

# U4 Expert Answer



## Overview of corruption and anti-corruption in Liberia

### Query

***Please provide an overview of corruption and anti-corruption efforts and actors in Liberia, with a special focus on Natural Resources (energy/petroleum). To the extent possible, please identify institutions, actors and processes that might support a pro integrity agenda.***

### Purpose

The document will be used in the planning of cooperation in order to identify any risks and ways to mitigate these.

Extractive Industries Transparency Initiative (EITI) through the Liberian EITI law. These efforts have been pro-actively supported by the international community and civil society through the Governance and Economic Management Assistance Program (GEMAP).

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### Summary

Liberia is perceived as having progressed in the fight against corruption over the last few years since the 2003 Accra Comprehensive Peace Accord. In particular, President Sirleaf has demonstrated a strong leadership on anti-corruption issues which has translated into ensuring the independence of the General Auditing Commission, supporting the establishment of the Liberia Anti-Corruption Commission, promoting transparent financial management, public procurement and budget processes and assuring Liberia's compliance with the

However, in spite of these positive developments, corruption remains endemic and permeates most sectors of the society. Low public sector salaries, lack of training and capacity, inefficient and cumbersome regulations create both incentives and opportunities for corruption across the public sector. In addition, Liberia is endowed with vast mineral wealth, some of it possibly untapped, including iron ore, timber, diamonds, gold and rubber, and in spite of progress made in this area too, natural resource management continues to face major corruption and governance challenges. As the country is set to join the group of oil producing

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countries, it is especially important to address these issues to ensure that potential oil boom benefits all Liberians instead of precipitating the country in a spiral of corruption and kleptocracy.

## 1 Overview of corruption in Liberia

Liberia is largely credited to have achieved remarkable progress in the fight against corruption since the 2003 Accra Comprehensive Peace Accord put an end to 14 years of brutal civil war opposing the Government of Liberia and the two rebel factions Liberia United for Reconciliation and Democracy (LURD) and the Movement for democracy in Liberia (MODEL). Following the 2003 Peace Agreement, a National Transitional Government of Liberia (NTGL) was created until peaceful and generally free and fair elections brought Ellen Johnson-Sirleaf - Africa's first female head of state and 2011 Nobel Peace Prize winner- to power in 2006, marking an end to President Charles Taylor's kleptocratic rule.

Years of conflict had undermined domestic governance structures and the rule of law, leaving the country in a state of economic chaos, destroyed infrastructure, dysfunctional institutions, widespread corruption and unemployment. From the early days of her mandate, President Johnson-Sirleaf vowed a zero tolerance policy for fighting corruption. (Sirleaf, E., 2006). Promptly acting on these words, she fired all transitional political appointees in the finance ministry pending an investigation into corruption allegations, announced that corrupt officials would be prosecuted, and dismissed 17,000 government workers in the first months of her mandate before moving to longer term legal and institutional reforms (IRIN, 2006 and Boucher, A. et al, 2007, Clark, M., 2008).

Until 2009, government efforts were heavily supported by the international community through the Governance and Economic Management Assistance Program (GEMAP), which aimed at promoting accountability, responsibility, and transparency in key areas of the country governance structures and illustrated the proactive – and somewhat debated - role the international community can play in promoting anti-corruption reform in a post-war setting.

## Extent of corruption

### *Positive governance trends...*

These combined efforts have contributed to achieve remarkable progress in terms of control of corruption. While Liberia still performs significantly below world and regional averages in many areas of governance, most indicators reflect positive governance trends since President Johnson-Sirleaf took office.

Transparency International's 2011 Corruption Perception Index ranks Liberia 91 out of the 183 countries and territories assessed, with a score of score 3.2 on a 0 (highly corrupt) to 10 (very clean) scale. In 2005, the country was ranked 137 out of the 158 surveyed with a score of 2.2.

The World Bank's Worldwide Governance Indicators confirm these positive trends, with Liberia scoring 36,4 on a 0 to 100 scale in 2010 in terms of control of corruption compared to 14.1 in 2005. The country has also made reasonable progress in other areas of governance assessed, especially with regard to political stability (29.7 compared to 10.1 in 2005), regulatory quality (16.7 compared to 4.9 in 2005) and rule of law (17.1 compared to 8.1 in 2005).

The 2011 Ibrahim Index of African Governance also indicates regular progress made over the past few years, with steady improvements in the country's scores since 2006 (Ibrahim Foundation, 2011). In the participation and human right sub-category, the country even performs well above regional average, especially with regard to participation where it is ranked third out of the 53 countries assessed.

The 2012 index of economic freedom also reflects positive change, with Liberia's score of 4.6 (out of 100) increasing more than two points compared to the previous year and higher scores in 6 of the 10 economic freedoms assessed, including freedom from corruption.

### *... In spite of persistent pervasive corruption*

In spite of these positive developments, corruption remains endemic and permeates most sectors of the society.

Petty bribery is widespread, often euphemistically referred to as "cold water" and "my Christmas", and, while acknowledging progress, external observers

report persisting endemic corruption in the country (US Department of State, 2011).

Citizens interviewed within the framework of the 2008 Afro barometer survey also perceive corruption to pervade most national institutions. The police and revenue collection are perceived to be the most corrupt institutions, with respectively 61 % and 52 % of the respondents believing that all or most of police and tax officials to be involved in corruption, followed by national government officials (45 %) and parliamentarians (44%). Traditional leaders (32 %) and the President Office (35%) are comparatively perceived to be the least corrupt institutions/officials. Experience of corruption is comparatively much lower, with only a minority of respondents reporting having paid a bribe or made a gift to access various public services in the year preceding the survey (Afrobarometer, 2008).

## Sectors most affected by corruption

### *Public sector corruption*

Low public sector salaries, lack of training and capacity, inefficient and cumbersome regulations create both incentives and opportunities for corruption.

With regards to **public administration**, government salaries are notoriously very low in Liberia, and despite efforts at reform, delays in paying government employees persist, creating incentives for public officials to complement their salaries by soliciting bribes (US Department of State, 2011). Although the Sirleaf administration has increased civil service salaries over 200 percent and continued payments of salary arrears incurred by past governments, reforms aimed at ensuring public servants a living wage are constrained by the concomitant pressure of controlling and prioritizing government expenditures.

While efforts are being made to harmonise and improve **the regulatory environment**, limited capacity, inefficient regulations, and conflicting rules across ministries and agencies leaves room for discretion, arbitrary enforcement of the rules and corruption (US Department of State, 2011). More than a third of the firms interviewed within the framework of the 2009 World bank/IFC enterprise survey identify corruption as a major constraint to doing business in the country and more than half of them expect to give gifts to public officials to “get things done” (55.4 %) or get a construction permit (62.9 %) (World Bank/IFC, 2009).

Significant progress has been recorded in the area of **public financial management**, with efforts to strengthen the transparency of government procurement, tax collation and more generally budget processes, resulting in a 34.5% increase in government revenues in FY2008-09, on top of the 47.7% increase in FY2007-08 (US Department of State, 2011). While some measures are underway to reform the tax system, revenue collection remains affected by an unclear and unnecessarily complex tax structure as well as government’s low fiscal management capacity, creating opportunities for fraud and corruption (Global Witness, 2011). In terms of budget transparency, Liberia scores 40 (out of 100) in the 2010 Open Budget Index, which suggests that the country still provides minimal information to the public in its budget documents (International Budget Partnership, 2010). However, this represents a dramatic increase in the amount of budget information provided between 2010 and 2008, where the country only scored 3 out of 100. In spite of reforms aimed at promoting transparent procurement processes, there is still room for improvement in this area as well. More than half of the firms interviewed in the 2009 World Bank/IFC survey report making gifts to secure government contracts, with the value of gifts amounting 3,5 % of the contract value.

The **judiciary** still struggles with the legacy of decades of political interference and lack of independence from the executive, while its efficiency is further hampered by major challenges of corruption, lack of qualified personnel, insufficient funding, poor infrastructure, weak administration and poor case-flow management (Bertelsmann Foundation, 2011). There is also a need to reform the statutory and customary law systems.

### *Natural resource management and extractive industries*

Liberia is rich in natural resources, some of it possibly untapped, including iron ore, timber, diamonds, gold and rubber, which significantly contribute to the country export earnings.

### *Forestry*

When the Peace Agreement was signed, forest represented 30 to 40 % of Liberia’s territory and a potential major source of legitimate revenue for the new government (Boucher, A. et al, 2007). Under the Charles Taylor administration, the forestry sector was notoriously plagued by corruption and illegal logging. In February 2006 President Sirleaf revoked all existing timber concession contracts which had been widely criticised for being awarded in a corrupt fashion and

executed in an environmentally unsustainable manner. All concessions were reviewed, new forestry legislation was passed and a Forestry Reform Monitoring Committee was created to regulate future concession contracts. Reforms resulted in the UN Security Council lifting the ban on Liberian timber exports in 2006 (Cook, N., 2010). A consortium of donor governments and specialised agencies joined efforts to support the Liberian government to implement timber reforms through the Liberia Forest Initiative (LFI).

According to [Global Witness](#), governance challenges remain in spite of these reforms and the timber trade in post-conflict Liberia remains plagued by corruption and mismanagement. Logging contracts continue to be allocated to questionable companies that lack the necessary money or capacity. An example is the awarding in 2008 and 2009 of concessions to the Malaysian timber giant Samling, a company with a long track record of destroying tropical forests and abusing local communities, through an allegedly flawed bidding process.

### **Oil, gas and mining**

The country is also set to join the group of oil producing countries, after oil was discovered in the Sierra Leone-Liberia basin, Sierra Leone in 2009<sup>1</sup> and Liberia in 2012<sup>2</sup>. Since 2004, the government has awarded ten offshore oil and gas production sharing contracts and one onshore reconnaissance permit (Global Witness, 2011). However, there are concerns that the sector is not sufficiently regulated, and face major transparency and governance challenges.

According to a 2011 Global Witness report, the country's emerging energy sector is affected by corruption, weak oversight and outdated laws that may undermine its ability to fully maximise the benefits from oil revenues (Global Witness, 2011). A major problem relates to an inadequate legislative framework to protect the environment and the local communities. The Petroleum Law and Model contract in particular do not contain adequate protection for communities affected by concessions. In addition, NOCAL, the national oil company, lacks resources and capacity to oversee the

oil sector and the operations of oil companies. Problems are starting to emerge such as corruption and illegal company practices. NOCAL appears to have engaged in corrupt activities, such as the payment of lobbying fees to legislators to have oil contracts passed. Among other recommendations, Global Witness recommends that the government quickly acquire the necessary capacity and legal infrastructure and that the power to regulate be taken away from the National Oil Company and given to a separate agency (Buttly, J., 2011).

Like timber, the **exploitation of diamond** in Liberia was largely seen as a major source of fuelling and exacerbating the conflict and Liberian diamonds were referred to as "conflict or blood" diamonds, triggering a UN export ban on Liberian diamonds. In order to meet the Kimberley process certification criteria, the Liberian government suspended the issuance of diamond mining licences, all of which expired in 2005, making diamond mining effectively illegal pending the country's accession to the Kimberley process (Cook, N., 2010). The government established a diamond office and several regional certification offices as well as embarked in training and capacity building activities. The UN Council lifted the embargo on Liberian diamonds in 2007 following the country's accession to the Kimberley process.

### **Liberian Extractive Industry Transparency Initiative**

In 2009, the government passed the landmark Liberian Extractive Industry Transparency Initiative (LEITI) law, mandating all payments due to Government from extractive industries to be disclosed, reviewed and used for the benefits of all Liberians. Later the same year, Liberia became the first African country to become compliant to the standard of the EITI and published its second EITI report in February 2010, which highlighted a minimal net discrepancy between what the government said they received and what the companies said they paid. Liberia is also the only country that includes agriculture and forestry concessions in its EITI process.

Revenue Watch Institute also praises Liberia's EITI implementation to be relatively robust. Liberia shows above-average reporting on generation of revenue, and publishes extensive information through its EITI process. While contract transparency is rare among all the countries surveyed, Liberia is one of the few governments that publish their contracts (or leases) in full. Liberia scored 60,5 out of 100 in the 2010 Revenue

<sup>1</sup> These prospects seem to be confirmed by the announcement on 21 February 2012 of a potentially significant oil discovery. Please see: <http://allafrica.com/stories/201202210843.html>

<sup>2</sup> Prospect confirmed by NOCAL <http://www.nocal.com.lr/>



Watch Index, which characterises countries providing their citizens with information about their revenue from the extractive sector (Revenue Watch Institute, 2010).

## 2 Anti-corruption progress in Liberia

### Overview of anti-corruption reforms in Liberia

Amidst rampant corruption, President Johnson-Sirleaf demonstrated strong leadership against corruption from the early days of her mandate. She announced her commitment to a corruption free civil service and commissioned a financial audit of the outgoing transitional government which had been accused of corruption. When allegations of corruption were justified, the government has reacted by suspending or dismissing corrupt civil servants, including high level public officials such as senior Central Bank of Liberia officials (Bertelsmann Foundation, 2011). She also vowed to declare her assets and required that her appointees and cabinet members publish a list of their assets in the local press (Clark, M., 2008). As early as March 2006, she issued an executive order that created a code of conduct for public servants (Boucher, A. et al, 2007). In 2006, the government, along with civil society and Liberia's international partners, developed a national anti-corruption strategy, which led to the establishment of the Liberia Anti-Corruption Commission (LACC) in 2008 and enactment of a Freedom of Information Act in 2010.

The new administration also embarked on longer term legal and institutional reforms, aimed at institution building and at improving the legal framework against corruption. Civil service compensations were also dramatically increased to reduce civil servants' vulnerability to corruption. Other anti-corruption reforms included ensuring the independence of the General Auditing Commission, establishing the Liberia Anti-Corruption Commission, reforming financial management, promoting transparent budget processes and assuring Liberia's compliance with the Extractive Industries Transparency Initiative (TLC Africa, 2010). Steps were also taken to strengthen the Public Procurement Commission, improve the governance of state-owned enterprises and address capacity challenges in the public sector (IMF, 2010).

A very salient feature of Liberia's anti-corruption efforts was the heavy involvement of the international

community in the reform agenda, placing non-Liberians at the centre of the country's internal administration (Reno, W., 2008). Following a 2005 meeting of major donors, the Governance and Economic Management Assistance Program (GEMAP) was established as a program concept allowing international donors to intervene and assist in managing assets and expenditures and building the capacity of the Liberian government (Clark, M., 2008). Until 2009, GEMAP provided technical assistance to and monitoring of the Liberian Government in six key areas, including financial management and accountability, procurement practices, budget and expenditure management, control of corruption, strengthening key institutions and capacity building. This approach has been questioned by some segments of Liberia's vibrant civil society who perceived GEMAP as an infringement of national sovereignty and not a genuine capacity building program.

However, overall, anti-corruption efforts benefited from a unique set of factors that contributed to their success, included a strong focus on transparency in government activity, shared authority between Liberian officials and external experts, the existence of political will to address corruption and sustained donor support (Clark, M., 2008).

### The legal anti-corruption framework

The Liberian Penal Code criminalise active and passive corruption, extortion, attempted corruption, foreign bribery and money laundering, as well as misuse of entrusted property (Global Integrity, 2009).

While there are regulations requiring an impartial, independent and fairly managed **civil service**, there are no regulations to prevent nepotism, cronyism, and patronage within the civil service. According to Global Integrity, the civil service bureaucracy employs people with close party ties, and those who are not are pressured to join the ruling party. The President was rebuked by civil society groups for requesting the employment of her partisans in the civil service (CENTAL, 2010).

As of 2009, a **whistle-blower protection** law had not been enacted by the national legislature, but in 2009 and 2010, the President issued Executive Order 22 to Protect Whistleblowers. However, many public servants were unaware of the Order, it remain underutilized and with no complaints mechanism in place and civil servants reporting cases of corruption, graft, abuse of

power, or abuse of resources are not adequately protected. According to Global Integrity, people reporting corruption have been fired, marginalized and persecuted.

All appointed officials of government based on Executive Order 38, which prescribes a code of conduct for public servants in the Executive Branch are required to file an **asset disclosure** form. The forms are lodged with the Liberia Anti-Corruption Commission (LACC), which has developed a guideline related to disclosure and verification. Some officials are resisting public disclosure and access to asset disclosure records.

As of 2010, **access to government information** is guaranteed not only in the constitution but in the Freedom of Information Act (FOIA). Much needs to be done to make the law operational. Some level of education is being undertaken by civil society, the government needs to invest resource in citizens' understanding and use of the law. Despite the existence of the FOIA, access to government records is difficult.

New **public procurement and public financial management laws** have been enacted by the new government to make budget, financial and fiscal management more transparent and participatory. The new regulations improving the transparency of the government's Public Procurement and Concession Commission (PPCC) are relatively robust, with threshold for competitive bidding, limits on sole sourcing, conflicts of interest regulations, blacklisting etc. However, in practice, implementation is uneven (Global Integrity, 2009).

With regard to **fiscal transparency**, the government has also taken a number of steps to reform revenue collection such as launching in 2010 the Integrated Tax Administration System (ITAS) and the website link for its Revenue Department to streamline bureaucratic procedures and reduce the cost of compliance to taxpayers (US Department of State, 2011). The tax collection agency has a professional, full-time staff and progress has been made, as evidenced by the constant increase of tax revenues since 2005.

While the legal framework governing **political finance** is fairly strong – except with regards to limits on limits on individual donations to political parties and candidates, regulations governing the financing of political parties and candidates are not effective in practice. The National Elections Commission (NEC)

has repeatedly failed to implement its own campaign finance regulation.

In terms of **international commitments**, in addition to acceding to the Extractive Industry Transparency Initiative (EITI), Liberia is signatory of the UN Convention against Corruption (UNCAC) and the African Union Convention on Preventing and Combating Corruption (AUCPCC).

## The institutional Framework

President Sirleaf's administration has taken major steps to improve the institutional framework against corruption, with measures such as ensuring the independence of the General Auditing Commission, supporting establishment of the Liberia Anti-Corruption Commission and strengthening the Public Procurement and Concession Commission. However, according to Global Integrity, many government agencies are viewed as open to political influence, including the tax agency, the newly established anti-corruption agency, the state-owned enterprises oversight committee, and the regional courts.

### *Liberia Anti-Corruption Commission (LACC)*

The Liberia Anti-Corruption Commission has been established in 2008 with the mandate to investigate corruption cases. Evidence is then turned to the Ministry of Justice for Prosecution, which is perceived by many as a major drawback (Global Integrity, 2009). However, the LACC is empowered to prosecute any case that the Ministry of Justice declines to prosecute, which has never happened in practice (US Department of State, 2010). The commission faces challenges of capacity, human, material and financial resources to effectively fulfil its mandate. With minimal staff and budget, the commission investigated 8 cases and recommended 4 for prosecution in 2010 (US Department of State, 2010). As there were some concerns over the independence of the commission, an amendment to the LACC Act is being sought to give it full prosecutorial power independent of the Ministry of Justice.

### *General Auditing Commission (GAC)*

The General Auditing Commission is Liberia's supreme audit institution and is rated very strong by Global Integrity. The Sirleaf administration took important steps to protect the independence of the commission and make it independent from the executive by reporting to the legislature. Audit and oversight has significantly

improved. The General Auditing Commission has published regular audits on large spending ministries which are publicly available on the GAC website (IMF, 2010). While the commission would need more human resources, substantial investment is being made in human capacity and maintaining full time professional personnel and where there is need, external experts are recruited. Lack of enforcement is perceived as a shortcoming of the government especially the legislature, which is suppose to review the findings and recommendations of the GAC. According to Global Integrity, follow up by government on audit reports is relatively weak.

### *Public Procurement and Concession Commission (PPCC)*

The Public Procurement and Concessions Commission (PPCC) replaced the Contract and Monopolies Commission in 2006 with the mandate to oversee, regulate and monitor all forms of public procurement and concessions practices in Liberia. (<http://www.ppcc.gov.lr/index.php>). The PPCC approves all agreements, including investment agreements, to which the Liberian Government is a party or which affects assets owned by the Liberian Government. The PPCC is also empowered to promulgate regulations on the process governing various types of agreements. The PPCC benefits from bilateral and multilateral donors' support and technical assistance. Like many of the new commissions, inadequate funding has hampered operational effectiveness. Limited manpower has made monitoring contracts and procurement difficult.

## Other stakeholders

### *Media*

Freedom of speech and of the press is guaranteed by the constitution and, according to the 2010 report on human right practices and Global Integrity; the government generally respect these rights in practice (US department of State, 2010). Citizens and the media can usually criticise the government without fear of reprisal. The independent media is active and expressed a wide variety of views without restrictions. However, there have been some instances where journalists covering corruption or other abuse of power issues have been harassed by security officers (Global Integrity, 2009)

There are concerns of the integrity of the media community. There have been instances where

journalists accept payments for publishing articles and there have been complaints that they do not always report in a professional manner (Global Integrity, 2009). In time of election campaigns, journalists tend to provide more coverage to major candidates and some accept/request bribes to give candidate a stronger profile. Most politicians have installed their own media people at a newspaper, radio or TV station to work against their opponents.

There are approximately a dozen newspapers, whose distribution is mostly limited to Monrovia, including the government's "New Liberian" newspaper, but due to cost and transportation challenges as well as high illiteracy rates, radio remains the primary media in the country. The government is not reported to impose restrictions on radio operations or restrict access to internet.

### *Civil society*

The constitution also provides for the right of association and the government is largely credited to respect this right in practice (US Department of State, 2010). Citizens can organize themselves into any groups of their choice, even those that oppose the government in a legal manner, as long as the group's objectives are legal. The government does not create barriers to the establishment of anti-corruption organisations, and many new organizations have been sprouting up such as the Publish What You Pay Coalition; the Centre for transparency and Accountability in Liberia, Transparency International's national chapter in Liberia; the Liberia Freedom of Information Coalition; and Actions for Genuine Democratic Alternatives (Global Integrity, 2009).

While freedom of expression is guaranteed, there have been instances where civil society organisations have been bothered for criticising the legislature, such as when the senate ordered three civil society organisations to issue a letter of apology that was published in 10 newspapers and read on local radio stations for five consecutive days (US department of State, 2010).

*Some civil society actors that could support a pro-integrity agenda*

(This is not an exhaustive list).

***Centre for transparency and Accountability in Liberia (CENTAL)***

Transparency International's local national chapter in Liberia focuses on fighting corruption and promoting good governance.

***Liberia Democratic Institute (LDI)***

LDI has been promoting social justice, democracy and good governance in Liberia and Africa since more than a decade, focusing on political accountability and citizen participation, natural resource governance, elections, budget expenditure tracking, etc.

***The Liberia Media for Democratic Initiatives for Peace Democracy and Development (LMDI)***

LMDI promotes democratic governance through media related activities, focusing on media sensitisation, empowerment and training.

***Sustainable Development Institute (SDI)***

SDI focuses on natural resource governance and community rights, advocating for a right-based approach to natural resource management and governance.

***Liberian Oil and Gas Initiative (LOGI)***

CENTAL, LDI, LMI and SDI founded LOGI with the goal of strengthening good governance in oil and gas development through broad-based collaboration and participation.

***Publish What You Pay Coalition***

The PWYP Liberia is a coalition of 20 civil society organisation dedicated to promote revenue transparency in Liberia.

***Liberia Freedom of Information Coalition (LFIC)***

The LFIC replaces the Free Expression Coalition and includes leading advocacy groups that promote access to information and freedom of expression. The Coalition was instrumental in enactment of the Freedom of Information Act of 2010.



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