opaque. The case of LEITI demonstrates that deeper issues of governance in natural resources management cannot be addressed relying simply on mere technocratic approaches.

**LEITI: ‘They pocket the money anyway’**

The LEITI Act was passed into law in 2009 with a mandate to increase the transparency and accountability of payments from the extractive industries in order to help curtail corruption. LEITI audits and reports revenues from extractive industries. Unlike similar initiatives in other countries, LEITI is significantly broader in scope and includes revenues from agriculture and forestry. With the introduction of LEITI, Liberia was among the early adopters of EITI. According to the IMF, ‘The EITI Board designated Liberia as Compliant in October 14, 2009 becoming the first country in Africa, and the second country in the world to be validated. The second LEITI Report published in 2010 involved seventy-one (71) companies in mining, oil, forestry, and agricultural sector, and five government agencies’.

However, the Auditor General’s report (2007) found ‘several exploration and mining companies identified by the Ministry of Lands and Mines (MLME) to be working in Liberia were not LEITI participants, making it difficult to ensure that these companies are complying with their tax obligations and that the Ministry of Lands and Mines is properly regulating the sector’. Moreover, the report indicated the MLME had a conflict of interest with his responsibility for ‘declaring revenue generated from the mineral sector, reporting on this for LEITI and at the same time acting as co-chairman of the multi-stakeholder steering group’. One of LEITI’s weaknesses is that it is inherently a multi-stakeholder group and the members have conflicting motives. LEITI includes

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777 Cohen et al. 2010 p.2 USAID
778 IMF 2010 HIC p.18–19
779 GW Publish What you Pay 2009, p.2–3
the MLME, the Minister of Agriculture, the president of the National Oil Company of Liberia (NOCAL) and the director of the FDA, all of whom are appointed by the president and participate in lucrative concession negotiations. The civil sector is represented by the NGO, ‘Publish What You Pay Liberia’, and two union representatives. Four representatives for the extractive industries sector sit in the multi-stakeholder group. One civil sector representative is not enough to bring critical perspective to LEITI.

For the first three years, LEITI audited revenues from concessionaires to the government. The third LEITI report showed that the number of companies involved in the extractive industries rose from 70 in 2008–2009 period to 121 in the 2009–2010 period, an increase of 51 in just one year. The total revenues from concessionaire royalties and fees more than doubled, from US$29.45 million between 2007 and 2008 to US$71.9 million in between 2009 and 2010. Still, the revenues reported to LEITI in 2010 amounted to less than 20% of the US$371 million national budget.780

Nonetheless, the reports produced by LEITI for the first three reports indicated some minor discrepancies, primarily technicalities in accounting payments.781 Like many other programmes, reforms and commissions in Liberia, initial enthusiasm has faded away.782 As of 2014, the GOL no longer follows the law and refuses to turn over key data to LEITI.783

Although LEITI tracked payments and audited accounting technicalities, it failed to bring transparency to concession negotiations or the bidding process of the Inter-Ministerial Concessions Commission, which are concluded behind closed doors. The revenues from concessions flow directly to the MoF. Therefore, LEITI does not provide any accountability mechanism if the revenues from resource extraction are not directed to fund sustainable economic development or infrastructure, as the PRS (2008) claimed.784 In fact, the Public Financial Management Act prioritises debt servicing.

During a LEITI awareness session in a town hall meeting in 2007, an old artisanal miner dressed in ragged T-shirt and rubber slippers made an apt remark that succinctly reflects the sentiments of the indigenous rural population, ‘I am not going to report my stones to the government officials, because what else have they ever done than pocket the money anyway’.785

780 The GOL, Fiscal year 2009/10 National Budge passed into a law
781 CICR 2012 p.66-70
782 O’Sullivan 2013 p.11–12
783 USAID 2013 p.64
784 CICR 2012 p.68–70
785 Attended the Bong County LEITI town hall awareness meeting in 2007
Economic Growth

Liberia experienced high economic growth throughout the period between 2005 and 2013. In 2014 the Ebola pandemic changed all economic predictions. Liberia’s strong growth has not been triggering down and is not evenly distributed. It does not translate into social development or sustainable domestic economic development. Instead, the growth is sustained by concessionary economic policies. The capacity of Liberia’s local private sector remains low, constrained by the high cost of energy, low human capacity and poor infrastructure. Furthermore, the concessionary economy has not created employment opportunities for youth, those under 20-years of age, which at present comprise 70% of the Liberian population. Public financial management has shown more progress than any other sector and Liberia has been showcased as ‘a poster child of the IFIs’ by both the media and donor organisations. Although reliable data is a problem in Liberia,\(^786\) still the macroeconomic numbers are impressive.

GDP

In 2008, the same year as the PRS was concluded, the IMF announced that Liberia’s GDP was US$850 million. In 2009, Liberia’s GDP was reported as US$936 million. In 2008, Liberia’s GDP was estimated by the IMF to be US$850, US$880 million in 2009, US$936 million in 2010, US$1.03 billion in 2011 and US$1.9 billion in 2013 (see Figure 5).\(^787\)

Figure 5. GDP growth in million USD (2008–2013)

Figure 6. GNI per capita in USD (2006–2013)

\(^{786}\) USAID Cohen et al. 2010 p.1

\(^{787}\) USAID Cohen et al. 2010 p.1
Similarly, Liberia’s gross national income (GNI) per capital was US$140 in 2006, US$190 in 2008, US$330 in 2011, and US$410 in 2013 (see Figure 6). In 2013 the Liberian GNI was 1.7 billion US$, and ranked 178th in the world and was on par with GNI of Bhutan (1.7 billion US dollars). In 2013 GNI per capita; PPP (US$) in Liberia was 790US$. For comparison purposes, according to the World Bank the GNI per capita of low income countries in 2013 was US$728.\footnote{The WB Data, http://data.worldbank.org/income-level/LIC (accessed 30.6.2015)} The growth in GNI partially relates to the increase in remittances.

**National Budget**

In the seven years between 2007 and 2014, the national budget has grown from US$98 million to US$672 million. The 2013/14 fiscal year budget was almost seven times that of the 2007 budget (see Figure 7).\footnote{MoF Budget Framework paper 2013/14}

![National Budget in million USD](image)

**Government Revenue, Concessions, FDIs and Donor Assistance**

The Liberian economy has historically been dependent upon the exploitation of natural resources in form of concessions and related FDIs, foreign aid and loans. The Liberian domestic economy remains extremely underdeveloped. Between 2007 and 2010, donor transfers, which remained largely off-budget, averaged half of the GDP.\footnote{IMF 2010 HIPC p.13} The bulk of post-conflict aid has been directed toward state-building programmes. Being a small, aid-dependent country, Liberia has been one of the largest recipients of Overseas Development Assistance (ODA) per capita. Nevertheless, the ODA per capita has declined from US$358 in 2010 to US$124 in 2013.\footnote{The WB, data, net ODA per capita, http://data.worldbank.org/indicator/DT.ODA.ODAT.PC.ZS (accessed 16.5.2015)} In the aftermath of the 2014 Ebola pandemic ODA is likely to increase again.
USAID is an independent federal agency under the State Department. To put USAIDs role in Liberia in perspective, while the IMF estimated Liberia’s GDP in 2009 to be about US$880 million and US$936 million in 2010, USAID’s assistance to the country amounted to US$114.4 million or more than 10% of the GDP in the 2009 fiscal year. In the 2010 fiscal year, USAID contributed US$202.9 million or approximately 22% of Liberia’s GDP.  

The GOL’s main revenue revenue-generating entities are mining and timber concessions, tariffs collected at the airport and seaport, and petroleum storage fees (see PFMA). Government revenues, including grants, have continued to rise, reaching 30% of GDP in the 2009/10 fiscal year. According to USAID, FDIs (overwhelmingly in the extractive industries) amounted to US$153 million in 2007. Cross-country data supplied by the WB in 2005 suggests that FDIs were worth US$82 million to Liberia in 2005, US$131 million in 2007 and US$1.35 billion in 2012 (see Figure 8).

Since the end of the conflict, Liberia has benefited from over US$16 billion in FDI commitments in iron ore, forestry, rubber and palm oil. In 2013, economic growth continued at a rate of 8% led by iron ore concessions. In 2014, the Ebola crises drastically altered earlier predictions and FDIs declined; and with them, the GOL revenue. The economy quickly declined to verge on the point of collapse. Due to the high-risk operational environment and the volatile price of raw materials, the economy suffers from a chronic imbalance of payments and fiscal deficit problems. The fiscal deficit is patched up with development aid. Arguably, the huge capital inflow has led to a wasteful mentality.

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792 USAID Cohen et al. 2010 p.4
793 USAID 2010 Cohen et al. p.2
794 IMF 2010 HIPC p.12
795 USAID Cohen et al. 2010 p.3
The budget processes, however, have shown improvement. The national budget was submitted on time and was published on the Executive Mansion website. These improved budget processes have allowed the legislative to study and debate the budget, something previously unheard of in Liberia. Such improvements can be credited to GEMAP and the Public Finance Management Act (PFMA). While budget processes have significantly approved, there are still a number of outstanding issues vis-à-vis accountability. The former Auditor General describes his discovery of a US$47 million surplus and imbalances in the 2007 fiscal budget:

‘Hey, I don’t see any line in the budget talking about “carry forward”. I don’t see a performance report. What is going on here?’ Everybody said, ‘It’s none of your business’. ‘No, I’m Auditor General. You have to account’. Even the president didn’t like that. The Minister of Finance didn’t like that. A lot of people in the government didn’t like that. But I told the president quickly that the government bureaus, […] were spending about $12.5 million dollars a month. So even if you were to double that within the last month you have $25 million dollars. So with the $47 million dollars, and current revenue at the same time, you will end up with a cash balance of $32 million. I said, ‘You’ve got to disclose it’.

The frameworks and strategies outlining the administration’s vision for economic policy include a Results Focused Transitional Framework (RFTF), and an interim PRS and PRS, which substituted for the national development strategy and was concluded in 2008. The PRS was followed by the AFT, announced in 2013. It outlines the administration’s vision for Liberia to becoming a middle-income country by 2030.

GDP Per Capita – Micro Economy
Whereas the macroeconomic numbers and progress impressively indicate strong economic growth, the same cannot be said of microeconomic progress. In addition of being one of the poorest and least developed countries, Liberia is also one of the highest rates of economic disparity. While this is not uncommon in Africa, Liberia has one of the highest Gini coefficients in West Africa. According to the African Development Bank, ‘income distribution in Africa is characterised by some equity for the middle-income classes and significant differences within the rich and poor income groups’. Historically Liberia has had no middle class to bridge the two classes.

Per capita nominal GDP was estimated to be US$216 in 2008, US$213 in 2009, US$217 in 2010. In real terms, however, Liberia’s per capita income was projected to grow from US$129 in 2008 to US$141 in 2011 (see Figure 9).

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798 IMF 2012  
799 Morlu in Blair 2009 p.4  
800 Mubila, African Development Bank Group, 2012 p.3  
801 USAID Cohen et al. 2010 p.1
How do Liberians survive on one or two dollars a day? Most statistics would suggest subsistence agriculture as the main source of income. However, this is partially because questionnaire options tend to include a category for farming, farmer or agriculture and omit alternatives such as remittance. In reality, Liberians do not practice self-sufficient rice production. The agricultural sector is underdeveloped, slash and burn methods are still the commonplace, and farming plots are small. Logically, those who are for example on a GOL’s ghost payroll would not admit it. Part of Liberian culture is to answer questions about occupation by saying farmer, because that is the expected response.

The remittances, meaning transfers in cash or in kind made or received by household residents in Liberia to or from non-resident households, constitute a significant source of income. For example, when the GDP per capita increased only US$27 in 2008/2009, remittances were estimated to be US$17 per capita. These remittances have grown from US$31 million in 2010 to US$383 million 2014, tenfold as more Liberians return to Liberia. The change is visible in the construction boom and land prices, especially in Monrovia.

Cash flow in and out of Liberia is interesting to say the least. At the same time, millions of US dollars from the income of businesses and corruption are transferred out of Liberia while the average Liberian receives payments from their relatives abroad. During the heat of the conflict

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when everybody else had abandoned Liberia, Western Union kept its office in Monrovia open. The direction of the cash flow has implications for the dual currency system.

A dual currency system is not uncommon where dual economic systems operate. The informal and subsistence sectors have long been excluded from the state economy. As is typical of many poorer countries, Liberia’s informal sector is fortified by the dual currency system. In such a dual currency system, the more significant economic activities are transacted in US dollars, while the indigenous economy uses the national currency. All large transactions, such as wholesale, imports, concession payments, rents for luxury apartments and supermarkets where the expatriate community shop, are transacted in US dollars. Petty trading, local markets and surviving in rural Liberia in general is transacted in Liberian dollars, in the Liberty. This microeconomic indigenous economy happens largely outside of the state-building framework and the IFIs’ conditionality.

The dual currency system is official. Liberia is the only ECOWAS country still using a dual currency system. The US dollar is official tender. In April 2014, the House debated a single currency Act, An Act to Inaugurate the Liberian Dollar as the Single-Currency Regime into the Republic of Liberia’s Fiscal Scheme. However, the bill is likely to be postponed until the ECOWAS single currency has been introduced.

A single currency system would benefit the average Liberian because the use of the Liberia dollar would push the domestic prices down. Traders typically have to purchase their goods from importers in US dollars, but sell them in Liberian dollars. Hence, a single currency would shelter small businesses and petty traders from unpredictable currency fluctuations. Those who transfer large amounts of cash out of Liberia would become the net losers because they would need to convert the local currency to US dollars and the transactions would be better monitored. Also the national economy has been affected by the dual currency and exchange rate fluctuations. The 2013/14 budget shortfall was explained partially by the difference in the exchange rate between the Liberian and US dollar.

**Zero Deficit Cash Budget**

Since February 2006, the GOL has implemented a zero deficit cash budget, a balanced cash-based budget policy. According to the IMF, the sum of Liberia’s revenue and grants in 2008/09 totalled US$234.9 million, which is 27% of the GDP. At the same time, Liberia’s total expenditure

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807 IMF 2010
was US$248.9 million, approximately 29% of GDP. The shortfall of US$14.0 million was 1.6% of GDP and was primarily covered by a drawdown of GOL balances at the Central Bank. In the next fiscal year, 2009/10, Liberia’s total revenue and grants amounted US$309.3 million (34% of GDP), while total expenditures were US$301.0 million (33% of GDP), yielding a surplus of US$8.3 million (0.9% of GDP). Since the zero deficit cash budget policy was adopted the budget deficit has been kept under 1% of GDP. Critics of the zero deficit cash budget claim that it does not encourage long-term planning. For instance, in the 2012/13 fiscal year, recurrent expenditure was still at 80% of the total budget. According to the IMF, the zero deficit cash budget has contributed to fiscal discipline and reduced debt dependency, ‘while also increasing pro-poor expenditures’.  

The 2010 Budget Framework Paper established the basis for both a Medium-Term Macro-Fiscal Framework (MTMF) and a Medium-Term Expenditure Framework (MTEF). The MoF began the pilot phase of the Integrated Financial Management Information System (IFMIS) in July 2011. Upon reaching the HIPC decision point of the IMF’s HIPC initiative, Liberia became eligible for debt relief and qualified for lending. The deficit in the 2012 fiscal year was 3.4% of GDP, and 1.6% of GDP in 2013. In 2013, Liberia’s GDP was US$1.95 billion and the net ODA of the GNI had declined from 127% in 2010 to 52% in 2011, and to 30% in 2013.

Who Controls the Government Purse? IFIs-HIPC-PFMA

IFIs define the administration’s economic policy. The extensive list of conditionalities leaves no space for alternative political-economic strategies, limiting what political platforms parties and politician can realistically stand on. Countries choosing to abide by the conditionality of IFIs, as Liberia has done, have administrations that are preoccupied by reforms, procedures and reporting mechanisms to accommodate requirements of the IFIs. In Liberia, the technocratic elite, recruited under TOKEN, worked closely with international experts. Woodward notes that ‘the leading financial institutions (IFIs)—the International Monetary Fund (IMF) and the World Bank—are prohibited by their Articles of Agreements from any policies or actions that would “interfere in the political affairs of any members”’. However, economic decisions are inherently political, and political, legal and administrative reforms are part of the conditionality for lending imposed by the IFIs on countries for state-building. After the 2005 elections, the GOL implemented a

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808 IMF 2010 HIPC p.3
809 IMF 2012 PRS Final Report p.15
810 IMF 2010 HIPC p.12
811 IMF 2012, Final Report PRS, p.15
814 Woodward p.140 in Berndal and Zaum Ed. 2013
slew of new laws, capacity building initiatives, PRS, procedures and committees with a view toward qualifying for new loans, receiving aid funding and attracting FDIs.

In 2008, Liberian became a part of the HIPC Initiative, becoming the thirty-third country to achieve its decision point. In 2007, the decision point for debt relief was set at US$2,845.5 million in order to reduce eligible external debt below 150% that of exports; translating into a reduction factor of 90.5% for all creditors, which was one of the highest under the HIPC initiative. The total debt relief was estimate at US$4.6 billion. As of in 2010, Liberia’s external debt had been lowered to US$135 million.816

HIPC’s completion points triggers include: PRS, ensuring macroeconomic stability, strengthening government procurement, conducting successive external audits of key ministries, developing a debt strategy, reporting debt data, eliminating discretionary tax incentives, reconciling revenues from extractive industries, improving payroll management in the education sector, expanding basic health service coverage and introducing an ACC.817 In 2008, in less than three years, Liberia reported having fulfilled a number of criteria, including the satisfactory implementation of the PRS, preparing the FY2010/11 budget, the unification of the MoF accounting system, the appointment of a Debt Management Committee in April 2010 and having made sufficient progress in the implementation of the Public Financial Management Act.818 The requirements were met with the significant involvement of donors in key institutions. Critics claimed that Liberia had rushed through the HIPC process prematurely.

Nonetheless, in 2008, the Joint International Development Association (IDA)-IMF Staff Advisory Note identified a number of areas requiring further action, including ‘developing a detailed and prioritised costing of PRS actions and policies; providing greater specificity of the strategy for pro-poor growth; expediting the law to establish the Land Commission; elaborating Government’s strategy and timetable for devolving political-financial authority to lower levels of government; and elaborating measures (including piloting social accountability systems) to ensure broad involvement in monitoring and evaluating the implementation of the Liberian Poverty Reduction Strategy’.819

The PRS evaluation was performed with the assistance of donors (see PRS). Expanding basic health service coverage was included in the PRS. Notwithstanding, other areas marked for improvement have not been addressed. The procurement process, the development of a debt

816 USAID Cohen et al. 2010 p.3
817 IMF 2010 HIPC p.5
818 IMF 2010 HIPC p.4
819 IMF 2010 HIPC p.11
strategy, reporting debt data and improving payroll management were identified by GEMAP activities in which external advisers had leading roles. The successive annual external audits of five key ministries (i.e. Health, Education, Public Works, Finance and Lands, Mines and Energy) were conducted by the GAC and submitted to the legislature and disclosed publicly. In April 2010, the GAC had completed over 20 audits, including four forensic audits.820 The General Auditor had been recruited by the EU with the support of other donors. Under LEITI, the reconciliation of revenues from the extractive industries was outsourced to an external auditing company, which had produced the LEITI report. Thus, the Public Financial Management Act and its implementation was the last conditionality to be met before reaching the HIPC programme decision point.

Public Financial Management Act (PFMA)

In September 2008, the PFMA was submitted to the legislature. It was passed into a law in a special session of the legislature in August 2009.821 The process of passing the PFMA rekindled the power struggle between the legislative and the executive. While a number of laws had been passed on the understanding that ‘the IC wants this from us’,822 the legislature insisted on exercising its oversight function in the case of the PFMA. The deliberation of the PFMA became a nexus of the IFIs’ conditionality, with power bargaining between the executive and the IFIs on the one side and the legislature on the other. Under pressure to qualify for debt relief, months of deliberation culminated in a constitutional question over economic decision making powers. GEMAP was ending, and with it the external advisers with co-signing authority were to be withdrawn. These external advisers had been ‘the only check against questionable expenditures in the early years of the Sirleaf administration’.823

Allegedly, the PFMA was surrounded by rumours that two conflicting versions were in circulation, one version submitted to the IC and a second version to the legislature. The joint House and Senate Budget and Finance Committee insisted on redrawing the draft Act to retain primacy over fiscal affairs—a mandate they believe the Liberian Constitution grants the legislature, and not the MoF. Unable to resist a HIPC mandate, the legislature already had conceded to MoF’s absorption of the Bureau of the Budget. The legislature was not prepared to accept any further erosion of its legislative powers and resented the draft PFMA’s explicit outline.

820 IMF 2010 HIPC p.14
821 IMF 2010 HIPC p.15
822 Observation of legislative sessions in 2008 and 2009
of a super-Finance Ministry to preside over budget creation, revenue collection, expenditure, debt management and economic analysis.824

The key areas of the PFMA can be summarised over five broad topics. Firstly, budget preparation and approval, which primarily aims to strengthen the links between economic and development policy priorities and budget processes. The PFMA calls for a three-year forecast of revenue and expenditure, specifies the format and timeline for submission of the MoF’s draft budget to the legislature and release to the public, and outlines the legislature’s rights and responsibilities for the modification and approval of the budget. Secondly, budget execution, which provides a legal mandate to control commitments against appropriations, limits the amount that may be transferred between line items, and requires annual procurement and spending plans for each ministry and spending agency. Thirdly, debt management requires that all income from government borrowing is to be credited to the consolidated fund. The PFMA stipulates that debt service payments are among the first claims; in other words, it prioritises debts servicing over any other public spending. Furthermore, it dictates the publication of a debt management strategy and the bi-annual submission of reports on new borrowing. It establishes a Debt Management Committee, comprised of the ministers of finance and justice, the Central Bank Governor and two other presidential appointees. The Debt Management Committee is responsible for approving all central government loan agreements and contracts that impose contingent financial liabilities upon the GOL. Fourthly, accounting, reporting and auditing, mandates the publication of quarterly public reports and internal audits for all government agencies, requires the publication of the general national budget and annual external audits of final accounts. The budget must include separate annexes on foreign grants and loans. Fifthly, oversight of state-owned enterprises: SOEs and autonomous agencies must submit draft budgets and strategic plans to the MoF for approval. SOEs are required to petition the Debt Management Board prior to contracting debt. PFMA directs SOEs to disburse all surplus monies to the Consolidated Fund at the conclusion of the fiscal year.825

The legislature questioned the lack of measures for strengthening legislative and executive authority over SOE. As outlined in the previous section, by including SOEs in the GEMAP framework, the existence and position of SOEs were confirmed without any further discussion. PFMA, however, prompted political debate over the SOEs. Historically, revenue-generating agencies and the five major SOEs (e.g. the Liberian Petroleum Refining Company and the Bureau


of Maritime Affairs) have been major revenue sources for the GOL and a *cash cow* for those controlling them. They have operated outside the budgetary process and have been permitted to retain surplus earnings, thereby reducing government revenues. Their management has lacked oversight, accountability and has facilitating widespread corruption and fraud. A joint committee, with assistance from the GAC, proposed more robust amendments requiring the refund of surplus funds from SOEs into the consolidated fund. Additional legislative amendments to the final version of the PFMA ‘included a stronger system for registering and tracking government assets for audit purposes, and the placement of internal auditors within each ministry.’

The executive and the MoF were determined to reach the HIPC completion point by the end of 2009 and the IMF was willing to assent to a generous interpretation that Liberia had in fact *implemented* for one year both the PFMA and supporting financial regulations, and that the fiscal year 2009/10 budget process embodied the *spirit* of the PFMA. The completion of the PFMA conditionality was justified in the IMF HIPC 2010 report, ‘Substantial progress has been made toward meeting the implementation of the Public Financial Management (PFM) law for 12 months, the only trigger that has not been fully met, and the authorities are committed to further rapid progress in coming months’. Furthermore, after PFMA had been passed, “in November 2009, the President approved the enabling regulations for the law. Since that time, the authorities have made impressive advances in implementing the new law: (i) the FY2010/11 budget was prepared according to law, (ii) a unified accounting function was put in place in the Ministry of Finance, (iii) a high level debt management committee was established, which issued a revised debt management strategy for the post-HIPC completion point period, and (iv) a chart of accounts and international accounting standards were adopted.”

The ratification of PFMA was the last obstacle against Liberia being eligible for future loans. Under pressure to comply with the HIPC conditionality, achieving debt relief and requalifying for lending, the House lacked political leverage. Finally, in passing PFMA, the legislature transferred significant public financial management oversight to the MoF. Debt relief was granted in 2009; and since then, Liberian’s debt stock has been growing rapidly. Against a backdrop of dependency on natural resources exploitation and associated raw material price fluctuations, a high-risk operational environment and an underdeveloped domestic economy, the sustainability of current debt levels and future increase is questionable. As of the end of March 2013, the total public debt,
comprising both external and domestic debt, was US$565.55 million.\textsuperscript{830} In 2014, according to the CBL, total public debt in the first quarter of 2014 rose to US$660.6 million, 31.2\% of nominal GDP.\textsuperscript{831} Leo (2009) argues, ‘the IMF and World Bank growth projections for HIPC\textsubscript{s} remain overly rosy compared to actual and historical performance’.\textsuperscript{832} Woodward (2008) notes that the primary objective of the IFIs is to ensure debt servicing, not sustainable economic growth in countries under their programmes.\textsuperscript{833}

The IFIs’ understanding of a state is that they should be ‘agencies of restraint’ and make a credible continuing commitment to economic (neoliberal) reforms. The state should implement policies that enable debt servicing.\textsuperscript{834} The president has demonstrated a commitment to reforms and willingness and determination to implement GEMAP and HIPC. This made her a viable candidate for the 2011 elections, at least in the eyes of the IC. The international state-builders preferred stability so that the reforms would not collapse under a lack of continuity. The following year after the HIPC graduation and debt relief, the 2010 election campaigns were launched. A portfolio of impressive macroeconomic achievements was crucial for the president’s credibility as a presidential candidate and ‘the reformer’.

GEMAP, HIPC, PFMA and PRS inserted the influence of the IFIs and the IC. Their implementation processes were locally politicised and used for domestic power bargaining to shift the de facto powers of the political economy. The programmes created asymmetric access to central information for policy-making. They also gave procedural decision making authority to the technocrats, who primarily represented the elites with close personal ties to the executive. Additionally, those working with the international experts were able to filter and feed information to the international donor community.

When the objectives and the deliverables of individual projects are evaluated, as is most often the case in donor studies and policy evaluation papers, the insight of power bargaining and political positions is missed. As the case of the PFMA demonstrates, the process is just as important as the outcome, and at times even more important. The influence of the IFI approach to state-building of the political economy in post-conflict countries occurs through a vast array of specific policies and instruments.\textsuperscript{835} In Liberia, the IC (including the UN, EC, and USAID) and the IFIs form an array of specific programmes and policies (e.g. TOKEN, GEMAP, HIPC, PFMA, independent

\textsuperscript{830} Ministry of Finance, Debt Management Unit (DMU) Third Quarter2012/2013 Public Debt Management Report, January 1-March 31, 2013
\textsuperscript{831} Central Bank of Liberia 2014, Financial & Economic Bulleting for the 1st quarter of 2014
\textsuperscript{832} Leo 2009
\textsuperscript{833} Woodward in Berdal and Zaum 2013 p.140
\textsuperscript{834} Woodward in Call Ed. 2008 p.144
\textsuperscript{835} Woodward in call Ed. 2008 p.145

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committees, and SSR) that shape the post-conflict space and power bargaining. In the dynamics and politics that are associated with both the implementation and interconnectivity of projects, state-building inevitably interferes with domestic political power bargaining by biasing beneficiaries, partners, implementers, committee members, trainees, informants, recipients and opponents to reforms. By determining who get an invitation to a planning meeting, is appointed to chair a commission, or is on the distribution list for the reports of steering committees, the IC and IFIs effectively shape the post-conflict sphere.

In the framework of Liberian state-building, the international actors and elite focused on improving the PFM and related capacity building. It follows that the PFM, including budget processes, revenue collection and the completion of the HIPC process has shown greater progress than any other sectors, including security, rule of law, judicial sector, or democracy support.836 Previous experiences external advisers suggests that more of the same capacity building and technocratic governance reforms is unlikely to address the systemic corruption that has long plagued the Liberian political economy. Any serious efforts in combating corruption will invariably require a more holistic political processes.

**Systemic Corruption**

Any honest discussion of the Liberian state must include some reference to corruption. Corruption is ‘tenaciously integral’ to the *modus operandi* of the Liberian state and ‘an immutable part of Liberian social structure’.837,838 The underlying rule systems and political-economic institutional arrangements give rise to systemic corruption in Liberia. Corruption is often claimed to be a threat to peace, sustainable development and to the state-building reforms, but corruption is not simply a threat; it is the system.

Those new to Liberia are often shocked by the millions of US dollars exchanging hands in the context of pervasive poverty and human misery. Well-meaning foreigners find it difficult to comprehend why, from the poorest to the richest, nobody seems to be particularly interested in investing in long-term returns and why *patriotism* seems to be an alien concept in Liberia. Quick returns and *grab as much as you can and run* seem to be the prevailing strategy. State level corruption in Liberia is systemic, predatory and extractive. It is deeply imbedded with the extractive economy and the predatory state. Amundsen (1999) defines extractive corruption as a form of corruption in which, the state, as a group or the elite, may extract substantial resources in

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836. IMF 2012, PRS Final Report  
the form of wealth and power from the nation or the society at large, while the society in return has only symbolic resources, like protection and national identity.\textsuperscript{839}

The UN Security Council recognised in 2006 that the political elite benefits from systemic corruption.\textsuperscript{840} The USAID governance study concluded similarly in 2013.\textsuperscript{841} In 2014, a few years after GEMAP’s completion, the GOL payroll functions as a wealth generating casino for those in charge of the payroll syndicates and as an extended 	extit{welfare} system for the 40,000 civil servants and their families who represent only 10\% of the Liberian population.\textsuperscript{842} Under present circumstances, corruption is a rational behaviour in Liberia. A person, who does not capitalise from his position, including political leaders, is considered 	extit{stupid}. Petty corruption, such as lower-level bribery, is culturally acceptable and expected. Satisfying the expectations of society and support networks constitutes a social obligation.\textsuperscript{843} Benefit sharing substitutes for the lack of a social security system. Corruption in Liberia occurs on all levels and in all sectors, both public and private, and is both vertical and horizontal.

How then is it possible to determine what forms of corruption are socially, culturally and politically acceptable? Although socially binding norms were lost during the conflict, there are still distinct cultural and social norms that regulate corruption. The systemic state level predatory corruption, characteristic for the mode of economy in the Liberian state, is not linked to a social contract. The predatory state level corruption is considered unacceptable and resented by the population, precisely because it does not perform the social re-distributional functions of petty corruption or clientelist corruption. The state level corruption extracts from both the Liberian population and the country’s resources. Furthermore, systemic state level corruption is instrumentalised in marginalisation. It undermines socioeconomic development by extracting resources from the public to benefit the few. Le Billion explains the logic, that when a group continue to sustain political-economic hegemony through corruption, they may prevent the redistribution of power by transforming institutional arrangements and stifling institutional check and balances.\textsuperscript{844} This has been the case in Liberia, where constitutional check and balances have been undermined by imperial presidents and where the elite has maintained an unprecedented one party hegemony. Bates (2008) links extractive corruption to predatory corruption and to the failure of the state. State failure is brought about by the loss of equilibrium between the state’s

\textsuperscript{839} Amundsen 1999 p.5-6
\textsuperscript{840} UN Security Council 2006 p.8
\textsuperscript{841} USAID 2013
\textsuperscript{842} USAID 2013 p.22–27
\textsuperscript{843} Zaum and Cheng 2012 p.4, see also Jordan-Smith 2007 Blundo and de Sardan 2006)
\textsuperscript{844} Philippe Le Billion paraphrased by Zaum and Cheng 2012 p.11

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power to protect and competition over wealth. When predation and corruption seem to offer greater rewards than providing committed administration, the state fails.  

Corruption can undermine electoral democracy. When the cost of the elections become prohibitive to electoral competition, as it became in 2011, only those with access to state resources or significant private wealth stand a chance of soliciting sufficient support to be elected. This is because political power is based on patrimonial networks and clientelism, not on political platforms. The high cost of electoral seats further fuels corruption.

Paradoxically, the good governance reforms imposed by the IFIs, which apparently also aim to curtail corruption, limit what economic policy options politician can realistically propose; thus ensuring that political support continue to be about clientelism and patrimonial networks and not about policy options or ideologies. Furthermore, information asymmetry, created by the selection of partners in state-building, creates gatekeepers and beneficiaries. Those who administer budgets and projects, or who negotiate concession, can direct public resources, projects, aid and benefits from concessions to their constituencies. Thus, the definition of corruption becomes further blurred.

These inequalities create a self-feeding cycle. Consequently, the state becomes increasingly predatory and corruption is a rational behaviour in this context. Historically, the judicial and security sectors, which ought to shun corruption, have themselves been among the most corrupt. Judicial and security sector corruption reduces human security by creating a constant sense of insecurity and unpredictability. Low human security and unpredictability encourage short-term benefit-seeking behaviour.

**Anti-Corruption Efforts**
The ACC has failed to function as a credible independent monitor. The list of anti-corruption measures in post-conflict Liberia is long, yet none of the anti-corruption programmes, including AAC (2008), Whistle-blower Act (2010), Freedom of Information Act (2010), GAC (2005), PFMA (2009), or Public Procurement and Concession Commission (2005) have alleviated systemic corruption because political will to change the system is lacking. Instead, anti-corruption claims are commonly used as a tactic to remove political enemies or former allies who have become too powerful, disloyal or a public embarrassment. However, the question is not just about political will, because that would make corruption purely a moral issue.

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845. Bates 2008 p.130
848. Jensen in Call Ed. 2008 p129
Since 2007, the GAC, which functions as a Supreme Audit Institution, has begun to expose widespread corruption in ministries, government agencies and SOEs. As an independent commission, its mandate is enshrined in the 1986 Constitution. In 2006, the EU appointed John Morlu as Auditor General of Liberia. His tenure lasted from 2007 to 2012 and was not renewed by the president, a decision widely criticised by the IC.\textsuperscript{849} During his tenure, the Auditor General produced a number of public audits and fraud investigative reports indicting high-profile officials. The Auditor General called attention to the fact that the GOL has never produced a financial statement meeting international accounting standards despite the implementation of the multimillion dollar GEMAP framework, ‘this lack of proper reporting standards makes it difficult, if not impossible, to assess financial performance’.\textsuperscript{850} Among the ministries and agencies audited, the MoF has been the most \textit{intransigent} of institutions.\textsuperscript{851}

In addition, as part of HIPC conditionality, in December 2008 the GOL established an independent ACC consistent with the Anti-Corruption Act produced that same year.\textsuperscript{852} The ACC, NGOs and advocacy groups, the Auditor General, the NTRC and various commission instituted by the president have produced a number of high-profile reports, none of which have been taken seriously or acted on.\textsuperscript{853} For example, in response to the outrage over PUPs issued for logging companies and the special investigative report to the UN Secretary General (2011) regarding them, the president suspended the Minister of Agriculture for three months, which she spent in the US on a \textit{leave of absence} (see PUPs in Chapter: Forestry).

Critics ask why Liberia needs overlapping commissions to investigate corruption, especially when cases reported have not been investigated and have not led to any action. Critics claim that such overlapping commissions and agencies have been created for but one purpose, to collect on the millions in aid and to create lucrative positions. Although the executive allegedly spends tens of thousands per month in public relations targeting the IC and FDIs, the Freedom of Information

\textsuperscript{849} GW 2011 p.18
\textsuperscript{851} ICG 2011 p.18
\textsuperscript{852} IMF 2010 HIPC p.19
Act office had only two officials working for it in 2013. In theory, transparency creates accountability. The executive has effectively used the Internet and publications to target the IC. It is claimed that publishing government documents in the Internet improves transparency. In reality, the Liberian public is left in the dark, not figuratively, but literally, as most Liberians do not have access to electricity or the Internet.

The CDF and other budget allocations made directly to the counties are an exception to opaqueness. Because the projects are discussed in local forums, information is understood and disseminated in communities. Because the development projects are local, it is easier for citizens to observe them. Most rural citizens in Liberia have no experience in handling large amounts of money, and many have no idea how much construction costs. This naturally creates a sense of mistrust and leads to claims of funds being misappropriated or unrealistic demands. Nevertheless, not only has the CDF created more transparency and accountability than LEITI, but more importantly, the process of locally negotiating and deliberating CDF projects, and the subsequent legislation to establish local institutional structures (e.g. County Development Steering Committees and Project Management Committees) has introduced regional and local level participatory decision making structures.

In conclusion, Liberia ranked 97 of 180 on Transparency International’s 2009 Corruption Perception Index. Liberia was previously ranked 150 out of 179 in 2007. This markedly improved ranking is credited to the improved PFM, fiscal discipline and publishing GOL’s documents online. However, little has changed in terms of systemic corruption. In 2013, a USAID study concluded that corruption appears to be more systemic and better organised than at any point during the conflict.

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854 O’Sullivan 2013 p.37  
855 IMF 2010 HIPC p.19  
856 USAID 2015 p.16
Chapter 8:
Concessionary Economic Policy: Roads for Resources

The Liberian state is inseparable from the natural resources exploitation. It follows that benefit-sharing is central to the internal legitimacy of the state. The state-building framework has advanced concessionary economic policy, which sees the FDIs in form of concessions as the cornerstone of Liberian economic growth and the political-economic strategy of the future. This chapter links concessionary economic policy to the internal legitimacy of the state and to the potentially explosive social unrest. First, the chapter will outline the economic dimensions of the CPA. Liberian conflict has been presented as an example of warlordism. The trade in natural resources, especially timber and diamonds, is claimed to have prolonged the conflict. The second section outlines the regulatory framework of the concessions. Although the regulatory framework for concessions is extensive, it fails to address accountability, to redistribute benefits equally or to curtail state-level predatory corruption. Concessions are passed without consulting stakeholders, i.e. the population that will be directly affected by concessions and who sees few benefits given in an exchange for their land and resources. The subsequent sections briefly describe the main economic sectors, namely mining, forestry and plantations. It also describes how FDI projects are experienced by the local population. As of the time of the writing, the oil sector remains at the exploration stage. The fifth section evaluates the PRS as a purely technocratic exercise to fulfil the IFIs conditionality for debt relief under the HIPC initiative. The fifth section explores land rights and land disputes, and highlights why land disputes may potentially escalate to conflict. In the context of the concessionary economic policies the functions of the security and judicial sector gain additional implications. As has been the case in the past, the security forces are frequently engaged to suppress social unrest in rural concession areas. The last section of the chapter synthesizes the concessionary economic policy and portrays fast GDP growth as low quality growth.

The Economic Dimension of the CPA
Considering the central role natural resources have played in the Liberian state, its economy and conflicts, it is staggering how little attention has been paid to economic policy-making and the benefit-sharing aspects of the CPA in Accra and its consequences for the international state-building framework. Both the outbreak of the conflict and its prolongation have been related to the benefits derived from natural resource exploitation. Kwasi and Samuel (2011) posit that in spite of the widespread knowledge that the Liberian conflict was perpetuated by disagreements over natural resources, the CAP did not adequately address the economic dimensions of the

857 Davis 2009 p.5
conflict. They ask, if ‘the absence of a provision addressing exploitation of economic resources was an oversight or international’. They further postulate that in taking a long-term perspective to peace-building without addressing these economic issues the fundamental factors contributing to conflict remain unaddressed and ‘the possibility of returning conflict is high’. Therefore, questions of inclusive and democratic resources management, and how to turn economic growth into sustainable economic social development should be central to state-building efforts. Because natural resource exploitation and subsequent benefit-sharing from them are inseparable from the Liberian state, its mode of economy and its conflict, it is imperative that state-building should begin by addressing natural resource management issues and historical socioeconomic disparity in Liberia.

Presumably, the influence of the IC begins during peace negotiations. None of Liberia’s earlier failed peace agreements included the economic dimension, including management of natural resources. The 2003 CPA made only vague references to economic reforms. By comparison, the 1996 Sierra Leone peace agreement outlines socioeconomic development, ‘the enhancement of the nation’s productive capacity through meaningful grassroots participation in the reconstruction and development of the country; the provision of equal opportunities to all Sierra Leoneans, especially those in the countryside and the urban poor, with the aim of equitable distribution of the nation’s resources hereby empowering them to contribute effectively to decision making and implementation of policies which affect their lives; and improving the quality of life of the people through the provision of [important socioeconomic goods]’.

Also, the second peace agreement in 1999 addresses economic concerns, including the exploitation of natural resources. Furthermore, a constitutional amendment was proposed to make resource exploitation ‘the legitimate domain of the people of Sierra Leone, with the proceeds to be used for country’s development, particularly in the areas of public education, public health, infrastructure development […] as well as post-war reconstruction development’. However, no such provisions were included in the Liberian CPA.

Likewise the CPA, the Liberian state-building framework, has understated the role of natural resource management. Economic policies and related capacity building have instead focused on fiscal discipline for the purposes of debt relief and future debt servicing. The technocratic approach to PFM has been termed good governance, the primary objective of which has been to

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858 Kwasi and Samuel 2011 p.34
859 Kwasi and Samuel 2011 p.34
860 Kwasi and Samuel 2011 p.41. see also Acemologue and Robinson 2008, Alao 2007
861 Woodward in Call Ed. 2008 p.146
862 Kwesi and Atuobi 2011 p.34
863 Abidjan Peace Agreement 1996 Article 7 in Kwesi and Atuobi 2011 p.36.
864 Abidjan Peace Agreement 1996 Article 7 in Kwesi and Atuobi 2011 p.36.
restore Liberia’s lending capacity. Securitisation has focused on stabilising the country in order to attract FDIs.

We live in an age of new extractivism. The extractive industries are championed by the IC, especially the WB, IMF and USAID, which support cooperative governments in developing countries. The natural resources are exported in their raw state. A concessionary economy refers to a state economy that is independent from domestic tax revenues, but dependent on revenues from concession agreements with transnational companies who extract the natural resources. In the past, concessions have played the central role in Liberian economic growth. In the words of Urey (2004), Liberian natural resources were mortgaged to transnational companies. In post-conflict Liberia, concessions play a central role in the growth strategy advocated by state-builders. No alternative economic strategy has been considered. The 2008 PRS justifies the use of concession agreements, stating that they increase government revenue, create jobs, finance infrastructure and promote the private sector. Further, the concessionary economic policy has been justified by the lack of domestic capital reserves to develop the Liberian economy, by projections of royalties in excess of US$2 billion over the next 10 years, and by the infrastructure projects concessionaires propose undertaking.

After the 2006 elections, the president revoked all concession agreements signed during the NTGL tenure. The ArcelorMittal iron ore concession agreement was reviewed under the GEMAP framework and the Firestone concession agreement was renegotiated to improve the terms for Liberia. By advertising investor-friendly policies and by convincing investors that Liberia is a stable, profitable and desirable investment destination, the GOL has attracted transnational conglomerates to sign concessions in mining, palm oil and offshore oil exploration. Among the two largest growth sectors, namely iron ore and palm oil, there are six iron ore concision agreements totalling nearly US$13 billion in projected investments, and four palm oil concession for a projected value of nearly US$3 billion. According to the US State Department (2011), the GOL has signed an estimated US$19 billion in natural resource concession agreements. The 2014 report estimates that iron ore and rubber account for 82% of Liberia’s total exports.

**Regulatory Framework of Concessions**

This section capitalises on the findings of multi-stakeholder interviews commissioned by USAID to describe the legal framework of concessions, the institutional arrangement of concession

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865 Gudynas 2010, in Ayelazuno 2014 p.1
866 USAID 2015 p.64
867 PRS 2008 p.37
868 CICR 2012 p.17
869 United States Department of State 2011 Investment Climate Statement
870 United States Department of State 2014 Investment Climate Statement
negotiations and oversight.\textsuperscript{871} The analysis of the structure of these negotiations reveals the shortcomings of the regulatory framework in addressing natural resource management.

The Public Procurement and Concessions Act (2005), amended in 2010, outlines the processes for the GOL’s procurement of good and services. The Act also establishes a competitive bidding process for concessions. In so doing, the Act created the Inter-Ministerial Concessions Committee (IMCC) as the body responsible for negotiating concession agreements with the support of appropriate line ministries and agencies. Such negotiations commence with the summoning of an IMCC session by the President to negotiate a specific concession agreement. IMCC sessions include: (a) the National Investment Commission (NIC) Chairman, who serves as the chair of the session; (b) the minister or head of the appropriate sectoral regulatory agency, which may be the MLME for minerals; the FDA for forests; NOCAL for oil; Ministry of Agriculture (MoA) for palm oil and rubber; (c) the Minister of Justice; (d) the Minister of Finance; and (e) two additional members designated by the President. The IMCC members, like all ministers and agency members who also regulate concession agreements, such as the FDA, are appointed by the president. Hence, all civil servants involved in negotiating and managing concessions serve at the president’s discretion. Notwithstanding, the IMCC has been criticised for its lack of transparency and neglect of technical information in evaluating concessions.

The IMCC forms an Inter-Ministerial Technical Committee (IMTC) ‘composed of lower-level technical experts and managers from the ministries and agencies that comprise the IMCC session, as well as some deputy ministers. These individuals provide the technical expertise necessary to negotiate the concession, such as estimates of resource size and quality, financial analysis and modelling, or legal expertise.’\textsuperscript{872} Meetings between concessionaires and the IMTC are not made public.\textsuperscript{873} Finding reliable data in Liberia is typically a challenge, and in practice, concessionaires conduct their own studies, mapping, analysis. This means that potential concessionaires, not the GOL, provide the technical information upon which the concessions are negotiated.

The Public Procurement and Concessions Act (2005) created the National Public Procurement and Concession Commission (PPCC) as the regulatory body to ensure that the competitive processes were followed. Despite its name, the PPCC did not have any role in the ratification or monitoring of concession agreements and was concerned only with public procurements.

\textsuperscript{871} USAID 2013, sensitive but unclassified, multi-stakeholder survey
\textsuperscript{872} USAID 2013 pp.66–70
\textsuperscript{873} USAID 2013 pp.64–70
The National Bureau of Concessions Act (2011) established the National Bureau of Concessions (NBC) to detach concession bureaus from the MoF and the PPCC. The Act defines NBC’s functions to provide technical assistance to the IMCC, to monitor and review concessions to ensure compliance with concession agreements, and to monitor the payments of taxes, fees and other revenues to the GOL. Where the terms of a concession agreement do not favour the GOL, the NBC may recommend a renegotiation of the agreement. Additionally, the function of the NBC is to monitor and evaluate compliance with concession agreements in collaboration with concession entities and government agencies.\textsuperscript{874} However, its function is overlapping and confused with that of the line ministries, which perform the same functions.\textsuperscript{875, 876} The NBC was tasked with providing information about the quality and extent of the resources, financial analysis, evaluating social impacts, and monitoring contracts and payments to the government. By law, the PPCC is responsible for procurement and bidding processes, and for ensuring that concessions are carried out in accordance with the Public Procurement and Concession Act (2010); however, the PPCC does not follow the law for the implementation of competitive concession bidding processes and does not have any staff dedicated to concessions.\textsuperscript{877} Both the PPCC and NBC are mandated to monitor and regulate the process of awarding and managing concessions. However, both agencies are severely under-resourced and have weak capacity.

In theory, the ministries and the FDA are responsible for the technical oversight of concessions. The MLME plays a central role in mineral concessions. However, the MLME lacks its own technical capacity. Because the cadastral system of concessions used by the MLME is not compliant with ARC-GIS, the most commonly used software package for cadastral systems, the MLME is unable to share its data with other ministries and agencies.

The MoA is responsible for the negotiation and technical oversight of palm oil and rubber concession.\textsuperscript{878} For example, the MoA is responsible for the issuance of compensation price lists for crops destroyed by the concession companies. This compensation is usually the only compensation that local farmers receive for their land. Nonetheless, MoA has often acted to accommodate the concessionaires. In 2013, the already very low prices of crops were further lowered for the benefit of concessionaires. The price list includes three categories, from active to inactive farms. Given the primitive framing methods used in Liberia, most local farms are not actively farmed. Moreover, the compensation for destroyed crops is only paid once per one harvest, even in the case of perennials. Ultimately these compensations do not compensate for the

\textsuperscript{875} USAID 2013 p.67
\textsuperscript{876} USAID 2013 pp.64–70
\textsuperscript{877} ibid. pp.66–69
\textsuperscript{878} USAID 2013 pp.64–70
true value of the crops being destroyed. For instance, the compensation for an active rubber tree in 2013 was just US$6.\(^{879}\)

Two other agencies worth mentioning are the FDA, the agency involved in timber concessions, and NOCAL. Established in 2000, NOCAL is tasked to regulate oil exploration, assist in contract negotiations and manage revenues once oil production has begun. One of the key problems with the management of concessions in Liberia is that the various ministries and agencies (e.g. MLME, MoA, FDA and NOCAL) do not necessarily exchange information with one another. This has been the case between the FDA and the MoF. The accounting and revenue records do not correspond with timber export records.\(^{880}\) There are several instances of the FDA, the principal regulatory authority of all Liberian forest, having failed to perform its oversight functions effectively, such as to determine which land deeds are required to access timber, or to evaluate the technical and financial capacity of logging companies, or ‘to adequately inform logging companies of the economic value of the forest resources’.\(^{881}\)

The Minerals and Mining Act (2006) states that the GOL owns all of the mineral resources. The Act establishes processes and policies for different mining operations, mandates environmental impact assessments and establishes mineral mining licence classes (e.g. Class A-C, artisanal and exploration). Nonetheless, loopholes exist in the system of exploration licences, such that many companies have been operating under an exploration licence for several years.\(^{882}\) Moreover, the law does not subject exploration rights to a bidding process. It is also common practice for exploratory rights to be sold between companies.

In palm oil and rubber, investors identify large land areas which are potentially suitable for cultivation and then negotiate with the IMCC to be granted exclusive access to those areas. The National Forest Reform Act (2006) states that the GOL owns all forest resources. It establishes four different types of logging permits: PUPs, Timber Sales Contracts (TSCs) for areas smaller than 5,000 hectares of public land, Forest Management Contracts (FMCs) for public land up to 400,000 hectares, Forest Use Permits for charcoal, tourism, research and education, locally used timber and non-timber forest products. (see Table 7) The Community Rights Act (2009) applies to community forest land and allows communities to manage and commercialise their forests. Communities are entitled to 55% of the income generated from large-scale commercial

\(^{879}\) The Ministry of Agriculture, Price List for Crop Compensations 2013, see also Silas 2012, Lanier et al. 2012

\(^{880}\) Nichols and Goldman 2011 p. 302

\(^{881}\) An et.al. 2013 p.8-10, p.40

transactions. To the date, few communities have established Community Forest Management Committees.

In the process of granting concessions, the affected communities are excluded from the negotiation process and not even informed about proposed concessions. When concession bids are none-competitive, there is no mandate for affected community stakeholder forums. In general, affected communities become aware of the concessions only after the agreement is signed and the corporation enters the area.\textsuperscript{883} The environmental and social impact assessments (ESIA) mandated by the EPA are conducted after a concession has already been ratified into law. The ESIA process entails community consultations, in which the concession agreement is presented to the affected communities in most cases for the first time.

The legislature typically sees a concession agreement for the first time when it is brought to the House to pass it into law. Consequently, conflict between communities and concessionaires ensue when the concessionaire begins operations and expands into the affected areas. Concession agreements are ratified by the legislature. Unlike in many other countries, in Liberia, concession agreements are passed into law. While the concession agreements are submitted to the legislature, it is rarely involved in the negotiations and information about the concession agreement is not shared by those included in the negotiation. Therefore, in reality, the legislature has little input into the concession agreements. Naturally, however, they still try to press for benefits, personal and for their constituencies.

Concessions are awarded for \textit{gross concession areas} with no regard to community forest, communal farms land or communally deeded land. Communities have no funding or capacity to take their cases to court. Moreover, the judicial system in Liberia is not independent nor functional. While communities might petition legislators or international advocacy NGOs, in actuality the communities are often left to the mercy of the chiefs and local officials, who both benefit from the concession agreements. Neither the government officials nor the chiefs, who are also on the GOL payroll, represent and protect the rights of the affected local population.\textsuperscript{884}

Because the gross concession areas are vaguely defined and overlapping, concessionaires often compete with local authorities and communities for support, entering into separate additional agreements with them (e.g. Land Lease Agreements or Memorandum of Understanding). The chiefs control communal land ownership rights and administer traditional justice in communities. Because the concessionaires have to negotiate land agreements and establish their operations, they

\textsuperscript{883} CICR 2012 p.102  
\textsuperscript{884} USAID 2013, Liberian Stakeholder Governance Survey, sensitive but unclassified pp.64–70
frequently purchase the support of chief’s and local officials. Still, these local level payments and compensations are minuscule in comparison to the multimillion dollar concessions.

The roles and the functions of state institutions involved in the concession process are overlapping and poorly defined. It comes as no surprise that grievances have caused communities to take physical action, such as blocking roads (of which there is usually only one anyway) and preventing the concessionaire from removing logs or minerals. In such cases, concessionaires call in the government’s special armed forces to control the local population. The concessionaires may make some adjustments in compensations to prevent constant hostilities. Affected communities try to press for small benefits, such as basic infrastructure or jobs, from concession companies. Both the Ministry of Interior, which pays chiefs’ salaries, and the Land Commission have engaged in discussions between concessionaires and local communities.

On some occasions, legislators may lobby for their constituencies and concessions are commonly politicalised. However, the legislators do not have much leverage with which to pressure the concession companies once the concessions have been ratified by the House. The concession regulatory system falls under the administrative branch of the government, and the president signs all concession agreements. All ministers and civil servants involved in the negotiation and management of concessions server at president’s discretion. This gives the president unchecked powers in the management of the country’s natural resources.

In theory, according to current legislation, the GOL is supposed to identify the concession areas and potential concessionaries bid on the concessions. In practices, however, there is no competitive bidding process and the process is led by investors. Although there is strong interest in Liberia’s natural resources, Liberia is a high-risk country with terrible infrastructure, low productivity and an absence of skilled labour. The number of companies willing to invest in such an environment is limited.

A quick overview of the regulatory framework of concessions would indicate that natural resource extradition is regulated. For example, a concessionaire must obtain a permit from the EPA. The permit is issued based on an environmental social impact assessment (ESIA) conducted by an EPA certified company. In reality, there are only two EPA certified companies in Liberia, and only one of which has the expertise and resources to conduct an ESIA for specific sectors (e.g.

885 USAID 2013, Liberian Stakeholder Governance Survey, sensitive but unclassified pp. 64–70, See also Silas 2012, Lanier et al. 2012
886 USAID 2013 pp.64–70
887 USAID 2013 pp.64–70
palm oil). It is alleged that the company is funded by one of the largest palm oil concessionaires, which hires it to conduct all its ESIAs.

Many of the stakeholders interviewed by USAID (2013) suggested that the degree of opacity in the concession agreements negotiations process breeds corruption at all levels, ranging from simple envelopes of money being passed to more complicated arrangements in which officials are given an ownership stake in the concession and receive profits over the longer term. 888

Opaque Concession Negotiations Processes

The reason why concessionary economic policies do not translate into socioeconomic goods and domestic economic development rests in the lack of political accountability, not in lack of regulatory frameworks. In general, public administration and policy processes are controlled by the elite at the highest levels of government, are intentionally poorly coordinated and do not abide by the laws. 889 The process for awarding concessions is opaque and benefits an exclusive circle of those who participate in negotiating the agreements, while the affected population do not derive sufficient socioeconomic benefits from the revenues.

The concessions are negotiated directly with the president, with no input from affected communities. None of the negotiations are made public. 890 According to the USAID Liberian Multi-Stakeholder Governance Report, ‘shortly after the current administration came to power, many concessions were negotiated directly with the President’s Office’. 891 After the Public Procurement and Concession Commission Act (2005) was passed, the authority to negotiate concessions was vested in the IMCC, headed by the NIC. 892 The surge in the number of concession agreements between 2008 and 2009 indicates that the president had begun to negotiate concessions shortly after winning the elections. 893

The president also appoints the members of IMCC, and the ministries and agencies regulating concessions. The head of the NIC chairs the IMCC. The IMCC members include the ministers of justice, finance, labour, planning and economic affairs, internal affairs, and two additional ministers appointed by the president. Therefore, there is no non-executive representation included in the concession negotiations. The president also signs the concessions. 894

888 USAID 2013 pp.64–70
889 CICR 2012 p.10
890 USAID 2013 pp.67–70
891 USAID 2013 p.69
892 USAID 2013 pp.65–79
893 USAID 2013 p.69
894 CICR 2012 p.63
Once the executive has negotiated a concession agreement, it is rushed through the legislative committees and passed into a law. Legislators cannot adequately amend concession agreements because any changes would only be submitted as non-binding addendums. Should legislators do not agree, they do not have any appropriate channels with which to reopen negotiations because the concession agreements are negotiated directly and only with the executive. For instance, a Maryland County legislator resigned over his dissatisfaction with the terms of one rubber concession. On several occasions, legislators have complained that they had insufficient time to study the concession agreements. ‘This is troubling, as the legislative review process is intended to be the phase where communities and the Liberian public can consider the potential impacts of the concessions and could theoretically express their views to legislators’.\textsuperscript{895} One strategy is to bring a concession to the legislature just before its annual break and make the payment of salaries and benefits dependent upon passing a concession or a law. In the current institutional arrangement of natural resource management, the role of the legislative is reduced from legislating and representing the electorate to that of passing concessions and laws as a \textit{rubber stamp}.

The MLME issues exploration rights in the mining sector. These rights are often sold to companies.\textsuperscript{896} Some companies have operated in Liberia for over a decade under such exploration rights. After a company has identified minerals or land, it negotiates a concession agreement without any bidding process. While there may be a bidding process for the oil and mining sector, the bidding process is often questionable and associated with several scandals, including a death of a whistle-blower in 2015.\textsuperscript{897}

Concession negotiations are initiated and driven by the concessionaires. The legislative regulatory framework is extensive, but the laws are not enforced. Moore Stephens, the international auditing firm, was contracted by the GOL to audit concessions signed since 2009, totalling US$8 billion in resources. The report indicated that only two of the 68 of the reviewed contracts met minimal legal requirements. The remaining 66 concessions i.e. 97\% were either illegally entered into or were flawed with irregularities.\textsuperscript{898}

For instance, take the oil sector concession process. After the discovery of oil on the Liberian coast, oil blocks were identified and demarcated. The GOL sold the exploration rights to the highest bidder, or to the one that offered the best terms. Liberian four offshore oil blocks were put

\textsuperscript{895} CICR 2012 pp.65–66
\textsuperscript{896} USAID 2013 p.69
up for bidding at the height of the Ebola outbreak. One of the major oil contracts, offshore Block 16, was handed to a coalition of three companies: US based Liberty Petroleum, which holds 90% stake in the contract, Nigerian based Pillar Oil, and the Liberian based New Millennium Oil and Gas, which paid US$22 million in signature bonuses. According to Global Witness one of the companies lacked sufficient funds to operate the oil block. Over the coming seven years, the Liberty Petroleum and its partners must invest US$53 million in oil exploration. Liberty is part-owned through a series of intermediary companies and trusts, by US Congressman Trent Franks, a Republican representing Arizona’s 8th District. Global Witness claims that by hastily auctioning the oil blocks to companies with questionable capacity to operate and fulfil their financial commitments, Liberia has already burnt the furniture to heat the house. Therefore, like other natural resources, oil is unlikely to benefit the average Liberian.

The treatment of carbon credits provides another example of how poorly concession agreements are reviewed. According to the CRA (2009), communities have a right to carbon credits. However, a provision in the palm oil concession gives the company the right to carbon credits, which accrue in the international conservation programme referred to as Reducing Emissions from Deforestation and Forest Degradation (REDD). The EPA denies any knowledge of this provision, although EPA regulations mandate that entities that wish to buy and sell carbon credits in Liberia apply for a permit prior to such activities. Furthermore, the EPA has granted the concessionaire a permission to operate based on the ESIA, which includes a review of the concession agreement. Lastly, while the concession agreement contradicts the CRA (2009), it was still passed into law and awarded an operational permit.

The functions of government bodies, such as the EPA, FDA, NBC, MoA and MLME to supervise and monitor concessions are confused and overlapping. Public agencies in Liberia do not function according to Weberian bureaucratic rationality. According to the logic of reciprocal clientelist and patrimonial networks, each patron function creates additional positions and avenues to benefit from public resources and press for payments from private sector. Generally, those with a monopoly to negotiate concession agreements have no incentives to invest in the domestic economy. The agency fees and massive bribes paid at the highest levels do not enrich Liberia, not even in the form of redistributive corruption. This is because those who benefit from public agent positions are not elected and henceforth are not accountable to downward networks.

899 Global Witness Press Release / Feb. 27, 2015 Liberia has burned the furniture to warm the house, Tweet Share Oil, Gas & Mining Liberia, https://www.globalwitness.org/archive/liberia-has-burned-furniture-warm-house/ (accessed 11.5.2015)
899 Ibid.
902 CICR 2012 p.55
Liberian land and resources are sold in a wholesale fashion in attracting FDIs. It is estimated that gross concession areas cover more than the half of the Liberian landmass. The concession areas are overlapping and unrealistic. Although information is relatively easily available in studies, and the MLME and EPA hold copies of all existing concessions, the GOL does not utilise a cadastre system, which would show the presence of minerals, ownership rights and concession rights. Reluctance to provide accurate information is tactical, because the lack of accurate information allows the GOL repeatedly to negotiate and grant large and overlapping concession areas.

In principle, the land allocated in concession agreements to concessionaries is mostly not public or government land, but customary land. The concession negotiations have enforced the president’s perception that the land is in essence government land and the GOL has the right to grant concessions for customary land. Furthermore, the concessions were sold to transnational corporations as being largely unencumbered. According to a staff member of the MoA, who was present at the Sime Darby and Golden Veroleum concession negotiations, customary deeds in the gross concession area were never discussed.

**Local Rural Concession Negotiation Process**

In addition to the ‘official’ state-level concession negotiation process, local level negotiations often take away from public scrutiny. Concession companies, especially the plantation concessionaires, need to negotiate separate land agreements with the clans who own and occupy customary lands. The negotiations are commercialised by traditional governance actors who press for payments. The concession companies in turn capitalise on chiefs’ control over the indigenous population.

The ‘consent’ of the local population is systematically and professionally solicited. In a series of meetings organised in local impoverished communities, concessionaires make promises to the local population in order to fulfil international sustainability standards; in short, development is promised. The meetings are documented by the corporation. The engagement process is supposedly consultative, applying the right-based approach or the free prior informed consent method to negotiate term and conditions. In reality, these meetings are a method by which the concessionaires manage the local population. The local staff hired to conduct these meetings frequently state, ‘We know how to handle these people’. Affected community members speak

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903. CICR 2012 p.10
904. USAID 2013 p.64
905. CICR 2012 p.7
906. CICR 2012 p.102
907. A statement of a community affairs staff member of a palm oil corporation 2014
of false promises of employment, coercive attempts to solicit their acceptance of the project, and a lack of information about its scope.  

Educational bias is tactically implied to exclude stakeholders from decision making process. A senator, the chair of the Senate Investment Committee, claimed that affected community members could not be invited to a concession agreement hearing because it would be inappropriate for an illiterate tribal representative to testify in front of the Senate. One local community member described a local negotiation with a concession company,

The company put in for a portion of land to be given to them. We asked them what are you going to do for us in return? They told us they wouldn’t tell us what they had in mind for us unless we gave them land. We said no. They went back. One of our representatives came from Monrovia with them telling us we had to accept these people. We told them we don’t want to refuse them but we want to know their policies.

The executive, ministries and government agents who negotiated the concession agreement are largely absent from these local negotiations. Occasionally, the assistant Minister of Interior and the Land Commission has been pulled into arbitrations between local communities and concessionaires. There are no formal monitoring mechanisms or communication channels between concessionaires, the GOL, local officials and affected communities.

International advocacy NGOs, among them Global Witness, the Sustainable Development Institute, ICG, Forest People Programme and many others have called international attention to these local level negotiations and to the fact that local population is not compensated for the land. However, these NGOs rarely have local level staff or time to travel to remote rural areas in the primitive conditions. Furthermore, local domestic NGOs and brief case advocacy groups or one man operations feed information to international advocacy NGOs. Some of those local NGOs have not even visited the areas they report about and may even lack a deeper understanding of local dynamics. For example, they may insist that land agreements are broken down and negotiated at an individual community level; however, customary land rights are governed at clan level, and the deeds and titles that communities hold are also at a clan or chiefdom level. NGOs may also insist on including women and youth in meetings, unaware of that they cannot openly criticise elders and chiefs, and will not have their say in the decision making process in a public forum. These orchestrated meetings and forums only escalate underlying conflicts and grievances because they offer no actual solutions. Traditionally, important decisions are negotiated in small circles and general meetings only function to present those decisions that have already been made.  

908 CICR 2012 p.11  
909 CICR 2012 p.66  
910 Forest People Program 2015 p.12
Some concession companies may engage international NGOs as advisers. They may pay a significant fee for their advisory services. During the field visits, the NGO staff typically live in company housing, eat and generally interact more with the expatriate employees rather than the local population. Consequently, their function is more akin to that of an expert manager criticising local management.

Apart from the obvious asymmetry in the position to negotiate, the more fundamental problem of these locally negotiated agreements between concession companies and affected communities is that the agreements are not legally enforceable. The memorandums of understanding and land agreements fall into a gap between Liberian statutory and traditional legal systems. The agreements are negotiated with communities, which to date are not legal entities, although the proposed Land Right Act (2015) stipulates that every community is to become a self-organised entity which can enter into agreements. The law, if enforced, would mean that the agreements need to be re-negotiated. In reality, the indigenous population has no access to legal advice and cannot take agreements to court. In any case, concession agreements that have been passed into a law are regarded as superior to locally negotiated agreements.

Neoliberal state-building has focused on the revenue collection aspect of concessions; and under the capacity building of the PFM, has brought the concession negotiation process under executive control. State-building projects have supported the establishment of regulatory frameworks that protect private property rights and FDIs. These reforms nurture the relationship between the state elite, transnational commercial interests, and international donors and lenders forming a mutually beneficial equilibrium.

The concession negotiation process is opaque, controlled from the top, and takes place among a small exclusive circles of elites who often receive personal gains from their agent positions. There are multiple level of bribes or payments associated with the concession negotiation process. The highest and the most expensive payments are those paid to the immediate circle of elites with whom the concession is negotiated. To pass a concession into law in the House (i.e. to have it ratified), envelopes are distributed, or as in the ArcelorMittal agreement, the representatives received pick-up trucks. The smallest compensations take place in the affected areas and may include a monthly stipend of rice for a paramount chief or employing the clients of a superintendent.

Concessions are rarely negotiated according the law. Those who are involved in the negotiations do not disclose information or engage in consultative process. Preference is given to attract
maximum amount of FDIs while little considerations is given to sustainability, to impact on the livelihoods of the average Liberian, or to respecting communal land rights. The corrupt concession negotiation process alienates affected populations who live in resource rich areas. Neither the affected population nor the state receives sufficient benefits from concessions. In theory, Liberia’s natural resources (e.g. iron ore, timber, palm oil, rubber, petroleum, gold and diamonds) could be used to develop Liberia. However, this has historically never been the case. The concessionary economic policy and the way concessions are awarded and managed is plagued with high levels of systemic corruption and benefits neither national economic development nor the affected population.

**Mining Sector**

It was not until Tubman’s Open Door policy that mining companies entered Liberia. Iron ore was not mined in Liberia until the 1950s. By 1965, Liberia had become one of the world’s largest exporters of iron ore. The Liberian Mining Company was the largest tax payers. From 1950 to 1959, Liberia was the world’s second fastest growing economy after Japan. The annual growth rate was over 8% and government revenues increased more than tenfold. This rapid growth can be attributed to the mining sector.\(^{911}\)

Before the conflict broke out, the word biggest mining companies had planned to construct a railway from Nimba County and the Guinea border through Liberia to the port. It would have shortened the distance from the mines in Guinea and Liberia to a deep-sea port. However, the plan was dismissed due the increased political risk under Doe’s unpredictable regime.\(^{912}\)

In post-conflict Liberia, the mining sector drives economic growth. In 2013, economic growth continued at a rate of 8% led by iron ore concessions.\(^{913}\) In 2014, iron ore and rubber account for 82% of Liberia’s total exports.\(^{914}\) In the two largest growth sectors (i.e. iron ore and palm oil), six iron ore concession agreements amounting to almost US$13 billion have been signed with some of the largest industry conglomerates in the world.\(^{915}\) The anticipated contributions of hundreds of millions of US dollars to the economy may be overly optimistic as companies tend to minimise their investments in high-risk environments.

As the following examples demonstrate, the mining sector is not exempt from mismanagement and systemic corruption. The Western Cluster combines three iron ore mining sites: Mano River,
Bomi, and Bea Mountain. The Mano River site was mined in the 1970s, but operations ceased and the mine was shut down in 1984. The new Western Cluster concession agreement with the GOL includes a 148km railway connecting the Mano River mines with the Freeport of Monrovia. There are estimated 1,408 existing structures within the railway easement. Nonetheless, the GOL granted the concession. Western Cluster is to relocate and compensate those living in the easement.

The Bomi mine was abandoned in 1976. Within the concession area, government activities have been ongoing and permanent structures have been established, including a Ministry of Defence base, a MoA stockyard, a local government housing, an NEC office, a Central Bank office, and a Liberia Broadcasting Company radio tower used by four television stations and UNMIL. Some of these activities will need to be relocated if mining is to proceed. By 2013, Western Cluster had paid several million dollars into the SDF.916

Under GEMAP, several mining concessions were reviewed, including the ArcelorMittal concession agreement. As a result of the review, the government’s equity in the ArcelorMittal concession agreement was increased to 30% over the previously agreed amount in return for mining licences, use rights to the rail and port, and assets from previous mining. The mining company is supposed to make a one-time payment of US$15 million, deposited transparently into the treasury, and to contribute an additional US$3 million annually for local community development.917

Most concession agreements include a social responsibility clause for affected communities and payments to either social development or CDFs in addition to the taxes and royalties paid to the GOL. However, there are no systematic monitoring systems for social commitments. Some ministries may conduct inspections and field visits, but inter-agency coordination is poor and laws mandating commitments in concession agreements are not enforced.

According to the Auditor General’s audits of five key ministries, prepared for the HPIC decision point, the MLME failed to implement the PPCC Act of 2009 and the recommendations of the Contracts and Concessions Review Committee. In 2007, the Contracts and Concessions Review Committee recommended the revocation of exploration licences of Broadway Mineral, Akewa Global Minerals, and Trans Coast Enterprise for failure to meet reporting obligations and breaches

916 USAID 2013 pp.70–80
917 USAID GEMAP 2010 p.69
of the Exploration Agreement and Mining Code. Two years later, Trans Coast Enterprise was still operating in the country.\textsuperscript{918}

The Mineral Development Agreement (MDA) for Mittal Steel includes a provision by which the company pays an annual social contribution of US$1 million to the three counties where it operates, namely Bong, Nimba and Grand Bassa. According to the agreement, this fund is to be used by the counties for the purpose of social development. The Auditor General reported that US$4,594,521 of these funds were unaccounted for. Mittal Steel is also required to pay US$100,000 annually to the MLME for scientific research. However, the ministry could not provide the Auditor General with documentation explaining how the US$100,000 paid by the company was used.\textsuperscript{919}

With the exception of the conflict years, the flow of benefits from resources has been from the rural areas to the capital city, to the formal state and its actors. Collier (2007) argues, ‘until a transparent and accountable system is in place, the rights of a post-conflict government to dispose mineral rights should be limited. In effect, the sovereignty of post-conflict government needs to be restricted until the society has had the time properly to establish a transparent mineral rights regime such as the auction system’.\textsuperscript{920} Still, even auctions are subjected to manipulation and corruption. National legislation, such as CRA (2009), and multi-stakeholder international programmes, such as EITI, have proven largely ineffectual in changing the direction of resource flow or in preventing corruption in Liberia.

There are several reasons why the mining sector might not be the answer to Liberia socioeconomic problems and why investment and revenue forecasts are overly optimistic. The Clower Report (1966) estimated that iron ore resources would last, but would decline sharply after 50 years. With modern technology, more iron ore can be extracted. However, extraction is simultaneously accelerated. The revenues from mining sector fluctuate according to world market commodity prices. This makes the mining sector an unpredictable source of government revenues. Liberia has historically patched up cash deficits with lending. The mining sector is technology and capital driven. Likewise in the 1950s and 1960s, iron ore mining provides few jobs for low-skilled Liberians. Although Liberia is endowed with mineral resources and the mining sector is proclaimed as the engine of economic growth, mining has historically proven not to be the engine of socio-economic development.

\textsuperscript{918} Global Witness Publish What you Pay 2009 p.5
\textsuperscript{919} Global Witness and Publish What you Pay 2009 p.5 in reference to Audit Reports pp.24–25, 44–46
\textsuperscript{920} Collier 2007 unpaginated paper
Forestry Sector
The biodiverse and timber rich West African forest belt extends through Liberia. More than 40% of the Upper Guinea rainforest is in Liberia. Foreign companies have logged in Liberia for decades. Unlike the mining sector, logging is not capital intensive. A power saw, strong trucks and a dusty road to the nearest sea port is enough. Therefore, throughout the conflict, timber sales are said to have financed the warring faction. In 2003, the UN Security Council’s resolution banned the import of Liberian timber. The legal framework for the forestry sector was one of the first priorities after the 2005 elections. In 2006, the new National Forestry Law was passed and the UN lifted timber sanctions. The Forestry Law was amendment in 2008. In 2009 the CRA granted communities the right to manage their community forests. At the time, the Liberian forestry sector was presented as exemplary. However, the PUP scandal, revealed in 2012, drastically changed the perceptions of the Liberian timber sector.

Most Liberian forests are on communally owned customary land. In the past, elite families and foreign companies established plantations and extracted timber without due process and without compensating the indigenous communities. During the conflict local people began to occupy and cultivate many of the plantations and farms that were abandoned, insisting that neither the foreign companies nor the GOL had a legitimate right to re-occupy those plantations.

The new Land Right Act was presented to the House in 2014. Although the law will not be retroactive, it may still have implications to the forestry and agricultural sector. The Land Commission policy proposes equal legal status for customary and private land, whether the community or its members have a deed or not. The ownership of customary land ‘includes ownership of natural resources on the land, such as forests, including carbon credits, and water’. Although the right to forests implies communities’ right to forest resources, in accordance with the Constitution, the GOL has exclusive ownership rights of ‘any mineral resources on or beneath any land or […] any lands under the seas and waterways’ and also has the authority to regulate natural resource use and access’. The legal framework for Forestry Law and CRA provides the government five different mechanisms with which to lay claim to timber and forestry resources (see Table 7).

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922 Land Commission, 2013, Land Right Policy p.18
923 Land Commission 2012, the Final draft on proposed land right act
### Table 7. The Legal Framework for Access to Timber: The Comparison of five mechanisms in 2009–2010

<table>
<thead>
<tr>
<th>Forestry Management Contracts</th>
<th>Timber Sales Contracts</th>
<th>Private Use Permits</th>
<th>Community Forest Management Agreement</th>
<th>Forest Use Permits</th>
</tr>
</thead>
<tbody>
<tr>
<td>5000–400,000 hectares</td>
<td>&gt;5000 hectares</td>
<td>Subject to the size of the ‘private’ land</td>
<td>5000–50,000 hectares</td>
<td>&gt;1000 hectares</td>
</tr>
<tr>
<td>Up to 25 years</td>
<td>3 years</td>
<td>Issued to a private land owner to exploit timber on the private forested land</td>
<td>Community-based management of forest</td>
<td>Local use, small-scale harvesting and non-timber products</td>
</tr>
<tr>
<td>For public land</td>
<td>For public land</td>
<td>For private land, a valid deed authentication required, authentication by the MLME</td>
<td>Community land</td>
<td>Public land</td>
</tr>
<tr>
<td>Subject to PPCC Act approved by the legislature, signed by the president</td>
<td>Subject to PPCC Act approved by the legislature, signed by the president</td>
<td>Issued without legally required regulations ever having been drafted, however a 5-year management and business plan required</td>
<td>Subject to Community Right Law</td>
<td>Regulated by the National Forestry Reform Law</td>
</tr>
<tr>
<td>Subject to surface rental fee US$16,310,047 generated since 2008</td>
<td>No surface rental fee</td>
<td>Hectares under existing agreements as of 09/2009 1,008,179</td>
<td>Hectares under existing agreements as of 09/2009 45,000</td>
<td>Hectares under existing agreements as of 09/2009 720,255</td>
</tr>
</tbody>
</table>

An audit of the FDA in 2006 suggested that the agency had the potential to yield revenues up to US$20 million.\(^\text{924}\) Seven large FMCs and 10 small Timber Sale Contracts issued after 2006 together cover 9% of the country.\(^\text{925}\) In early 2007, the FDA requested verification of all forest land deeds. Consequently, over 8,000,000 acres of deeds were presented. As of 2007, there were about 12 million acres of forest land identified for commercial logging.\(^\text{926}\)

submitted to the UN Security Council in 2011, 47% of Liberian land was allocated under PUPs. In theory a PUP is obtained by the landowner or with the legal permission of the private landowner. Technically, because the CRA (2009) does not provide for a community to enter a PUP contract, PUPs are legally invalid in community forest areas. However, the Land Commission’s draft policy (2012) suggested that communal land would have the same status as private land, a provision which would have technically legalised the PUPs.

The CRA (2009) provides that all forest resources on Community Forest Land are owned by communities and the communities have right to 55% of the income/revenues generated from large-scale commercial contracts. The CRA (2009) appoints the Land Commission to deal with all land tenure and proprietorship issues. According to the CRA (2009), ‘Aborigines Grant Deeds, Public Land Deeds, Public Land Sale Deeds, Tribal Land Deed Certificates and Warranty Deeds shall be classified as Community Forest Land’. Authentication is conducted by the MLME or the Land Commission, however, this requirement could easily be manipulated. Rural communities have no access to information, nor access to the statutory legal system. In fact, many communities were unaware of the PUPs, some reported having signed a memorandum of understanding for a low payment, or no consent was given at all. Moreover, some PUPs covered an area of up to 25 times larger than the land deed based on which it was issued, fraudulent deeds or no deed at all was presented.

PUPs should include a five-year management and business plan, social agreement and environmental impact assessment, all subject to the approval of the FDA, which then prepares an agreement between the GOL, signed by the FDA, the MoA, and the private land owner or an authorised representative. In practice, none of these requirements were fulfilled. In the opinion of the FDA’s counsellor, the legal pre-qualification to obtain a PUP as outlined in the National Forestry Reform Law is impossible in practice.

In August 2012, a special independent expert panel was tasked with investigating the PUPs. The UN expert panel obtained only 37 out of the 65 PUP permits issued, 28 were not documented. Additionally, LEITI had not received records regarding these PUPs, although the logs are subject to export royalties. Nonetheless, companies continued to export logs under the auspices

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930 The Community Right Act 2009
934 Ibid.
of the FDA. Between January and October that same year, 64% of exported logs originated from PUPs.935

The PUP scandal had international implications. PUPs were deemed in violation of Liberian law. Therefore, timber exported from Liberia under PUPs was illegal. This invariably had a bearing on the voluntary partnership agreement between the EU and Liberia and on the contracting of illegal timber shipments to Europe.936 To reconcile the discrepancies between the forestry management contracts and the PUPs, legislation was adapted to modify the forestry land rental fees from annual to one-time payments, a change that made the forestry management contracts, which go through the concession process, more attractive to companies compared to PUPs, which were only approved by the ministries and administrative bodies of the government. The proposed change in law demonstrates how the branches of government compete over their agent positions and power to grant access to natural resources on behalf of the government.

In a 2014 community meeting, an old man commented on the timber companies’ operations in Liberia: ‘The timber companies have not benefited us. They only build a dusty road, to transport the logs, that’s all they have invested. For the decades of timber operations and cutting our forest all we have seen from the logging companies was the dusty on our roof’.937

**Local Experience of FDIs**

This section describes the local experience of a palm oil project in Liberia. Many of the issues described in this section, however, apply equally to other concession areas, the extractive industries and international agribusiness operations in Liberia. In most concession areas the benefits to affected communities are inadequate. Common sources of grievances include the failure to provide adequate employment opportunities, the lack of proper compensation for the land, inadequate investments in infrastructure, and general frustration with the invisible development. The Center for International Conflict Resolution (CICR) report pervasive dissatisfaction with FDI projects.938 According to a CICR (2012) field study, the FDIs have negative effects on the indigenous rural population.939 Neither the promised job creation, nor economic diversification or industrialisation has occurred despite the massive FDIs.

The Americo-Liberian settlers replicated the modes of production they were familiar with, namely the plantation model of the US south based on forced labour or slavery. Alston and Ferrie (1999)

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937 A statement of an elder in a community meeting in 2014
938 CICR 2012 p.11
939 ibid. p.6
postulate that prior to mechanisation, the agricultural sector in the US south was based on patrimonial relationships between landowners and labour, in which the landowners provided some elementary level of protection and order in exchange for cheap labour. The southern elite controlled local social and political life. In the earlier Liberian republic, production was based on caste type relationships between a handful of land-owning families and the indigenous population as a source of free labour. Post-conflict concession agreements and associated social agreements between the concessionaires and the local population resemble the patrimonial relationship between the elite families with large landholdings and the rural indigenous population. The concessionary economic policy capitalises from the rural population as labourers for concession companies and from the unprotected status of communal land rights.

In spite of the fact that the current concession process lacks popular legitimacy and the concession negotiation process is corrupt and non-transparent - all significant decisions are made in Monrovia or abroad, out of the sight and beyond the reach of any political accountability - about the half of the Liberian land mass is already under some form of concession agreement. Between 2006 and 2011, the executive has granted more than a third of Liberia’s land through concession agreements for logging, mining and agribusiness. An estimated 7,000,000 acres are under forestry and agricultural concessions. Between 2009 and 2010, the executive awarded more than 1.6 million acres for palm oil production.

Concessionaires are required by law to contribute to Community Development Funds and or to SDFs. For instance, from an estimated US$750 million in annual iron ore shipments, the SDF contribution is only US$3 million, a mere 0.4%. These funds flow directly into the revenue stream off the MoF without any specific budget allocation obligations to the counties. Therefore, there is no accountability if these funds are actually used to fund infrastructure or public services in the affected communities. The CRA (2009) and the Act to establish CDF distribute money from mining concession companies directly to the counties. Agricultural concessions do not include payment obligations to the CDF. Instead, some agricultural concessions mandate a payment of US$5 per planted hectare of land to a local Community Development Fund. Especially in the palm oil sector, the long gap between land

940 Alston and Ferrie 1999 p.8, see also Boone 2003 p.53.
942 USAID 2013 p.68
943 CICR pp.19-20
944 ibid. p.84
945 The mining companies have to make social contributions of a predetermined percentage of capital expenditure to fund the Community Development Funds, which were overseen by the County Community Development Committees.
acquisition and productivity delays the payment for rural communities by several years.\textsuperscript{946} Because the actual developed area is always significantly smaller than the gross area, the payments are low as compared with the total land area that the project requires.

As a compensation for their farms (but notably not for their land), farmers receive a crop compensation based on the MoA ‘price list for crops destroyed in a development project’. The crop compensations are paid for the estimated value of one annual harvest not for the lifetime productivity of a farm. Because most of the farmers have never held a large amount of cash, they cannot estimate the value of their harvest. When ‘compensated farmers were asked why they agreed to rates that were so far below what they felt was fair, some responded that the government would use its eminent domain laws to confiscate their farms and pay them nothing unless they accepted the packages’.\textsuperscript{947} There are widespread sentiments that the crop compensation prices are inadequate and the land value is not compensated.\textsuperscript{948,949}

In addition to contributions to the Community Development Fund and to SDFs, the concessionaires pay land rent to the GOL. For a palm oil concession, the land rental fee is US$1.05 per hectare. This fee is paid directly to the central government in contradiction of the notion that customary land is owned by the communities who have inhabited it for centuries. Technically, paying land rental fees to the central government is in violation of the proposed Land Rights Act (2015), which gives customary land the equal status as private land under the statutory legal system.

Due to the still on-going nature of these projects, it is too early to conclude their long-term social impact and whether they will honour promises of socioeconomic goods. Nevertheless, according to the AFT, Liberia’s roadmap for becoming a middle-income country by 2030, the FDIs and concession agreements are the cornerstone of Liberia’s economic growth.\textsuperscript{950}

\textbf{Estates in a State}

In their concession areas, concession companies substitute for the state. The \textit{estates} operate like states unto themselves in their respective concession areas. Through the concession agreement, the GOL outsources public service provision and infrastructure investments in the \textit{hinterlands} to concessionaires. The concession agreements include local infrastructure and services, such as schools, clinics, hand pumps, housing, scholarships and employment opportunities. The benefits

\begin{flushright}
\textsuperscript{946} ibid. p.39
\textsuperscript{947} CICR 2012. p.94
\textsuperscript{948} CICR 2012 p.74
\textsuperscript{949} ibid. p.11
\textsuperscript{950} AFT 2014
\end{flushright}
paid to affected communities are poorly managed and inadequate. The GOL has taken a laissez-
faire approach to concessionaires’ operations in rural areas. The GOL’s oversight of concessions
is divided between multiple ministries and agencies with poorly defined functions, low capacity
and lack of technical skills. Local government offices have no technical capacity to monitor
concession companies. For example, the minimum standards for school buildings and clinics in
Liberia are not distributed to the concessionaires who are actively unlikely to inquire about the
local standards and regulations.

After granting concessions, the GOL takes a hands-off approach to FDI projects. The
responsibility to acquire land from communities, to address social demands and environmental
problems, and to deal with local politicians is left in the hands of the concession companies, most
of which are new to Liberia. Often times, the concessionaire are not even aware of the national
legislation. They employ their own security forces and construct their own infrastructure, run
schools and clinics, and import food for their foreign staff. These types of operations do not
alleviate poverty or address the socioeconomic marginalisation of rural communities. Further, the
extractive industries do not create adequate trickle-down economic effects because the salaries
they offer for unskilled labour are insufficient to support the extended families of their employees.
It comes as no surprise that social unrest and riots are turning increasingly violent.

The companies are the source of order, and most either hire external security companies or employ
their own security forces. Concessionaires are given broad security powers, ‘such as powers of
arrest and detention and powers to search and exclude or evict, without adequate safeguards to
prevent abuse’. 951 The concession roads have checkpoints and the estate area is private property.
While it is common for companies to guard their areas, the lack of other access roads and the
relatively large size of these areas, several thousand hectares, isolates communities in the middle
of a project area.

Many of the transnational companies postponed investments and job creation until after the
second post-conflict elections had been conducted in 2011. 952 In Liberia, the motivation to
outsource infrastructure development, such as roads, rail, ports, airports, telecommunications and
energy provision, to concession companies drives concessionary practices. While the national
government engages in the road-for-resources tactics, 953 local communities press concession
companies for investments in basic infrastructure and public services, such as hand pumps, roads,
schools, clinics, which the national government has failed to provide for decades. However, in a

951 Forest Peoples Programme 2015, p.6
952 The Informer, 4.5.2009
953 Chester 2010
high-risk environment like Liberia, concession companies prefer to minimise fixed investments. Consequently, the infrastructure projects tend to be low value. Roads are graded dust roads, which deteriorate every six months during the raining season. Bridges are log bridges. Schools constructed by concession companies may only have outhouse latrines, no electricity supply and no internet connection. Some variation exists in the level of benefits the concessionaires provide. Firestone, which has operated in Liberia for almost a century, runs a modern hospital, one of the best in Liberia, while a palm oil concessionaire declined to hire even a doctor for its 2,000 employees, instead referring cases to a barely operational county hospital with no medical equipment. In general, concessionaires try to avoid any investments which are not absolutely necessary for their operations. They delay honouring their social commitments claiming slow expansion.

Consequently, social conflicts, hostilities and outbreaks of violence between local communities and concession companies are common. Riots have taken place and international complaints have been filed. The palm oil concessionaires, for example, were issued a stop-order by the Roundtable of Sustainable Palm Oil. During the expansion period, the labour union organised a riot, resulting in the special armed units, the LNP’s Emergency Response Unit (the government’s armed paramilitary force) being called upon to respond to the riots. Additional minor violent incidents, such as burning plants, fighting between communities, stealing from corporations, and road blockades have taken place. In a mining area, the local population burned equipment worth millions of US dollars. Similar incidents have occurred in almost all other concession areas and in some cases there have been fatalities.

Concessions are negotiated without any input from affected communities. The rural poor feel that their resources have been sold out from under them by the administration and that they are once again being exploited as a source of cheap labour for foreign corporations. Affected communities see few benefits from these multimillion dollar concession agreements. The slow progress and stagnation of concession companies’ operations partially results from their tendency to create and aggravate social conflicts, as unintended as that might be. Concession companies’ expatriate staff try to navigate through the complex multilayers of customary governance and local administrative structures. They tend to short circuit local negotiation process, sometimes unaware of that the affected population has not been informed about the concession agreement. Inexperienced foreign staff may also get involved in local politics. The inability to win over local support and the

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954 UN Security Council 2011, S/2012/901 Final report of the Panel of Experts on Liberia submitted pursuant to paragraph 5 (f) of Security Council resolution chaired by Masood Khan, investigative panel members, Christian Dietrich and Caspar Fihlen
955 CIRC 2012 p.32
consequent resistance hampers operations and results higher operational costs, which may cause concessionaires to delay social benefits, thereby creating a self-serving negative cycle.

The concession companies face criticism over their coercive practices in dealing with social unrest and in how they solicit consent for their operations. One strategy for soliciting local support is to hire those with an education, including those who are critical of the concessionaires’ operations, ensuring that those advising others have a vested personal interest in promoting the expansion of their operations. The Ministry of Internal Affairs controls the paramount and clan chief.\textsuperscript{956} When local populations refuse to cooperate, the deputy minister of Internal Affairs visits the affected communities and public ceremonial meetings with locals are arranged. Additionally, the minister holds closed door discussions with chiefs, who report to him (i.e. their salaries are under his discretion). The chiefs, who control customary land rights, instruct the local community members accordingly, usually according to the wishes of the concessionaire.

The lack of benefits and participation creates dissatisfaction among affected communities and local politicians, who both seek to extract minor benefits from the concessionaires operating in their areas. However, obtaining benefits can be difficult because neither affected communities nor local politicians are involved in the concession negotiation process, have no official oversight functions and have no leverage other than social unrest.

The social conditions in concession areas are dire. For instance, a palm oil concession in south-eastern Liberia operates in one of the poorest areas of one of the poorest countries on earth. The region is extremely underdeveloped, sparsely populated and almost completely inaccessible. Two roads reaching the county are barely passable and are completely cut off for days at a time during the raining season. The expatriates working for the corporation travel to the area by a corporate plane. The population is poor, illiterate, suffer from diseases and malnutrition. Many communities live in total isolation and can be reached only by several hours walk through forest areas. There is no electricity supply, no running water and no form of sanitation. Many villages have no elementary school and the housing is primarily primitive mud huts. For several consecutive years, the county has reported zero cases of tuberculosis, leprosy, polio and HIV. However, this is not because of the absence of these diseases, but because the infrastructure needed to gather data simply does not exist.

While the local population occupies the land, subsistence farming in not the region’s main source of income. Instead, communities rely on a government payroll as their primary income source.

\textsuperscript{956} USAID 2015 p.48
Although the county has only a relatively small population as compared to other counties in Liberia, the county has comparatively the largest number of civil servants on the government payroll. Additionally, the county has the most administrative towns and cities, some of which may consist only of a couple of mud huts, in order to have more chiefs on government payroll.

The local population initially welcomed the concession company in hope that it would bring employment, development and an increased standard of living to stop the suffering. According to the corporation’s own statement, it employs almost 2,500 local workers, mostly in low skilled positions and as casual labours. In reality, the number of locals employed by the company is somewhat lower and few are employed permanently. One employed person is typically responsible for a large extended family, including unemployed brothers, sisters and their children, uncles, aunts and so on. The salary of less than US$5 per day for a casual field labourer is insufficient to support one person, not to mention a whole family. While more than 60% of Liberians live on less than US$2 per day, a salary of US$5 per day still does not allow for anything beyond daily subsistence.

The salaries paid by the plantation companies vary from US$80 for a field labourer, to US$350 for those working in the office, to a little over US$1,000 for local Liberian managers. A staff member earning US$350 a month is in theory entitled to company housing with electricity and running water supply. However, the palm oil concessionaire has not built a sufficient number of houses for its employees and claims that company housing is only for staff level employees. In comparison, the Firestone concession, which is the oldest concession in Liberia, mandates that the company provide housing for its workers. Housing standards were improved after the concession was renegotiated, such that they no longer have an open sewer, must have electricity and pipe born water.

In addition to the company salary, all concession companies provide a sack of rice each month to their employees given that they have worked a full month, which may not be the case for casual labour. The imported rice is a highly valued commodity. Many families depend on the rice more than they do on the salary. The theft of rice from warehouses is common. The custom of providing rice to employees originated from Firestone’s operations. Firestone imported rice and then forced its employees to purchase it. This reduced local rice production. Despite a climate favourable to agriculture and exceptionally fertile soil, Liberia depends on imported food for over 90% of domestic rice consumption.957

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957 United States Department of State 2014, Investment Climate Statement
In general, the way in which concession companies source food for their expatriate staff undermines the local service sector and local subsistence agricultural activities. Concessionaires are some of the biggest importers of food. The two bags of imported rice provided to 1,700 employees by Sim Darby translate to 2,400 bags of rice at a market value of over US$200,000 each month. ArcelorMittal spends at least US$50,000 on imported vegetables for use in its canteen. Golden Veroleum purchases food for its expatriate staff from a Lebanese-owned supermarket and transports it by private plane to the plantation areas.

In spite of the low salaries, locals continue to compete over jobs. In the past, chiefs functioned as intermediates and provided coerced labour to foreign companies. In the post-conflict concessionary economy, the chiefs use their position in communities to select which community members get jobs. The superintendents or local politicians are involved in the process. Staff positions are distributed through the influence of powerful local government officials. The higher the staff position, the higher the politician or official involved. Allegedly, several employees in a concession company’s head office in Monrovia were connected to the president. The more experienced expatriate staff in mining companies, for example, introduced standardised employment policies to avoid being entangled in local politics. SimDarby reached an agreement with the local population; to compensate for land cleared by SimDarby, the company committed to hiring one person from each household in every community whose land was taken by the corporation.

International advocacy NGOs call the conditions inhuman, hollow promises and invisible job creation. The local population is increasingly disillusioned and criticises the corporations for not fulfilling their corporate social responsibilities or honouring obligations as described in the concession agreements. Communities are starting to question whether they really benefit for the loss of their lands and whether the GOL should have right to those resources. In the equation, the jobs created by palm oil companies are temporary, as the industry is labour intensive only in the clearing and planting phase, yet the loss of communal land is permanent. In addition, environmental issues are a source of grievance. Muddy run-off and chemical spills leaking to creeks, which the local population use as a source of drinking water, are commonplace.

Under these circumstances, the low salaries do not support the economic independence of the local population. Instead, they are increasingly dependent upon the concession company. In the absence of state institutions, the concessionaires are seen as a source of order. The relationship is

958 CICR 2012 p.108
that of a patron and a client between the corporation and the affected population. The corporation became responsible for *development* and the welfare of the local population in exchange for their land, labour and support. According to social rule system a patron has to operate according to commonly accepted limits and a *code of conduct*. Should the patron violate the *code of conduct*, it risks to losing the respect of its clientele and its position as a patron, and the clientele may withdraw their support. The affected population, who sees the corporation as a source of order and as a provider, fail to notice that the corporations are not bound by the same social rules as domestic patrons who cannot exit the society. The disillusioned and angered population and even many of the staff employed by the corporations engage in disruptive activities, theft and the sabotage.

In Liberia, the FDIs substitute for political platforms. Because the GOL is highly centralised and is not present in counties, once a concession is passed at the national level it then becomes a political platform, which is instrumentalised in local level power bargaining. The concessionaries are primarily concerned with fulfilling international standards and securing their respective sustainability certifications. They cooperate with international advocacy NGOs when they have to, to the extent necessary in order to achieve investor and consumer approval. Both the corporations and the government prefer not to report any social unrest, because such news would lower investor confidence.

Concessionaires cultivate close ties with the executive to secure their investments in Liberia. Affected communities are relevant only so far as international standards and maintaining stability in a concession area are concerned. The appointed representative of the GOL are less influenced by the demands of affected communities than elected representatives, whose electability is judged based on *the development they bring* to their clientele. While they have a vested interest in the reputation of the FDI projects in their constituency, their powers in negotiating or regulating concessions are seriously limited.

Actual development from FDIs in exchange for land rights or resources has become secondary to the politics surrounding it. This situation arises in part because of the neoliberal economic strategy. The concessionary economic policy is forced upon the local level, and the population and politicians alike appropriate and commercialise it where they can. Like any investment or project, concessions are locally capitalised as political platforms. The community meetings organised by the concession companies are frequently hijacked by political hopefuls and local politics. Politicians either lobby for the expansion of associated social projects and employment opportunities for their constituencies, or try to disturb the expansion in their competitor’s stronghold area. Local support and resistance to the corporation’s expansion and operations is
sometimes orchestrated by national level politicians. Politicians may offer their support to a company’s expansion and assist the concession company in managing the local population. In return, they demand control over hiring decisions, the location of infrastructure projects or special social projects to reward their clientele and campaign contributions. From the president to county superintendents, everybody claims that they are instrumental in bringing development and taking care of their people.

There has been no debate over the viability of the concessionary economic policy. However, the concessionary economic policy and FDI growth strategy is not the only option. According to the Forest People Programme, there are community smallholders in Liberia making a reasonable income from the crops they sell. Therefore, a taxable income could be generated from rural development, improving access to markets through transport links, communication and value-addition.\(^{961}\) Regardless, in the absence of other available opportunities for rural populations, the communities continue to sign-off their land with thumb prints over the next 65 years. The rural areas have few prospects or alternatives other than to accept the concession companies and hope for some development as the national government has not developed the hinterlands in 150 years. In areas where overlapping concessions exist, the population bargain for their support and are less keen on signing over their land.

During her visits to concession sites, President Johnson-Sirleaf cautions citizens to ‘desist unpatriotic and non-nationalist behaviour aimed to undermine investments’ and urge them to cooperate so that ‘development can take place’.\(^{962}\)

When your government and the representatives sign any paper with a foreign country, the communities can’t change it … You are trying to undermine your own government. You can’t do that. If you do so all the foreign investors coming to Liberia will close their businesses and leave, then Liberia will go back to the old days.\(^{963}\)

This message reflects the liberal political-economic strategy, driven by concessionary economic policy built upon FDIs and the exploitation of natural resources.

Concessionary economic policy has translated into impressive GDP growth, at least in a short-term. In the framework for state-building, the local population is presumed to be the beneficiary of the FDIs. In return for their land, labour and support—the only resources they possess—the affected population expect economic rewards and protection. The employment figures promised

\(^{961}\) Forest People Program 2015 p.20
\(^{962}\) CICR 2012 p.57
\(^{963}\) President-elect Ellen Johnson-Sirleaf, speaking to rural, indigenous community members affected by the operations of Sime Darby, a multinational palm oil producer that holds a 63-year lease to operate in Liberia, December 6, 2011. Reported by CICR 2012
by concession companies are yet to materialise. In 2014, an estimated 85% of the population was without formal employment and those who are employed earn salaries that cannot sustain their families. The use of the US dollar as legal tender raises the living cost, which is comparatively high for Africa despite Liberia being one of the poorest countries. State-building guided by liberal economic ideologies assumes that FDIs bring much needed infrastructure, development and employment for the young population. Nevertheless, how the labour force hopes to be educated to even the most rudimentary level in the absence of a functional education system is a question yet to be answered.

A high-profile Liberian human rights activist stated in a speech at the National Endowment for Democracy, ‘Current realities in Liberia suggest that we are sitting on a time bomb of social unrest … without effective social policies, the gains and benefit of private sector investment only benefit the champagne and dinner table of senior government officials’. Thus so far, social unrest have been localised and quickly suppressed. The question for future stability is how long the population will tolerate inhumane conditions and listen to promises of development and visions of Liberia becoming a middle-income economy, if the grievances of rural communities remain unaddressed.

The source of social outrage is obvious. The GOL is receiving several times its GDP in the form of foreign assistance and FDIs worth of billions of US dollars, and yet the majority of the population lives in perpetual state of absolute poverty. It has been more than five years since sizeable concession agreements were been ratified but the affected population continues to live in primitive mud huts with no infrastructure, electricity, running water, sanitation, access to information and communication, or educational opportunities. The promised employment opportunities have not materialised and there are no prospects for social mobility. In essence, the population lives under the same conditions as they had for decades before the conflict.

In the two biggest growth sectors, namely iron ore and palm oil, six iron ore concision agreements totalling nearly US$13 billion in projected investments and four palm oil concession at a projected value of nearly US$3 billion have been signed with some of the largest industry conglomerates in the world. A stakeholder survey conducted to evaluate the PRS’ outcomes reported, ‘given the limited volume of actual exports of concession companies and the enclave character of the operations, it is not surprising’ that 46% of respondents completely disagreed with the

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964 Bertelsmann Stiftung, BTI 2014—Liberia Country report, p.15
965 CICR 2012 p.109
966 USAID 2013 p.81
967 CICR 2012 p.17
968 United States Department of State 2014, Investment Climate Statement
statement. ‘Your community is directly benefitting from the concessions agreements signed and ratified by the government since 2008’.969

Actual export numbers fall below forecasts. Investors pull out or delay their investments. The local population in Liberia is used to the high turnaround of FDIs. They have seen investors come and go for decades. Golden Veroleum Liberia (GVL), is mocked as God Visit Liberia, referring to the discrepancy between the exaggerated promises of social benefits, jobs and contributions to development funds, and the notorious non-commitment of concessionaires in improving living conditions in their operational areas, and to point out that the presence of the concessionaires in Liberia is often temporary.

As early as the 1960s, Liberia’s economic strategy was an Open Door Policy, inviting transnational corporations to invest in Liberia. GDP growth was driven by mining concessions; but when the FDIs pulled out, the Liberian domestic economy remained at a pre-industrial stage. After a decade of international state-building, absolute poverty and slow local economic growth can no longer be blamed on the conflict. The liberal economic policy promoted by state-building has avoided political questions over inequitably. From GEMAP to the PRS to the AFT, growth is assumed to be driven by the private sector, with the mining and plantation concessions driving the GDP growth. The GOL has not examine any alternate models of natural resource management before prioritising their FDI-friendly policies.970 To sum up, the concessionary economic policy and reliance on FDIs has failed to develop domestic economy and domestic tax revenue-generating businesses, include social policies and thus translates into low-quality growth and negative peace. The next section turns to the PRS, imposed as conditionality on the framework of international state-building and which substitutes for the domestic social policies.

PRSP: ‘Paper We Will Eat’

There is abundance of data, statistics and papers available concerning Liberian poverty.971 Central to the PRS analysis is the question of the perpetual poverty, has any progress been made, and if in what sectors. In general, economic growth in Africa has not significantly helped to equal incomes or to redistribute wealth. Whereas GDP growth has been impressive, little has been achieved in terms of sustainable development and socioeconomic goods.972 Kwesi and Atuobi (2011) define socioeconomic goods as health, housing, education, rural development, food production and governance of natural resources exploitation.973 After over a decade of state-

969 IMF 2011 p.18
970 CICR 2012 p.99
971 See major multi- and bi-lateral donors UNDP, WB, USAID, USAID, the PRSP 2008, and various NGOs
972 Clower et al. 1968
973 Kwesi and Atuobi 2011 p.36
building, Liberia still ranks on the bottom of the HDI. In 2010, over 60% of the population was living on less than US$2 per day. Furthermore, in terms of income inequality, Liberia is among the countries with the highest income inequality. This makes Liberia not only one of the poorest, but also one of the most unequal countries.974

In 2010, both Liberia and Sierra Leone ranked at the bottom of the HDI.975 In 2012, Sierra Leone ranked 177 and Liberia 174.976 The UNDP HDI ranked Liberia 174 out of 187. In the same year, the IMF ranked Liberia 178 out of 182 countries in terms of GDP per capita. The UN Conference on Trade and Development lists indicators of the least developed countries: low per capita GDP (less than US$992), low levels of health, education, literacy and other social indicators, a vulnerable economy in terms of low industrial output and dependency on primary products and resources. All these factors apply to Liberia. In this context, the PRS was drafted and implemented by donor assistance as an imposed conditionality to reach the HIPC initiative decision point. Arguably, the PRS could be evaluated in the light of the concessionary economic policy and the strong economic growth in terms of GDP growth.

International donor agencies have certified the implementation of the PRS as successful, although social development and poverty reduction show the least progress. In 2013, life expectancy was 61 years.977 Between ‘clawing its way up to the last place on the UN Human Development Index’ after the conflict and being selected as the worst city in the world according to the UN-Habitat City Prosperity Index in 2013, the human condition in Liberia shows only marginal improvements.978

According to Chandler (2010), right-based accounts of policy legitimacy in the paradigm and framework of international state-building, based on the idea of a social contract, are problematic,979 because neither social contracts nor legitimisation through such contract sit well with neoliberal technocratic state capacity building. In the paradigm of state-building the true source of better governance is institutional capacity, not a social contract.

If the progress correlates with the priorities of the state-building framework, then subjecting Liberia to an extensive state-building framework has influenced future political-economic decision making and consequent progress in various sectors. Like many post-colonial African states Liberia, has not experience a nationalist era. Hence, the country has a weak legacy of

974 Mubil et al. 2012 p.2–6, Briefing Note 5: INCOME INEQUALITY IN AFRICA1, 7 March 2012, African Development Bank
975 UNDP 2010
976 UNDP 2012
979 Chandler 2010 p.15
national(ist) strategies and domestic policies. Primarily, economic development has been driven by external treaties, concessions and policies formulated by international experts. The first developmental strategy was drafted after the publication of the Clower Report. President Tolbert, who is said to be the most progressive of Liberia’s past presidents and the only one who spoke a local tribal language, announced the from mat to mattress policy of social rural development. The Liberian rural population was to be elevated from sleeping on a mat to a mattress.

The PRS begun with the determination not to repeat the mistakes of the past, ‘Liberia’s economic history before the conflict became a classic but sad example of “growth without development”, a story that the Government is determined not to repeat. In the decades leading up to the conflict, the country recorded relatively rapid growth. But most of the income was channelled to a small elite and there was relatively little poverty reduction for the majority of Liberians. The inequities in growth were a major source of the resentment that fuelled the conflict’.

In theory, PRSPs are prepared by member countries in board consultation with stakeholders and development partners, including the staff of the WB and IMF. The Liberian PRS was prepared in close coordination with the executive and donor community, without any further consultations. In 2007 the WB commented on the close coordination among the donors on the one hand, and between the donors and the executive on the other, ‘Compared with many other situations, there are extraordinarily close and effective coordination arrangements in Liberia between the office of the Special Representative of the UN Secretary General and the other major bilateral and multilateral donors active in the country’. On the GOL side, ‘the critical mechanism is the LRDC, and on the donors’ side the Liberia Partners’ Forum’.

The predecessor of the PRS was the interim PRS, which was clustered under four pillars: enhancing national security, revitalising the economy, strengthening governance and the rule of law, and rehabilitating infrastructure and delivering basic services. The four pillars of the PRS are identical to USAID’s Liberia country strategy (or vice versa), namely to consolidate peace and security, revitalise the economy, strengthen governance and the rule of law, and rehabilitate infrastructure. The four pillar can be further defined as follows. The peace and security pillar is concerned what the security agencies, military, police and other government security agencies in terms of capacity building in order to take over defence and security functions from the

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980 Clower et al. 1966
981 Liebnow 1987, Pham 2004
982 PRSP 2008 p.35
983 WB 2007 p.6
984 WB 2007 p.6
985 USAID 2010 p.3
UNMIL. It should be noted that although the PRS was completed in 2010, the national security forces are preparing to take over from UNMIL in 2016, and a separate detailed action plan has been drafted. The economic revitalisation relates to the public regulatory framework, ministries and agencies in their role to stimulate private sector led growth. In other words, the PRS defines the GOL’s economic policy of private sector-led growth (i.e. neoliberal economic policy). The governance and rule of law pillar covers the public sector reform and rule of law. The infrastructure and basic services (IBS) pillar should deliver public services, primarily health and education, as well as physical infrastructure.

The PRS (2008) lacked a logical chain between its deliverables and outcome objectives. Moreover, the action matrix listed multiple agencies with overlapping roles for the same action, with no specific timeframe for each action point. Consequently, as previously noted in GEMAP evaluation reports, it is easy to check vaguely formulated objectives as having been achieved when there is no real accountability for deliverables or achievements.

Frustrated with the slow progress, the donor community intervened toward the end of 2009 and the WB Institute, UNDP and LRDC team in MOPEA reorganised the action matrix ‘into more detailed lists of deliverables, specifying which agency was responsible for each deliverable (usually only one agency per a deliverable)’ with a 90-day time period to take the action.

In 2008, the cost of implementing the PRS was estimated at US$1.6 billion, with commitments of US$500 million from the national budget. Between 2009 and 2011, per pillar donor funding for the PRS was US$11.08 million for peace and security (not including the cost of the UNMIL, nor US payments to DynCorp), US$120.79 million for economic revitalisation, US$150.16 million for governance and rule of law, and US$499.24 million for public services, primarily health, education, and infrastructure. One can only wonder how is it possible that with close to US$ two billion spent in three years in a tiny country with a population less than five million people, the country still lacked pipe-borne water, sanitation, electricity, decent healthcare and an elementary level education.

The IMF final report on the PRS (2012) summarises the status of progress in various sectors. Unsurprisingly, and in accordance with the state-building priorities, macroeconomic stability shows the most improvement, while the public service delivery, security and infrastructure sectors

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986 IMF 2012 p.8
987 IMF 2012 p.8
988 IMF 2012 p.8
989 IMF 2012 p.9
990 Ministry of Finance, Aid Management Unit in IMF 2012 p.8
leave a lot for improvement. According to the IMF fully satisfactory outcomes for 2008–2011 ‘include macroeconomic stability with low inflation, essentially balanced budgets, and major reduction of external debt. The financial sector expanded in size and range of services, and banks have more sound balance sheets. In basic education, roads, environment and labour protection the outcomes were only marginally positive. In the security sector, the police and agencies ‘struggled with organisational challenges and perceived corruption’.991 In terms of electric power provision, the delivery of justice and decentralisation the outcomes are unsatisfactory.992

It should be noted, however, that the PRS final report states that the report was based on statistics and did not include fact finding or field observations. Consequently, some of the findings are overly positive. For example, job growth is reported based on projected employment numbers supplied by the concession companies, especially in the palm oil sector.993 These figures are in the range of tens of thousands, while actual job growth is in the hundreds. Dirt-graded roads, which quickly deteriorate during the raining season, are accounted for road construction. The final report claims that, in terms of water and sanitation, ‘most respondents saw improvement’.994 This contradicts the UN-Habitat City Prosperity Index (2013), according to which more than three-quarters of the urban population has no access to sanitation. In rural areas there is no sanitation at all.

By and large, the main conclusions of the report somewhat accurately reflect the progress made in various sectors and the living conditions in Liberia, and correlate with other indications such as the HDI and UNDP city living index. ‘Perceptions of the general economy improved and of being poor declined from 61% households in 2007 to 46% in 2010’.995 Nonetheless, both the education and health sectors have received most funding through both the national budgets and PRS, still the systemic denial of education as an institutional strategy continues. Consistently, the Liberian educational system and the health sector fail to show any significant improvements, ‘Liberia has some of the world’s worst health indicators, particularly for maternal and child health’.996 According to the EU Country Strategy in 2007, there were approximately 389 health facilities, out of which 77% were supported and rehabilitated by NGO or donor organisations.997 In 2009, the social and healthcare sectors had little over 9,000 workers, many of whom were not qualified. Forty-four percent of nurses lack the required level of education by the nurses association.998 In 2010, according to the WHO, poor sanitation and bad hygiene resulted in the

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991 IMF 2012 p.6
992 IMF 2012 p.6
993 IMF 2012 p.22 (Source NIC)
994 GOL, PRS 2010 p.37
995 GOL, PRS 2010 p.36
996 Liberian Ministry of Health and Social Welfare 2011 p.31
As of 2014, there are still less than 60 doctors. The vulnerability of the healthcare sector became evident in the 2014 Ebola pandemic, which became uncontrollable and unmanageable in Liberia. The fatality rate in Liberia was higher than in other affected countries, not only because of the poor infrastructure, but also because of the poor health of Liberian population.

Although donor documentation and policy papers frequently cite the divide between the *urban elite* and *rural indigenous* population, poverty in Liberia is not divided between urban and rural landscapes. The distribution of benefits in Liberia is not a question of urban and rural development. The conditions in the Liberian capital are just as impoverished as in rural areas. About one in four Liberians live in the capital of Monrovia. In addition, many commute between the rural areas and Monrovia. According to the UN-Habitat City Prosperity Index (2013), which takes into account productivity, quality of life, infrastructure development, environmental sustainability, equity and social inclusion, Monrovia is among the five poorest cities in the world. The five cities with very weak prosperity factors—Bamako, Antananarivo, Monrovia, Niamey and Conakry—are characterised by ‘dysfunctional systems, institutional failures, sluggish economic growth as well as widespread poverty and destitution’. When all indicators—productivity, quality of life, equity, infrastructure and environment—are combined, Monrovia ranks at the bottom, having the worst city prosperity index.

In addition to the PRS, the administration produced County Development Strategies without any specific local deliverables. The County Development Agendas for each of the 15 small counties was mocked, saying *we will eat paper*, indicating that the glossy paper on which the county strategies were printed was all that these documents provided for the counties and the population to survive. The participatory PRS focus groups were termed in Liberian English as ‘participatory vase of time’.

In conclusion, the human condition in Liberia is a question of human dignity, structural conditions that prevent the indigenous population from meaningfully participating in the economy, political decision making and state-building; a form of socio-economic apartheid.

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1000 Donnelly et.al. 2014
1001 UN Human Settlements Programme, UN City Prosperity Index 2012 p.24
1002 UN Human Settlements Programme, UN City Prosperity Index 2012 p.24
Land Rights: ‘Protecting Integrity of Indigenous Land Rights’?

This section outlines the Liberian land conflict, its historical background, confusing tenure system and land law reforms. The land conflict is part of the wider question of resource management. According to the Constitution, the government owns all mineral and resource rights. However, the Constitution also recognises the customary legal system. Thus, there are two interpretations of the customary land rights; one position holds that customary land is public land and that the government has rights to it, the other position is that communities have ownership rights to customary land. Land reform is one of the practices typically included in the menu of state-building practices. In Liberia, however, land reform was delayed until over half of the Liberian land mass was already allocated as gross concession areas.

Like elsewhere in Africa, commercial interests in Liberian land have intensified. Liberia belongs to a group of countries where an extensive FDI-based land grab is taking place. Between 2007 and 2011, over 50 million hectares of arable land, which accounts for over 21% of non-degraded arable land in sub-Saharan Africa, has been leased or bought by non-African corporations.1004 Hence, sustainable economic development needs to entail land and natural resource management to resolve land disputes without marginalising indigenous population living under customary land tenure and traditional governance systems.

In November 2014, the president requested the legislature to endorse a new Land Right Act, which aims to address the dual tenure system in which both statutory and traditional land governance determine land ownership and use rights. This dual tenure, which is common in virtually all African countries, is not necessarily problematic. However, the way in which the tenure systems has discriminated against traditional customary tenure for the benefit of those in charge of the GOL has been a source of continuing conflict concerning the management of natural resources.

The 2015 consultative constitutional review process revealed that the majority of Liberians value economic rights over political rights. The head of the Constitution Review Committee (CRC), Gloria M. Scott, summarised the findings, ‘The people have indicated that the country has vast natural resources, yet they live in abject poverty, while their traditional lands are taken away with no benefits whatsoever’.1005 The government’s concessionary economic policy conflicts with indigenous communal land rights, which remain unprotected.

**History of Land Disputes**

The significance of land reform for peace-building efforts originates with the creation of the Liberian state. The Americo-Liberian settlers had no appreciation for the communal governance concept of land ownership, while the tribal chiefs were unfamiliar with the freehold concept, although they soon realised the implications of the sale of their land to settlers.1006 The largely illiterate and poor rural population was unable to defend its traditional farmlands in the courts under the statutory legal system. In fact, the indigenous population was not granted citizenship until 1904 and the right to vote until 1946.

During the economic diversification of the 1960s and 1970s, the ambiguous land tenure system and grievances over land accelerated the drift of the rural population to foreign mines, plantations and towns, and launched the systematic acquisition of vast land holdings by elite families and foreign companies. According to MoPEA, 4% of the population owned more than 60% of the wealth, ‘It was popularly believed that President Tolbert and Speaker Henries owned nearly half of Bong County, and within the city of Monrovia, the Horton family owned most of the land on which the Bassa people lived’.1007

The situation was not unique. Growth-orientated governance in settler colonies commonly entailed the creation and protection of property rights ‘at the expense of undermining the rights of unproductive groups’.1008 In the process, not only property rights, but ‘the lives of “pre-capitalist” indigenous groups were eliminated’.1009 The accumulation of rural underclass grievances produced ‘a crisis of agrarian institutions’.1010 Stiglitz (2012) notes, ‘without a level of oppression that would itself impair development’ such policies would not be considered sustainable or even feasible today.1011

Unlike post-colonial African states, Liberia has not experienced a period of developmentalism, a nationalist post-colonial era or an agriculturalist era. Consequently, the country has not experimented with redistributive land reform. Land reform was an issue at the heart of the emotional and economic tensions between the Americo-Liberian elite and the indigenous population. Liebnow observed in 1987, ‘Liberia did not need another donor agency ‘feasibility study’; what it needed was action now’.1012 Rural farmers required the same security that was

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1006 Varnie 2004 p.9; Pham 2006, 2009; Liebnow 1987
1007 Liebnow 1987: 241
1008 Richards 2005
1009 Stiglitz in Noman et al. 2012
1010 Richards, 2005, in Unruh 2009 p.426
1012 Liebnow 1987 p.242
provided by the traditional tribal usufructuary rights of occupancy; alternatively, the indigenous farmers had to be included in a modern freehold tenure system.

Confusing Land Tenure Systems
The post-conflict land tenure system is complicated, to say the least. Fundamentally, the Constitution of Liberia recognises customary law and customary land use rights. According to Article 65, Chapter VII (also Article 2 and Article 5) of the Constitution, the courts shall apply both statutory and customary law in accordance with the standards enacted by the legislature. Between 1924 and 1960, nearly 1,000,000 hectares were registered under community ownership, notably not under a chief’s ownership. Communities solicited funds from employed relatives to register community land as their collective property and to secure Tribal Land Certificates, which were necessary in order to conduct a survey and to process a communal deed. Consequently, a significant portion of Liberia’s forests are already formally titled to communities. Between 1956 and 1986, at least 19 chiefdoms bought back their land from the Liberian government and secured it as ‘collectively owned private property under Deeds of Public Land Sales’.  

A new cadastral land registration system was instituted in 1974 and embedded into the Land Registration Act. It reduced the legal grounds for customary ownership to *permissive occupancy*. Communities solicited funds from employed relatives to register community land as their collective property and to secure Tribal Land Certificates, which were necessary in order to conduct a survey and to process a communal deed. Various forms of statutory entitlements to land include Land Deed, Aborigines Land Deed, Public Land Sale, Warranty Deed and Leasehold. These collective entitlements amounted to at least 2.8 to 3.5 million hectares, approximately from one-quarter to one-third of the total area of Liberia.  

Deeds are, in theory, recorded. However, no central land registry exists. Therefore, the process of identifying original landowners, boundaries and inheritance rights is unreliable. This further exposes the statutory system to widespread corruption and fraud. The confusing status of these laws means that the legal status of communal and traditional rights is speculative at best.  

Both customary law and the 1970 Land Law are still in use today. In addition to conflicting laws, the definition of *public land* remains unclear; it is not clear whether public land is state-owned, owned by the nation or by a state agent, or whether public land includes unregistered land for

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1013 Wily 2008
1014 Wily 2008 p.29
1015 ibid.
1017 Unruh 2009 p.429
1018 Wiley 2009 p.134
which the owner has no documented title. Generally, public land has been interpreted as state-owned land. This interpretation grants the state the right to natural resources without the obligation to compensate the communities who occupy the land.

In 2012, public sentiment was that it was advisable to acquire a title to secure land rights. However, as Rawls (2011) points out, the cost of titling exceeds what the communities can afford, and in practice, they sell their land rights. In 2013, in spite of continuing land acquisition by concession companies, the president issued a moratorium to stop public land sales and the issuance of new tribal certificates.\textsuperscript{1019}

**Post-Conflict Land Disputes**

In a fluid post-conflict context, concessionary policies, NGO advocacy, and even conservation agendas may threaten communal land rights. In the land grab that occurs immediately after a conflict, the poor tend to lose out to the wealthy and powerful, and fail to recover the natural capital lost in wartime. Therefore, the rights of poor communities to properties with natural capital, such as land, forests and fisheries, ought to be strengthened quickly with tenure reform.

In general, land conflicts in Africa are related to concentrated ownership, a lack of access to land, and land disputes.\textsuperscript{1020} In Liberia in particular, land disputes can be classified into the following categories: tenure; use, management, and related social, economic and environmental grievances; loss of livelihoods; and claims of socio-cultural and political disrespect.\textsuperscript{1021} The forms and functions of disputes are just as heterogeneous as the disputes themselves.\textsuperscript{1022}

Intergenerational conflict occurs when a younger generation stakes a claim on traditional land, confronting elders and traditional chiefs. Some minor ethnic disputes take place between settlers, refugees and the returned IDPs. During the long conflict, traditional knowledge of existing boundaries and the self-enforcing monitoring system related to crop rotation schemes was lost, and mapping traditional land is nearly impossible without extensive on-site long-term knowledge.

Increased mobility and post-conflict land sale scams have further confused both systems governing access to land. Commercial farmland owners were absent for over a decade. People have built on unoccupied lots and taken over uncultivated farms. In a post-conflict context, both the occupants of abandoned land and the families of the original owners make claims on the land.


\textsuperscript{1020} Manji 2006 p.39

\textsuperscript{1021} DeWitt 2012

\textsuperscript{1022} Word Bank Terms Of Reference for a fact finding mission 2014, unpublished
Although individuals possessing genuine documents signed by a relevant agency of the government may sell the same parcel of land to several buyers without confirming the legitimate owners, the existing land law does not offer clear guidance in cases of re-sold land.

The Act Against Criminal Conveyance of Land was signed to law in August 2014. The law is an amendment to the Penal Law of Liberia. The law defines criminal conveyance of land as a second degree felony. It aims to reduce the number of land disputes. A surveyor who engages in any fashion in the sale or purchase of land, knowing or being in the position to know that the seller has no lawful title, is guilty of a first degree felony, punishable by a prison term of not less than 10 years and the permanent removal of his licence to practice as a surveyor. Similarly, a person who purchases a parcel of land knowingly or is in a position to know that the land does not belong to the seller is being criminally conveyed. The law also criminalises land surveys without notice having been given to all adjoining property owners as a third degree felony.

The law specifically addressed the misuse of power to acquire land or influence land transactions. Any government official, including traditional, local or national leaders, or any person holding a position of power who abuses said authority to unduly influence or compel an individual or group of individuals to wrongfully convey a parcel of land or any portion of land is guilty of a felony of the second degree. In theory, this provision could also criminalise the way concession companies use chiefs to coerce communities to enter into land agreements.

The definition of a community, and hence the definition of communal land is inherently vague. The Land Commission defines a community as ‘a widely recognized coherent social group or groups, whether self-identified or not, who share common customs and traditions, irrespective of administration and social subdivision, residing in a particular land area over which members exercise jurisdiction communally by agreement, custom or law. A community may for example be a single village or town, or a group of villages or towns or chiefdom’. Furthermore, there are inconsistencies in terms of administrative boundaries. For example, the legal framework defining land and property in city, town, clan, and chiefdom is unclear. This amplifies jurisdictional inconsistencies and the overlap between the traditional governance units of chiefdoms and clans, and the statutory governance of towns and cities.

Unclear land tenure policies continue to disrupt development, contribute to insecurity among the poor and breed corruption. In the absence of a local economic base, production facilities and a

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1023 Act Against Criminal Conveyance of Land 2014, published by the Ministry of Foreign Affairs
1024 Land Commission 2014, unpublished paper
1025 Government Reform Commission 2007
functional banking sector, real estate was and remains one of the few domestic investment opportunities. In the past, laws imposed specific building and agricultural requirements to discourage speculation and to encourage productive land use. Private landowners lost their ownership rights if the requirements were not met. Land ownership practices gave developers the right to occupy land, provided that the investment to develop the property was higher than the value of the land, and the land owner was not willing to compensate for the investment. In post-conflict settings, however, such laws and regulations may be exploited. In practice, those with power, money and relationships are better positioned to secure their land rights and to protect their investments. Systematic enforcement of real estate taxation as a technique to resolve land disputes and to regulate the real estate sector has been hampered by systemic corruption and resilient elite interests.

A harassment scheme was created in the post-conflict rehabilitation of roads. Traditionally, Liberians prefer to build close to the roadside. In theory, the Ministry of Public Works provides zoning records and regulations, but in practice, the population is unable to access these government records. The Monrovia City Corporation and the Ministry of Public Works mark buildings for demolition if they are too close to a road. Speculatively, the markings are used by government officials to press for bribes. Furthermore, many buildings have been bulldozed without legitimate prior warning. In January 2012, in order to prepare the capital city for a visit by an international delegation, several buildings were bulldozed in Monrovia, prompting demonstrations and hostility toward the city mayor.

Land disputes are frequently politicised. In the absence of a functional judicial system, local representatives are pulled into land dispute cases. Because the national government is highly centralised, legislators and superintendents are often the highest, if not the only, representatives of state institutions in rural areas. Nevertheless, their involvement in land cases compromises their position as elected representatives and government officials. For example, in a land dispute case involving a senator and a political rival, 14 people were killed and five went missing. This case underscores the potential for local land disputes to escalate into national security crises.

In light of the political history of Liberia, land (law) reform needs to address the socioeconomic issues associated with access to land and land ownership. Land-related grievances continue to perpetuate a fragile security situation and contribute to the underlying antagonism between the elite and the indigenous population. According to a survey conducted in 2008 by the NTRC

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1026 Final Policy Statement of Land Commission 2012 p.39
1027 UN Security Council 17th progress report p.3
1028 Oritsejafor 2009; Liebow 1987
and the EU, land disputes were a key threat to peace in 75% of Liberia’s administrative districts, ‘These disputes mirror historic tensions and so are susceptible to escalation’. 1029

**Land Rights and Perpetuated Poverty**

Land tenure issues cut across social economic development. The international aid system creates a connection between secured property rights and poverty reduction. Unclear land tenure is seen to obstruct access to capital and the development of a modern agricultural sector. 1030 De Soto argues, ‘The inability of people across the developing world to secure their property rights is what prevents them from unlocking their vast capital. What is needed is a functioning and transparent legal framework so that Africans can convert that land into collateral against which they can borrow and invest’. 1031 However, as Stiglitz (2012) points out, ‘the issue of property rights is more complex than the simplistic formula of “defining clear and credible property rights”.’ 1032 Ideally, the defining property rights includes mechanisms that enable the poor to secure their land rights at an affordable cost and that protect communal customary land from intensified commercial land acquisition by transnational concession companies. In essence, the enforcement of the statutory tenure system ought not to contradict the communal governance systems of customary land.

The creation of the Liberian state originated with cash crop production, namely rubber. In 1974, the per capita agricultural economy was less than US$120 annually, while the per capita cash crop economy was US$900. In comparison, the per capita mining sector was US$2500 of GDP. 1033 Despite the fact that cash crops have dominated the Liberian agricultural sector, many aid agencies still view subsistence agriculture as the blueprint solution for the rural poor. For instance, according to the USAID (2014), ‘more than two-thirds of Liberians depend on agriculture for their livelihood’. 1034 The USAID (2010) Country Development Cooperation Strategy Liberia, 2013–2017 claims that ‘growth will depend on increasing smallholder productivity to increase food production, create jobs, and generate income’. 1035 According to the UN Security Council’s 17th progress report, ‘one key element to improve social indicators will be to increase agricultural production, since it creates employment and income opportunities for a large part of the Liberian population’. 1036 Conversely, the same progress report highlights problems with land disputes,
marijuana cultivation and trafficking, persistent food insecurity (especially in rural areas due to transportation problems) and poor infrastructure.

Despite the rhetoric about supporting the agricultural sector, international state-building and its neoliberal economic policies have not funded the modernisation of the agricultural sector in post-conflict Liberia. For instance, despite the fact that during the state-building era, a small domestic smallholder cash crop producing class emerged, in 2013, the president issued Executive Order No. 50 ‘Halting Export of Unprocessed Natural Rubber’ gave the monopoly to Firestone. Consequently, the unprocessed rubber purchase price dropped below the world market price and domestic smallholder rubber production became unprofitable.

Subsistence agriculture is routinely linked to poverty reduction, irrespective of its actual ability to provide livelihoods. Duffield (2007) criticises humanitarian emergency aid for stripping ‘away the history, culture and identity of the people concerned […] rebuilding communities and promoting the small-scale ownership of property in the interest of improved self-reliance’. Paradoxically, instead of engaging the rural poor in national economic activities, the poor are to become self-reliant in food production, yet their land rights remain unprotected.

Moreover, aid projects may assume the availability of communal free labour, which is most often women’s unpaid labour. Hence, the promotion of smallholder subsistence farming may unintentionally discriminate against women. Therefore, in addition to addressing past injustices, land reform should simultaneously address latent class, inter-generational and gender conflicts. Access to communal land remains regulated by elders and chiefs. Therefore, because, artisanal subsistence agriculture is associated with a lower social status, suppression by the elite and poverty, the youth prefer to pursue other survival methods. Furthermore, customary access to land creates a locally confined citizenry, which may conflict with trends in urbanisation, increased mobility and modern economic activities. Land reform could have the potential to free rural citizens from locally confined citizenship, oppressive chiefs and enhance the connection between the poor rural areas and modern national economic activities.

1037 During the conflict, marijuana was introduced to wide segments of the population. Marijuana farming has become an income source for the rural population. It is a ‘cash crop’ that causes violent fights over ‘gardens’. Marijuana gardens and drug trafficking are linked to crimes, illegal activities and organized cross-border criminality.


1039 Duffield 2007 p.34

1040 Manji 2006 p.125
Unsurprisingly, ambiguous land tenure and food insecurity are interlinked. Liberia has one of the lowest agricultural yields and the lowest intensities of land use.\(^{1041}\) Despite excellent climate conditions and fertile soil, less than 5% of land is under permanent cultivation and less than 1% is irrigated. Smallholder farms have low productivity due to the lack of know-how, capital, machinery and infrastructure.\(^{1042}\) In 1990, per capita food imports were at a level comparable to the 1960s. In 2011, less than half of the population was food secure. Due to low productivity and poor feeding practices, more than 40% of children suffer from chronic malnutrition.\(^{1043}\) Stunting affects 39% of the population.\(^{1044}\) Up to 30% of deaths under the age of five-years can be attributed to malnutrition, which additionally deprives children of their cognitive development. The diminished cognitive capacity, combined with substandard education, perpetuates low human capacity,\(^{1045}\) thus impeding sustainable social economic development.

A poor, self-reliant agrarian class with little political or economic power on the margin of society fortifies the Liberian dichotomy of the elite versus the plebeian rural population, commonly referred to as country people in the hinterlands. In comparison, the state elite benefits from the concessionary economic policy, which is based on rents from Liberia’s vast natural resources.

**Concessionary Economic Policy Encouraging Land Acquisition**

As previously mentioned, a concessionary economy refers to a type of state economy which is independent of domestic tax revenues, but dependent on revenues from concession agreements with transnational companies extracting natural resources. Historically, concession agreements have been at the cornerstone of the Liberian political economy. In general, the concessionary trend in Africa and the new wave of agri-business, is driven by the land shortage in Asia, the increasing demand for bio-fuels, industrial food production and globalised FDIs. Additionally, the traditional reliance on natural resource exploitation, the capital investments required to modernise economic sectors including agri-business, competition over FDIs, international standards for bio-diversity conservation and carbon markets, and even the preservation of indigenous cultures are factors that may drive concessionary economic policy.

Transnational agri-business is criticised for avoiding proper codified arrangements; for having weak social commitments with local communities and weak environmental plans. In the process, the local population is transformed into labourers, while chiefs, community leaders and government administrators act as agents, who are easy to influence. Local requirements are often

\(^{1041}\) AfT 2012 p.25
\(^{1042}\) AfT 2012 p.76–77
\(^{1043}\) AfT 2012 p.94
\(^{1044}\) UNMIL Focus 11-2006 p.19
\(^{1045}\) AfT 2013
only anecdotally fulfilled. Nevertheless, land use rights are transferred to foreign concessionary companies. In the process, a customary tenure is conveyed to a statutory tenure for the benefit of a concession company.

As early as the 1920s, when the Firestone plantation concession agreement was negotiated, the statutory system became the legal basis for concession agreements. The acquisition of land by Americo-Liberians intensified the transfer of communal customary land tenure into statutory freehold land tenure. In post-conflict settings, this trend is intensified by concessionary economic policy. Traditional smallholder farmers and the emergent commercial cash crop farmers compete with international agro-businesses and concession companies over access to land. Communities engage in hostilities against development and foreign investment projects because they feel that their rights have been violated. On-going land disputes between communities and commercial companies continue to pose a major security risk.

The post-conflict administration sold gross concession areas to transnational companies largely free from any encumbrances. In fact, in some counties, the area granted in concessions exceeds the total area of the county. In 2012 some predictions estimate that the GOL has issued longer term use rights over an area that corresponds with estimates from 27 up to 50 percent of the total Liberian land mass. Moreover, there are large discrepancies between the land area granted and the actual areas developed (e.g. 650,000 acres may be claimed, but only 5,000 acres may be developed).

Legislators have advocated land reforms to secure ownership rights for indigenous people. While the GOL has not clearly defined untitled or traditional land as government land or nationalised indigenous land, it has indirectly accumulated benefits from the land and its natural resources in the form of concession agreements, associated taxes and payments, and from the exchange of resources for infrastructure and social commitments delivered by concession companies. The road-for-resources strategy (Chester 2010) has avoided the direct expropriation of the indigenous population, but has nonetheless outsourced the land acquisition process to concession companies, which are left to navigate between the conflicting land tenure systems and to negotiate land rights with communities.

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1047. Unruh 2009 p.426
1048. ibid p.427
1049. UN Security Council’s 17th progress reports 2008 p.4
1050. DeWitt 2012b, also WB TOR 2013 p.1
1051. Unruh 2009 p.230
1052. During the Poverty Reduction Forum on the 13th of March 2008, Grand Bassa House Representative Smith advocated for a land reform policy, in which land would be given to the indigenous population so that they could use it as collateral for loans.
Debatably, the customary system has not evolved to accommodate the changes in population density, mobility, food security, or kept up with ‘the ability to interact effectively with state law’.\textsuperscript{1053} state law here referring to statutory law. Unruh (2009) notes, ‘The isolation of the customary sector and its neglect, together with the lack of awareness of legal developments in other African countries by both the customary and formal legal domains in Liberia, has led to the stagnation of forms of law and practice regarding land tenure’.\textsuperscript{1054} Moreover, insufficient attention has been afforded to formal functions and to the predispositions of various government agencies.\textsuperscript{1055} Wiley (2007) concludes, ‘Liberia could redress land injustices more easily than almost any other country on the African continent’.\textsuperscript{1056} In comparison, Sierra Leone, the neighbouring post-conflict country, has a customary law officer to navigate between the two legal systems. In Liberia, the cabinet members and the national government negotiate concessions using a non-consultative approach without informing, let alone negotiating with, rural communities.\textsuperscript{1057} Consequently, the engagement of affected population in natural resource management is insufficient.

When President Johnson-Sirleaf took office in 2006, all previous concession agreements that had been signed under the National Transitional Government were cancelled. Since 2008, sizeable concessions have been negotiated with the palm oil, rubber, agricultural and timber industries, and with some of the largest mining companies. According to the concession agreements, the concession companies are to compensate communities for the use (lease) of land, however, concessionaires pay these land rental fees, in addition to taxes and royalties, to the GOL.

In summary, an economic growth strategy based on the natural resources exploitation and concession agreements with transnational companies creates pressure to establish a legal framework to protect private property rights and to transfer land under the statutory land tenure.

**Protection of Communally Governed Land**

Customary indigenous land is communally governed and defined as a common pool resource (CPR) (Ostrom 1990).\textsuperscript{1058} Because such land is common-use property, its management is based on a different set of rules than land governed by individual use rights. The Land Commission’s recommendation to keep traditional land at a clan level underscores the kinship aspect of communal land use rights. Because a village chief is always subject to a clan,\textsuperscript{1059} it follows that

\begin{footnotesize}
\item[1053] Unruh 2009 p.432
\item[1054] Unruh 2009 p.432
\item[1055] Unruh 2009
\item[1056] Wiley 2007 p.17
\item[1057] Unruh 2009 p.427
\item[1058] Ostrom 1990
\item[1059] Wulah 2005 p.182
\end{footnotesize}
an individual village or a community may not make decisions over land ownership rights independent of their clan, they only allocate land use rights. In general, traditional governance structures are eroded and there are significant regional and local variations. Furthermore, the fact that the chiefs are on the government payroll and report to superintendents and to the Ministry of Interior ensures that they are more inclined to cooperate with the government than to protect the land rights of the communities that they claim to represent.

In the context of communal land governance, individual ownership translates into privatisation of communal land, (i.e. individualised ownership of a CPR). The insistence of international actors, including international advocacy NGOs, to obtain land use rights from individual communities violates the rules of customary land governance. The free concept at the individual level creates artificial private rights to CPR of land and its resources, yet simultaneously disregards ‘the general rules and commonly known practices of the use and transfer of land’. International standards and recommendations assume that communally managed resources should be parcelled out and individual communities should be allowed to pursue their own self-interests. In the interests of individual land rights, communal land is artificially divided into smaller units, making it more difficult to protect communal land rights. Paradoxically, the concept of free consent over land use rights privatises communally governed land.

Land acquisition by concession companies is hampered by the conflicting understanding of contractual agreements between international corporations and the indigenous population. In a traditional governance system, contractual agreements regulating the access to and management of traditional land have been verbal agreements or simply assumptions formed over time. Written or verbal agreements are only partially binding due to the weak rule of law and the lack of an equally accessible judicial system. Contractual agreements are understood as the consensual acceptance of an agreement (i.e. live by the decision or contract), which makes the contract or agreement enforceable. In CPR situations, if an agreement is based on incomplete or biased information, the other party determines its own contract and enforces only the agreeable portions of the contract. Consequently, traditional communities accept concession companies on their land only as long as they are satisfied with the benefits they receive in return.

The conflicting contractual understanding, in combination with the concession companies’ tendency to shortcut the land acquisition process, inevitably invite conflicts. Nonetheless, it is
highly unlikely that the concessions will be renegotiated based on communal or smallholder land rights when land law reform is passed as national legislation.

Confronting the Need for Land Reform

Notwithstanding the relevance of land distribution for peace-building and economic development, no land reform took place during the first-term of the post-conflict elected government (2005–2011). Neither has the Liberian peace agreement (2003) addressed issues of natural resource governance or the need for land reform, although both are widely acknowledged to be at the root of the conflict.

According to the GRC (2007), ‘underpinning the discussions on land and property rights there is a need to develop a shared national vision of what land and property rights should be in Liberia in the future’. In 2007, approximately 75–90% of cases in all statutory courts, including probate, civil, criminal, circuit and appeal courts, were land or property related. Nonetheless, no special land court has been established; possibly because there is no clear guidelines about how to handle claims based on customary land tenure in the framework of the current legislation.

The 2014 Act Against Criminal Conveyance of Land aims to minimise the numerous land disputes in the courts by criminalising land scams. However, the courts’ capacity to convict and the police’s capacity to investigate such crimes are weak. As of 2015, the penalty system has not been transferred from the UNMIL to national security actors.

In January 2008, UN-Habitat approved a budget of US$1,120,700 to establish a Land (Reform) Commission. In 2009, the GRC received additional donor funding for the Land Commission. As a component of the PRS, the Land Commission, as an independent government institution, was established by Legislative Act in August 2009, with a five-year lifespan, guided by the overarching principles of securing land rights, economic growth, equitable benefits, equal access and protection, environmental protection, evidence-based land rights and policies that are understandable and available to all.

The executive order provisionally authorised the Land Reform Commission (LRC) until June 2010. In January 2015, by the Executive Order No.66, the president again extended the Land Commission’s tenure, during which the Land Commission will be transformed to a new Land Agency. A bill by the executive for the legislature’s consideration proposes that the overlapping

1063 GRC 2007 pp.5–6
1064 Unruh 2007b in 2009; GRC 2007
1065 Land Rights Policy Statement 2012 p.5
and conflicting functions of various agencies in matters related to land tenure will be consolidated under the new Land Agency.\textsuperscript{1066,1067}

The bill to establish the Land Commission highlighted two contradictory viewpoints in terms of future land rights. On the one hand, the legislature introduced the notion of indigenous rights. It was agreed that the bill to establish the Land Commission grants land ownership rights to the indigenous people who have inhabited the land for centuries. On the other hand, the executive’s position was to modernise land tenure in order to attract investments, and it was agreed that foreigners would be allowed to lease land for 50 years. President Johnson-Sirleaf observed that the constitutional clause prohibiting non-Liberians from owning land was hampering development, ‘Liberians lack the capital and the capability to develop and manage these lands’. The leasing of lands to individuals for a number of years only for the purpose of building shops does not reflect the country’s developmental agenda.\textsuperscript{1068}

The dual systems of law and entrenched poverty have prevented the masses from accessing the statutory legal system which regulates private property rights and commercial activities, those that are not labelled \textit{informal}. Likewise, cadastral surveys and land laws may drive the indigenous from the agriculture and construction industries. Manji (2006) argues that when land is allocated by the state, as it is when the government enters into agreements with corporations over natural resources or land leases, private citizens are required to deal with public offices and land laws become administrative laws.\textsuperscript{1069} Land law reform assumes one central authority over land ownership rights. In essence, the rule of law is preoccupied more with the statutory law to encourage foreign investments than it is distributive land law reform.

\textbf{Tenure and Distributive Land Reform}

Land reform can be divided into tenure and distributive land reforms. Distributive reform typically redistributes land to the landless, whereas land tenure reform makes changes in terms related to land holdings, ownership and control, and how they are modified through the law. In other words, tenure land reform is in fact a land law reform.\textsuperscript{1070} Given the complexity of the land disputes and the already intensive commercial land acquisition process by concession companies, distributive land reform would be a potentially explosive and challenging process in Liberia.

\textsuperscript{1066} The initial partners of the Land Commission included the Governance Commission, LISGIS (statistics agency), the Environmental Protection Agency, the Forestry Development Agency, the University of Liberia; five Ministries, (Agriculture; Land, Mines and Energy; Finance; Planning and Economic Affairs; Justice), UN Food and Agricultural Organization, UN Mission in Liberia, UN Development Program.
\textsuperscript{1067} The New Dawn, 20.1.2015
\textsuperscript{1069} Manji 2006 p.92–95
\textsuperscript{1070} Manji 2006 p.34–37
The formalisation of land rights may not necessarily be the best solution.\textsuperscript{1071} However, under the current dual ownership tenure in Liberia, traditional land rights are not protected under statutory law. Therefore, formalising customary land rights could bring them under the statutory judicial system. Moreover, commercial land acquisition is already so entrenched that the protection of customary communal ownership without equal access to the justice system and legal protection is but a romanticised indigenisation.

**Policy Recommendations and Proposed Land Right Act**

The Land Commission’s Policy Recommendations (2013) aim to address legal, administrative, boundary and ownership conflicts. However, the mandate of the Land Commission does not address existing or future concessions. Like any other laws, the proposed Land Right Act will not be retroactive and all concessions shall ‘remain valid and enforceable in keeping with their existing terms and condition for the period of their initial terms and any first extension thereof’.\textsuperscript{1072}

The Land Commission’s policy statement proposes several clarifications of current land statutes. Firstly, it suggests creating a new category of government land. This public land would be defined as land that is not government-owned, private or customary land. The GOL would be able to lease or sell both public and government land. It further proposes that the GOL will be able to ‘acquire Private Land and Customary Land through mutual agreement, eminent domain, or donation’ or may ‘acquire Private Land, but not Customary Land, through reversion’.\textsuperscript{1073} The 2014 proposed Land Right Act defines four categories of land: public land, government land, customary land and private land. Land that is not private, government or customary, would fall under the category of public land.

The Land Commission offers several policy recommendations to correct the inadequacies of the current land law related to eminent domain. For example, various legal arrangements that apply to customary land, such as Aboriginal Land Grant Deeds, Public Land Grant Deeds and Public Land Sale Deeds, would be combined into one category of customary land.\textsuperscript{1074} Furthermore, a 2013 Land Policy Paper proposes that customary land management practices that do not conflict with national land laws, the Constitution, or international legal obligations will be incorporated into the national formal legal framework.\textsuperscript{1075} Tentatively, the statement has wider implications for a judicial reform.

\textsuperscript{1071} Manji 2006 p.20
\textsuperscript{1072} Land Commission Land right policy 2013
\textsuperscript{1073} Land Commission 2013 p.8—11
\textsuperscript{1074} Land Commission 2013 p.17
\textsuperscript{1075} Land Commission 2013 p.17
Technically, the 2013 draft policy proposes equal legal status for customary land and private land, whether or not the community and its members hold a deed or title. The customary land ownership is limited to the land, but does not extended to the natural resources on the land. The customary land ownership ‘includes ownership of natural resources on the land, such as forests, including carbon credits, and water’. The GOL has exclusive ownership rights over ‘any mineral resources on or beneath any land or […] any lands under the seas and waterways’ and the GOL has the authority to regulate the use of and access to natural resources.

The proposed Land Right Act (2014) aims to ‘preserve the integrity of customary land’. The Land Commission proposes a nation-wide adjudication process for customary land. Firstly, each community with customary land or the right to own customary land should be self-identified, in a manner that a community would form a legal entity capable of entering into enforceable agreements and be held liable in courts. Secondly, the Land Commission proposes to identify, demarcate, register and publish all customary land holdings within two years of the Land Right Act being passed into law. In 2015, the Land Commission launched a tribal certificate inventory in an effort to establish a comprehensive tribal certificate database. In theory, these measures clarify the vague status of customary land and bring it under the statutory system. In practice, both proposals may prove to be overly ambitious.

In 2014 and 2015, the Land Commission commenced the Tribal Certificate Inventory Project to record, scan and validate all tribal certificates in four counties. In the past, tribal certificates have been the mechanism through which communal land was converted into private holdings. The Tribal Certificate Inventory Project is funded by the Swedish Government’s development agency SIDA, with technical support provided by UN-Habitat. The goal is to ultimately convert the tribal certificates into deeds. The project is in its first stage and communities are questioning how to gain access to land, particularly for income generating activities. For instance, if a clan or a chiefdom has a deed for its land, like many do, their deeded land has the same status as private land. Therefore, technically the land rental fee otherwise paid to the central government is payable directly to the clan or the chiefdom. An executive order of the president stopped the use of tribal certificates to obtain deeds. This prohibits the communities for converting their customary land to privately owned land, thus providing the protection of the statutory legal system.
The main criticism on the Land Commission’s policy recommendation is that it gives the lead to market led land acquisition and fails to adequately protect communal land rights. In November 2014, the president asked the Legislature to endorse the Land Right Act.\footnote{Liberian News Agency 29.11.2014} Like the earlier Forestry Act (2007) and the Community Rights Act (2009), the proposed Land Right Act aims to correct past injustices and proposes exemplary changes. However, the path from a policy recommendation to a new law and subsequent implementation will invariably be challenged by systemic corruption and citizens’ limited access to information, and ultimately by the weakness of the judicial sector.

It appears that the fragile post-conflict security situation is perpetuated by unclear land rights. Access to land and its resources, land tenure rights, the weak judicial sector and the fragile security situation are all intertwined, which underscores the importance of an institutional design for the post-conflict Liberian state. Beyond the security situation, land reform is also central to the future trajectory of economic development. Land right policies and tenure law reform are central components of the management of natural resources.

The policy recommendations of the Land Commission, although exemplary, are insufficient for addressing the need for distributive land reform because they provide no mechanisms with which to implement the recommendations. Land tenure reform, especially when it lacks the political will to recognise customary land rights, is insufficient for addressing past injustices. The international state-building practices have already given a head start to aggressive land acquisition by concession companies and prioritised concessionary and extractive economic policies over smallholder agriculture and the modernisation of the domestic economic sector. A land law reform led by concessionary economic policy may fail to ensure the democratic and inclusive management of natural resources. In essence, a distributive land reform ought to be an inclusive political process, not a technocratic process.

Low-Quality and Unsustainable Growth

The current undemocratic decisions-making in terms of natural resource governance excludes affected population and their representatives from decisions about how their resources are managed. In spite of extensive and intrusive international capacity building of PFM and associated improvements in revenue collection, there is no accountability in how these revenues are spent. Jensen (2008) describes the transparent and credible management of natural resources in East Timor under state-building as a form of economic justice.\footnote{Jensen in Call Ed.2008 p.129} In the small resource-rich Liberia, the transparent and democratic management of natural resources would be more effective.
than any other governance reform in addressing systemic corruption and foster sustainable economic and human development. The current economic growth can be characterised as a low-quality growth, which translates to social unrest, and ultimately into negative peace.

In the past, the elites enriched themselves by selling out the country’s natural resources while the impoverished indigenous population worked as labourers in plantation and mines.\(^{1085}\) According to the Clower Report (1968), the obvious alternative to a concession dominated economy was to develop commercial agriculture.\(^{1086}\) In general, the Clower Report’s recommendations were sound and far-reaching. First, enforcement of income tax and a taxation on inherited wealth. This would have applied to the elite as the indigenous population had no inherited wealth, nor hardly any income. Second, heavy taxes on consumer goods and encouraging Liberians to produce. Additionally, increased food processing and undertaking other activities performed by concessionaires. Fourth, train Liberians in skilled and technical jobs. Fifth, establish planning and control activities for fiscal policy, prioritise civil service efficiency, and reorganise tax and expenditure policies.\(^{1087}\)

However, according to the Clower Report the lack of policy stood in the way of development.\(^{1088}\) There were a number of reasons for the lack of policy. The elite would have objected to the income and inheritance taxes and the indigenous population had no wealth to tax. As the only consumer class, the elite would have also resisted the taxation of consumer goods. The concession companies were and are the food importers, importing almost all the food consumed by their staff.\(^{1089}\) The rice import licences and wholesale of rice has been a lucrative monopolised business feeding patrimonial networks. Hence, it is no coincidence that the social uprising of the late 1970s was called the rice riots.

The 1968 recommendations would benefit contemporary Liberia. Nevertheless, the Clower Report was not revisited in Liberian state-building planning, although similar fiscal policy recommendations have been included in the framework of post-conflict international state-building. The former term civil service efficiency translates into the contemporary capacity building. As discussed in this work, the lack of skill training and the systemic denial of access to education has been an institutional strategy to prevent social mobility and to exclude the indigenous from public positions. In the context of global tariffs, agricultural subsidies and trade politics, today’s aid language is less ambitious than the Clower Report, and instead of

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\(^{1085}\) Gwendolen 1968 p.134
\(^{1086}\) Clower et al. 1968, synthesized by Gwendolen 1968 pp.134
\(^{1087}\) Clower et al. 1968, synthesized by Gwendolen 1968 pp.135
\(^{1088}\) Gwendolen 1968 p.133
\(^{1089}\) See Frazer et al. 2012
recommending investments in domestic commercial agriculture, the contemporary state-building
talks of local subsistence farming. By and large, the commercial agricultural sector is left to
transnational corporations.
In spite of the Liberian economy being characterised as *growth without development*, the president
has repeatedly stated her vision that GDP growth is a crucial aspect of poverty reduction and that
the revenues from natural resources in the form of concessions and FDIs are a major driver of the
growth.\textsuperscript{1090} However, the GDP growth echoes the earlier growth without development and can be
characterised as a low-quality growth with high social and environmental cost.\textsuperscript{1091} It is still too
early to draw final conclusions, but it appears that the FDIs and concessions are not changing the
underlying structural problems that inhibit sustainable development.

Structural factors inhibiting domestic economic development include: the low capacity of human
resource and low per person productivity, the prohibitive cost of energy and terrible infrastructure.
Due to the one of the highest electricity cost in the world, poor infrastructure, low human capacity
and consequent low per person productivity, transnational concession corporations are unlikely
to create value chains in Liberia. It follows, that there are virtually no industrial activities in
Liberia. Relative insecurity does not encourage investments in permanent structures other than
those absolutely necessary for the export of raw materials. Furthermore, the extractive sectors are
not complementary. Consequently, Liberian economy depends on constant inflow of aid or loans.
In 2014, economic growth dropped to 2.2\%.\textsuperscript{1092}

In general, the extractive industries do not create many permanent well-paying jobs. They do not
require any domestic markets.\textsuperscript{1093} They transfer no technology, nor know-how to the host country.
They limit infrastructure investments to the minimum and they preferably accumulate as little
cost as possible before exporting raw materials. In essence, they are *extractive*.

The social obligations included in concession agreements substitute for the most basic public
services, which typically would be provided by a government. When a concession company
withdraws, which they frequently do due to the unprofitability, also their social obligations
included in a concession agreement are only temporary. Therefore, outsourcing public service
 provisioning to concessionaires does not improve the public service delivery. Moreover, many of the
infrastructure investments by concession companies are of low quality.

\textsuperscript{1090} CICR 2012 p.60
\textsuperscript{1091} Clower 1966
\textsuperscript{1092} World Bank 2014, Update on the Economic Impact of the 2014 Ebola Epidemic. Liberia, Sierra Leone, and Guinea, December 2014
\textsuperscript{1093} Frazer et al. 2012
Most extractive industries are capital and technology driven. Most of the experts working for them are expatriates. The concession agreements entail virtually no plans to integrate these extractive activities, including agribusinesses, into the local economy. The concession agreements include no substantial technology transfer. Because per person productivity is comparatively low in Liberia, the concession companies import staff for lower-level positions and even labourers. The training provided by the concession companies is only for the essential common functions, such as tractor or truck driving. This is hardly the level of skill development Liberian youth need in order to participate in the global economy. The promised vocational training, skill transfer and out-grow programmes are a low priority or are avoided altogether, and seen as an unnecessary cost factor. Consequently, the promised knowledge and technology transfer of does not occur. Under these structural circumstances, it is unlikely that the FDIs will translate into any significant job growth or upsurge in domestic economic activities or a domestic tax base creation in the near future.

Liberian natural resources are mortgaged’ (Urey 2004) to transnational corporations that export them in raw stage while avoiding any unnecessary investments in a high-risk and volatile Liberia. According to USAID, both the Liberian share in mining companies and tax income has increased. However, such increases are only temporary. When the natural resources run out, as they eventually will - because modern technology increases the rate of extraction exponentially - the tax revenue stream will invariably cease. This has already been the case in 2014 when transnational companies scaled down their activity and exports due to the Ebola crises, and lower world market demand, during which time GDP growth dropped to less than 1%.

The Liberian economy is fundamentally unsustainable. For instance, despite the discovery of oil, there are no plans to increase refining capacity. Even more absurd is that imported refined products are used for electricity generation, although hydropower and solar power are abundantly available. The president stated in her 2015 annual message, that the cost of electricity at 54 cents per kilowatt hour is probably the highest in the world. In addition, electricity is only available for a tiny fraction of the population.

The constitutional review consultations revealed that population is increasingly critical towards the government’s monopoly on mineral resources and weak protection of their land rights. According to the focus group, ‘the 1986 Constitution provides benefits for foreigners and leave Liberians poor’. The focus group proposed that Article 22(a) on land rights and Article 22(b)

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1094 Urey 2004
1095 USAID 2010
on mineral rights be modified so that customary land rights are protected under the Constitution and that 5% of the benefits from minerals are given directly to the owners of the land.\footnote{Hne, Wa, 2013, Political Parties Submit Initial Proposals to CRC, Daily Observer, 12.9.2013, http://www.liberianobserver.com/education/inside-crc-issues-and-strides (accessed 16.5.2015)} This would mean that communities and clans, who have customary ownership of the communally governed land, would also benefit from mineral resources, either directly or indirectly through the concession agreements. The CRA (2009) already provides that Community Forest Land is owned by the communities and that the communities have right to 55% of the income or revenue generated from large-scale commercial contracts on Community Forest Land. However, as previously noted, only a few communities have organised Community Forest Management Committees.

The rent-seeking mentality associated with extractive industries and concessionary economic policy weakens accountability links and the capacity of the democratic institutions, encourages corruption, breaks up local communities, and damages the environment. The situation is complicated by entrenched patrimonialism and clientelism, which hamper collective action and the nascent organic democratisation process. Regressive income distribution and elite corruption go hand in hand with the exploitation of natural resources.

In the framework of international state-building, structural problems are solved with better governance, which is achieved by reformatory economic policies, civil society oversight, social investments (e.g. the CDF to reduce social protest), and transparent information acts (e.g. LEITI).\footnote{Acosta p.62 in Lang et al. 2013} It is but a long-term memory lost to assume that technocratic PFM capacity building would change the trajectory of the Liberian political economy from growth without development to a more equally distributed benefits, sustainable forms of socio-economic development and sustainable natural resources management.
Chapter 9:
Conclusion

The limits of state-building, as summarised by Millar (2014), seem to be common knowledge. Standard practice, the menu of state-building, consisting largely of empirically unproven technocratic solutions, is applied to advance neoliberal ideologies ‘that remain, for the most part, disconnected form the local needs and concerns’. The way international state-building operates in countries subjected to it is similar from one country to the next. Historical peculiarities are rarely reflected in the priorities of international state-building. Hence, a paradigm shift in the way state-building is studied seem to be in order. Policy actors have long advocated for more context-specific state-building practices. The alternative approach applied in this study combines three recent state-building paradigms; the political economy aspect, the historical perspective and the ethnographic approach. The choice to combine these important emerging trends enables the study of how state-building is experienced locally and how it interacts on a local power bargaining fields. This approach facilitates an analysis of what roles are given to local actors in the framework of externally imposed state-building practices.

The inclusion of key state functional areas in the analysis highlights the cumulative, interconnected and mutually reinforcing aspects of state-building practices in Liberia. In focusing on a single isolated reform in one domain, state-building outcomes (which are typically measured by way of numerous metricises, such as the number of soldiers recruited, police trained, or GDP growth) may result a partial and distorted picture of local empirical state-building experiences. The core functions of a state are to provide security, administer justice, generate revenue and, according to the modern understanding of a state, to deliver public services. It follows that decisions concerning state-building priorities are not neutral because all sectors are interconnected; in other words, the institutional architecture of the state matters. Hence, the way state-building prioritises reforms effects the outcome of state-building endeavours. This was the case with the tactical delay of the judicial sector reforms, as well as land reform, which in turn had wider implications for establishing the rule of law. After a decade of international state-building, the judicial sector is weak and access to justice is limited. Nonetheless, sizeable concessions (more than half of the Liberian land mass) were awarded before land law reforms were initiated to protect indigenous land rights, and a separate land court to address the overwhelming number of land dispute cases is yet to be established.

1099 Millar 2014 p.156
1100 Call Ed. 2008 p.382
The state-building discourse originates from international relations and holds the state as the central actor. The neoliberal ideology presupposed consensus over the narrow definition of the state and who it includes. International state-building omits indigenous institutions and assumes that it is dealing with a rational Weberian state. The empirical definition of a state is omitted. However, the Liberian state consists of coexisting customary governance structures and statutory state institutions. Although the Liberian Constitution recognises traditional justice, state-building has applied a narrow definition of state. It follows, that many Liberian institutions remain outside the scope of international state-building practices, thus leaving the majority of the population excluded from the state-building enterprise.

In the framework of internationally imposed state-building, customary institutional arrangements are treated as inferior or with romanticised indigenisation, without realising that the state institutions and customary governance arrangements are organised by the same underlying social rule systems and operate according to the same logic. The historical perspective, combined with ethnographic knowledge, has revealed that the underlying social rule systems of both governance arrangements are based on reciprocal clientelist networks and neopatrimonial institutions. Therefore, state-building is building a phantom state. Nonetheless, it is not entirely accurate to conclude that the international state-building would have constructed an exact replica of the pre-war republic. Due to the long conflict, both systems of governance have grown increasingly alike, progressively interacting with and modifying each other. The local population, politicians and even international actors navigate between the two arrangements on a daily basis and engage in forum shopping.

The state-building framework creates rule systems to advance governmentality, yet the state’s enforcement capacity seems to lag behind, creating the constant need for further capacity building. The phrase capacity building has become so overused in Liberia that when begging for money, a village chief phrases his request, ‘you need to build my capacity’. Cliffe and Manning (2008) introduce the notion of buying capacity instead of building it. Under pressure to securitizes the state and to achieve fast debt relief, the training of local civil servants, those who had stayed in Liberia during the conflict, was not seen as a viable option. Domestic capacity building was undercut by having financed domestic-expatiate capacity through TOKTEN. These key positions in the administration translated into further lucrative agent positions, with the ability to negotiate concessions and administer various budgets. This gave a head start to a set of elites in key government positions and an opportunity to appropriate fiscal austerity to regulate payments. In

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1101 Author’s conversation with a village chief in 2013
1102 Call Ed. 2008 quoting Ciffe and Manning in Call Ed. 2008 p.370
an extremely poor environment like Liberia, access to state funds and government positions instantly shifts power arrangements.

International state-builders aimed to improve the capacity of Liberian state institutions without having first clearly defined their functions and objectives. This was apparent, for example, in the vaguely formulated objectives of the PRS implementation matrix or in the GEMAP objectives for individual agencies. Furthermore, output numbers can be subjected to manipulation. Those situated in privilege positions and who benefitted from state-building strategically filter and feed information to the IC. This is relatively easy, especially in tiny Liberia, because the same staff often occupy the positions that compile data, produce national reports and administer projects. In addition, having vague and generic formulations made it easier to offhandedly check boxes as achieved ‘without meaningful interpretation’.\(^{1103}\) Liberia’s state-building was touted as the poster child of state-building, at least initially. The GEMAP was heralded as a success story, qualifying Liberia’s entry to the HIPC Initiative and the subsequent completion of the HIPC programme to open the IFIs’ loan pipe lines. However, when the GEMPA activities are evaluated in a wider context of the concessionary economic policy, the framework consisting of various capacity building actives in various agencies but lacking intra-agency co-ordination, failed to build local capacity and to address the political decision making aspects. Instead, political question over ownership, distribution and rights are reduced to technocratic management issues. As a result, the root causes of systemic corruption remain unaffected.

Historically Liberia has been one of the HIPC and chronically dependent on an influx of aid and loans to cover its budget deficits. The role of the IFIs has been particularly intrusive. The IFIs, with their presidential partnership, set the tone for the economic policies immediately after the 2005 national elections. The IFIs’ conditionality centred on reopening the loan pipeline, securing revenues from concessions and improving PFM. As the dominant bilateral donor, the US assumed a leading role in the renegotiation of concession agreements under GEMAP,\(^{1104}\) the main PFM capacity-building exercise. Under GEMAP, the LEITI was implemented and Liberia was one of the first countries to become EITI compliant. The efficient implementation of the IFI’s conditionality boosted the IC’s confidence in President Johnson-Sirleaf’s reputation as a reformer. Instead of tolerating messy domestic political debates, plurality and power-sharing arrangements, international state-builders gave preference to a reformist, who was easier relate to, and who was competent in the jargon of international development including the operational

\(^{1103}\) Clark 2008 p.28

\(^{1104}\) USAID 2010, GEMAP evaluation report
procedures of multilateral donor institutions because of her background in the IFIs and banking sector.  

Democratic elections were held to legitimise the post-conflict government. The 2005 national elections were the first free and the most competitive elections in the history of the 150-year old republic. A direct jump from an oligarchic patrimony to a modern democracy is not realistic. Power-sharing begins by learning to tolerate opposition and domestic elite groups, especially when they have been elected to the national government through free and fair elections. In the aftermath of the 2005 elections, which were funded, orchestrated and monitored by the IC, the opportunity to foster emerging organic democratisation processes and to support nascent multiparty governance were missed. Democracy support failed to support political party institutionalisation. Consequently, despite two cycles of national elections, the international state-building transferred political power from the legislative to the executive, and during the first elected government term, Liberia reverted to executive dominance, clientelism and tribalism. The 2011 election experience, including intimidation of the opposition and electoral violence, further reduced confidence in the electoral democracy. In 2014, the USAID’s governance report concluded that the ‘president is extremely powerful and can adopt a particular policy when she wants to’.

After the 2011 elections, donors’ criticism of nepotism and cronyism grew louder. Nevertheless, the donors have to bear some of the blame themselves for not choosing to use their leverage to curtail cronyism and for too easily dismissing indigenous populations and politicians. Members of the opposition and state-building sceptics were too easily labelled as being unpatriotic and ‘spoilers’.

Although the Liberian state-building was supposedly apolitical, it interfered with domestic politics and modified the balance of political domain. In general, even when international actors do not directly engage in domestic politics, state-building projects are still appropriated, instrumentalised and politicised both locally and internationally. In Liberia, the IC combined technocratic interventions with soft political interference. The political interference was more apparent in 2011 elections, in which the IC openly endorsed the incumbent president. Moreover, the intrusive state-building framework, including conditionality, external experts in government agencies and independent commissions undercut the constitutional division of powers. Given the weakness of the judicial sector and its tendency to side with the executive, executive power goes unchecked. The selective capacity building of ministries and agencies, and the creation of independent commissions, subject the population to the unchallenged actions of the unelected (i.e. appointed) political technocrats serving at the discretion of the executive. These fundamental

1105. Johnson-Sirleaf 2009
1106. USAID 2015 p.22
institutional changes were made under the auspices of international state-building without the consent of the governed.

Call (2008) points out that the collateral damage of the international presence is clearly demonstrated in case studies, as in Liberia. A strong military presence may successfully keep peace, like the UNMIL did, while an overwhelming international presence may actually undermine peace and state-building. Especially, when the international presence ‘dominates the political landscape’ as was done in Bosnia and Herzegovina, East Timor, and now Liberia. In addition, donor coordination in Liberian state-building was exceptionally close. The relatively small size of the country and the fact that activities have primarily been limited to the capital city, Monrovia, have enabled close inter-donor contact on the one hand and donor– executive contact on the other. Comparatively, the affected population has lacked access to information and also channels with which to convey their experiences and views to the international forum.

State-building introduces a number of reforms, conditionality and programmes, each of which individually shape institutional arrangements. These externally-imposed, locally appropriated and seemingly temporary institutional arrangements, however, shape local power bargaining and are turned into more permanent institutional arrangements, policies and laws. If the objective of the Liberian state-building was to restore institutions to their pre-conflict state, then the mission has been accomplished. If, however, the objectives included supporting sustainable economic and social development and addressing the need for a fundamental change in the state–society relationship, then international state-building framework has had adverse effects. Nonetheless, these findings are not entirely new or unique to Liberia. Other state-building cases have already demonstrated that capacity building must be accompanied by service provision and that trade-offs between peace and state-building, such as state effectiveness and legitimacy, are ill-advised. Furthermore, earlier studies of development aid suggest that when aid is not utilised meaningfully at the local level, it is appropriated to advance the state’s technocratic aspects of a state. This was also the case with Liberian state-building.

The trends emerging out of Liberia’s experience with state-building have been observed in other countries subjected to state-building. The international state-builders looked to the quick securitisation of the state as their first priority. The Liberian SSR was circumvented by outsourcing the restructuring of the national army to a US defence contractor. The SSR was
ideologically guided by the securitisation of development. Additionally, Liberia’s experience indicates a trend toward the increasing commercialisation of state-building. The lack of domestic oversight and accountability in the SSR compromised human security, reduced public security provisions to regime security and, paradoxically, perpetuated the fragile security situation. Despite the hundreds of millions of US dollars spent in training and capacity building, public confidence in the national security forces, including the police, is low. The questionable integrity of the police force is not just a moral question. It results from a failure to consider the wider security sector architecture. In essence, an effective police force without a functional justice system is an oxymoron.

Donor organisations and academics alike argue that international state-building requires a long-term presence; however, the empirical evidence borne of state-building in Liberia does not support the notion that a longer engagement is any guarantee of greater success. The UNMIL was not only one of the largest, but also one of the longest UN peace keeping missions, contributed to by 42 nations. Despite two terms of post-conflict elected government the UNMIL has not handed over responsibility of all security functions to Liberian national security actors. This raises serious concerns about what will happen when the UNMIL eventually complete its withdrawal in 2016. Paradoxically, the population may even prefer the presence of international actors and their involvement in Liberia’s domestic matters, because trust in the rule of law is low and the threat of abuses of power are ever-present. Nothing illustrates this point better than just before the 2011 elections when the political parties requested that the international actors step in and provide oversight for election procedures instead of the NEC.

The Liberian state and its conflict are inseparable from the natural resources exploitation and associated benefit-sharing. Despite having never extended public service provision, public security or the rule of law over its entire territory, the Liberian state maintains a monopoly over natural resources and land. The apparent technocratic approach to PFM avoided political questions of natural resource governance and the distribution of associated benefits. The technocratic approach to the capacity building of state institutions failed to establish accountability links between revenue collection and public spending. In effect, the technocratic processes have been instrumentalise to undermine the existing constitutional and social accountability mechanisms. The concessionary economic policy has achieved fast GDP growth, but failed to translate into wider socioeconomic reforms. The PRS and foreign NGO projects have been limited to improving the self-sufficiency of the poor. Weak internal legitimacy relates to the consistent failure of the state to perform its functions, and not the least, weak public service

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1112 See Ebo and N’Diaye 2008
delivery. In a sense, the belief in development as a security strategy has been virtually non-existent in Liberian history and also from Liberian state-building projects.

Questions regarding the feasibility of outcomes in Liberian state-building are not so much questions of the level of Liberian state sovereignty or of international interventions, but of the more fundamental question over internal legitimatisation of the Liberian state. The internal legitimisation of the Liberian state is an issue of sustainable peace-building and ought to be explored in the context of Liberian political history, imperial presidencies, the longest absolute one party hegemony in history and the past quasi-apartheid arrangements. The key factors undermining the internal legitimacy of the Liberian state are summarised as follows: the systemic marginalisation of the indigenous population, the dual judicial system, excessive executive dominance and over centralisation of the state, giving rise to the dual system of governance, which in turn complicates natural resource governance. Like in the past, customary governance structures are tactically appropriated to suppress indigenous rights. Concessionaires make use of local chiefs, who are in fact on the Ministry of Interior’s payroll, to facilitate the land acquisition process and to manage the local population in concession areas. Nevertheless, the weak internal legitimacy issues could have been addressed after the 2005 elections by having conducted local elections, implementing national centralised educational sector reforms, supporting judicial reform, extending statutory courts to all counties and districts, supporting land reform before granting concessions to transnational companies, and by tolerating domestic debate over development priorities.

The failure to conduct local elections and concessionary economic policy are interrelated. The IC funded the 2005 and 2011 national elections. Notwithstanding, during the two terms of the elected government, no constitutionally mandated local elections were conducted. This has further advanced executive dominance in rural areas. The elected government officials depended upon, at least shortly before the elections, the support of their constituencies. In comparison, appointed government officials serve at the discretion of the executive. In the later state-building phase the IC has invested in decentralisation projects. However, constitutionally mandated local elections cost significantly less, but are more effective in decentralising political power than the decentralisation of overlapping and poorly defined state institutions.

International state-building has not only failed to support the internal legitimisation of the state, but the neoliberal state-building ideology has effectively advanced concessionary economic policies. The empirical state-building experience of the Liberian population has been exclusionary. Rents from natural resources, excessive foreign aid and lending remain the main revenue source for the state. According to the 2014 Investment Climate Statement, there are
virtually no industrial economic activities and in general the domestic economy is underdeveloped. As a domestic tax base, the rural population (e.g. the informal sector, petty traders and market women) are marginal at best. Therefore, the citizenry is insignificant as a revenue base for the state. Historically, prior to the 1980 military takeover, the indigenous and rural population had little to no representation in state institutions. The economically insignificant indigenous and poor represent a reverse version of the classic dilemma of ‘no taxation without representation’ (i.e. ‘no representation without taxation’).

In addition to aid and loans, the concession companies are the main source of state revenue. The elites fight desperately over political-economic power to emerge as the winner in the zero-sum game of politics and to gain control over the resource rents. Those in charge of the state, the small, powerful oligarchic group, run the state like a machinery to generate profits for themselves. The elite and state institutions are orientated toward the funding pipelines and seeking external legitimatisation. The cooperation between transnational commercial interests in natural resources, the state elite, and neoliberal state-building form a mutually beneficial equilibrium.

The Liberian state is effectively confined to the capital city, not just administratively, but because it consistently fails to invest in the most basic of infrastructure, such as accessible roads, communication, electricity and a national radio station. Investments in public sector infrastructure are outsourced through concession agreements to transnational corporations who invariably try to avoid unnecessary investments in volatile and high-risk environments. In spite of that, sizeable concessions were signed between 2006 and 2015. However, the projected investments and job creation have not materialised. The affected population sees few benefits from the natural resources extraction, losses their land rights, and experiences massive environmental damage caused by the extractive industries and plantation companies. As in the past, the rural population is a source of cheap labour for foreign companies. Because the marginalised segments of the population have nothing to gain and not much to lose from the current order, and because there are no formal channels to address grievances or participate in political-economic decision making, the risk of social unrest is high.1113 Social unrest poses a future threat, not only to the peace, but to economic development and to the very FDIs the concessionary economic policy is based on.

In essence, the state legitimatises the exploitation of natural resources. However, based on the experience of the affected population, there is little difference between the legal and illegal trade in resources in terms of the benefits they receive in the process. Strangely enough, were the trade

not regulated by the state, more direct benefits might be generated for the affected population. Historically, the flow of resources has been unidirectional, from the counties (i.e. the ‘hinterlands’) where the natural resources are located, to the capital city and those in charge of state institutions. The CDFs (2006) make a budget allocation directly to the counties. A legislative act (i.e. County Council in the Budget Act 2012)\textsuperscript{1114} established the local fund management structures. Although the misappropriation of these funds inevitably remains a point of criticism, the funds are an attempt to direct revenues from concessions back to the affected areas; the CDFs are a form of budgetary decentralisation.

State-building applies liberal peace ideologies and neoliberal economic policies in an environment where they are ill-advised. In Liberia, neoliberal economic policies continue to fuel historical grievances. Liberian state-building accepts neoliberal economic policies without further consideration of alternative economic policies or social development strategies. While the reforms and programmes have improved revenue collection and fiscal discipline, there are no mechanisms or processes to address how those revenues are spent. The natural resource management stops at tracking and collecting taxes, land rental fees and royalties. Internationally, the main criticism of programmes, such as the EITI, has been their failure to improve accountability over how revenues are actually spent.

Nevertheless, natural resource wealth and revenues from concessions are presented as the economic growth strategy. The AFT proclaims that Liberia will be a mid-income country by 2030. In terms of GDP growth, this may be achievable. Hopefully, with the GDP growth the human condition will also improve. However, revenue predictions from concession agreements rarely take into account the hidden social costs, the economic cost of pollution and the reduction of resource reserves. If the remaining resources, human capital, fiscal reserves, infrastructure, water, land and forests are accounted for, the balance sheet of the state may in fact be in the negatives. Hence, Liberia’s economic growth might be characterised as low-quality growth, if not negative growth. Furthermore, natural resources can only be mortgaged once, because in the global economy once an investor pulls out there is no endless line of investors willing to invest in high-risk and politically volatile environment. Additionally, the state has consistently failed to invest in basic infrastructure and education. It outsources the public service provision to concessionaires. However, the lack of most basic infrastructure and low human capital increase transnational corporations’ operational costs to the point of being unprofitable despite abundance of natural resources. The FDIs do not constitute real investments in terms of capital inflow or technology transfer to Liberia.

\textsuperscript{1114} Nyei 2014
The question running through this thesis is: how is access to the state distributed in state-building practices and reforms? The transition from externally imposed (i.e. conditioned) reforms to a domestic politics is fascinating. The international norms, qualifications and CV requirements are instrumentalised to determine who become the expert and the subsequent actor of state-building. Access to the state is distributed base on expertise, capacity and qualifications, and the pretence of cooperation. Those unwilling or ‘unqualified’ are excluded piecemeal from the process, be it the IDPs who refuse to leave the capital city to vote in the counties, the civil servants who lack the qualifications demanded by donors, the customary chiefs who administer traditional justice in conflict with international norms, or the legislators who oppose a law drafted by the IC. During each state-building project, access to state decision making powers, budgets and information is selectively distributed. In this fashion, not only does state-building extend international frontiers, it also draws boundaries across Liberian society. The state-building state becomes a limited access entity, with boundaries that the surrounding society appears to contest in order to be included. The Liberian state–society relationship remains weak and conflicted.

The underlying ideology and logic attributed to each state-building reform (e.g., PFM, SSR, PRS, property laws) produces a rather restricted understanding of violence, which underplays structural, economic and state violence, and seems to highlight other sources of violence. Less attention is paid to the constant presence of violence irrespectively its source. The outcome of state-building reforms seem not to be the sustainable development, peace or security as promised by the state-builders, but the rearrangement of political spaces driven by an intersected logic of underlying rule systems and power bargaining motivated by economic benefits. By refusing to allow for political debate over natural resource governance, state-building has ignored the root cause of the Liberian conflict. Despite the FDIs, debt relief and GDP growth, the Liberian state continues on its path of growth without development.

Sustainable activity is that which can be maintained over time, without outside assistance and without creating a scarcity of the resource in question. Liberian state-building is apparently developmental. Yet, sustainable economic development needs to be democratically constructed and cannot be externally imposed, because in essence, it requires the participation of the affected population. Therefore, how does one achieve the internal legitimacy of the Liberian state? The answer is found in the results of the recent 2015 constitutional reform process, which asked the Liberian population about their political and economic rights. Unsurprisingly, the majority of Liberians valued economic rights over political rights. This indicates that serious changes need to

1115 See Mitchell 2002, Rule of Experts, Egypt, Techno-Politics, Modernity
1116 Acosta in Lang et al. 2013 p.63
take place in the natural resource governance, in how benefits and rents from resources are to be distributed, in ownership rights to resources and land, and in political participation in decision making over how the resources are governed.
Annex

A sample list of NGOs operating in Liberia in 2014:
ACDI/VOCA,
ACTION10
Adam Smith International
Africare
American Jewish World Service (AJWS)
AmeriCares
Amref Health Africa
Catholic Relief Services (CRS)
ChildFund International
Church World Service
Conservation International
DAI
Doctors of the World-USA
Episcopal Relief & Development
Finnish Church Organisation
Foundation for Restoring Healthcare to Liberia, Inc.
Girls Education International
Giving Children Hope
Global Communities (formerly CHF International)
GlobalGiving
IMANI HOUSE, Inc
International Executive Volunteer Corps (IESC), OIC International
International Medical Corps
International Planned Parenthood Federation (IPPF)
IntraHealth International
Jembi Health Systems,
John Snow International (JSI)
Johnson & Johnson (foundation)
Lifeline Energy
Making Cents International
Management Sciences for Health (MSH)
MAP International
Medical Care Development International (MCDI)
Mercy Corps
miraclefeet
More Than Me
OFDA
OpenHIE
PATH
PCI-Media Impact
Plan International USA
Population Services International
Project Concern International (PCI)
Save the Children
SIM USA
Smile Liberia International, Inc.
The Global Citizens’ Initiative
Thought Works
United Church Of Christ (UCC), Lutheran World Federation
Volunteers for Economic Growth Alliance (VEGA)
Winrock International
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