

**IMPROVING GOVERNANCE AND RULE OF LAW OR UPHOLDING
THE STATUS QUO? TRANSITIONAL JUSTICE PROCESSES IN POST
CONFLICT LIBERIA**

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Abstract

Transitional justice processes have become a vital component of any peacebuilding and post conflict reconstruction efforts and have been receiving much attention within the global justice arena. This research is an attempt to make visible the experiences of post conflict Liberia in implementing transitional justice processes as part of a broader post conflict reconstruction agenda to realize a more stable country and also to improve the fragile peace and security situation. By engaging with the mechanisms chosen by the state, this research reveals how these mechanisms have been implemented and how these processes are contributing to improving the face of governance and rule of law. The research finding points to the fact that for the mechanisms of transitional justice to succeed more efforts is required beyond the rhetoric of adopting them as a means of national reconciliation, healing and institutional restructuring.

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List of Abbreviations

| | |
|--------|--|
| CDDRR | Cantonment, Disarmament, Rehabilitation, and Reintegration of combatants |
| CPA | Comprehensive Peace Agreement |
| ECOWAS | Economic Community of West African States |
| INCHR | Independent National Commission on Human Rights |
| NGO | Non-governmental Organization |
| PRSP | Poverty Reduction Strategy Paper |
| SSR | Security Sector Reform |
| TRC | Truth and Reconciliation Commission |
| UNDP | United Nations Development Programme |

Introduction

This Chapter presents a brief background to the study as well as the puzzle that this study intends to find an answer to. It concludes by giving a brief outline of the entire paper.

1.1 The Background

A major challenge for every nation emerging from protracted conflict is to ensure that it takes steps and policy actions to enable it to make a smooth transition from violence, oppression and instability to one of peace and stability with the hope to reestablish democracy and societal cohesion. United Nations Department of Economic and Social Affairs posits that rebuilding peace and development after a conflict requires “a committed leadership that guarantees the protection of human rights, ensures rule of law and security, reestablishes and strengthens credible, transparent and accountable public administration institutions; reconstructs an efficient, representative public service that achieves equitable service delivery and re-generates an equitable post-conflict economy” (2007, 4). Therefore, the state requires an overhaul in terms of reconstructing its institutions by bringing it in tune with its new face of recovery; a society where the rights of its citizens are respected and as well as allow for institutions and institutional processes to play mediatory role between the state and its citizens.

Transitional justice processes have emerged as one of the main areas of intervention in restoring societal order and cohesion in countries making a transition from violence conflict and oppressive rule to stability. According to the International Centre for Transitional Justice (2008, 1), transitional justice processes emerged in the late 1980s and early 1990s, on the heels of ensuring that justice takes its course as part of the political changes that was been witnessed in Latin America and Eastern Europe. This was the approach used by human rights activists and

campaigners who wanted the atrocities of past regimes addressed without threatening in anyway the new wave of political change. Thus, transitional justice processes have become a part of any liberal peacebuilding operation with the view that for societies to make a transformation from a turbulent history, it needs to confront the wrongs of the past to enable it forge ahead (Andrieu 2010, 538). In this light, the ability to rebuild a new image of the state and to re-establish effective governance as well as respect for the rule of law is very essential for sustaining peace and development.

How do these processes of using transitional justice mechanisms in rebranding of the state through revisiting the past and taking steps to improve the present by reestablishing governance and rule of law works is the focus of this paper. Using the case of Liberia, this research explores how transitional justice processes work in reality as part of a broad post conflict reconstruction process.

1.2. The Problem.

Liberia recently emerged from the ravages of civil war. The cause of the conflict is traceable to historical state formation processes as well as the exclusion and marginalization from institutions of political governance and access to economic resources by a segment of the population. This manifested in the lack of trust in governance institutions and structures, lack of transparency and accountability, and high levels of corruption in the judiciary and in government (Tarr 2008). This conflict therefore is one whose cause cannot be linked to one source but a myriad of factors which overtime led to state failure.

The fighting in Liberia lasted for 14 years and left behind a collapsed state and a country torn between rival armed warring factions, thus making it virtually impossible to enforce law and order since there was no central body to direct the affairs of the state (Jaye 2003:3). The Liberia Poverty Reduction Strategy Paper document indicates that

The war killed an estimated 270,000 people, created hundreds of thousands of refugees and internally displaced persons, and shattered the lives of thousands of others. It destroyed basic institutions of governance as well as significant physical infrastructure and social capital. The economy collapsed, impoverishing much of the Liberian population (Liberia PRSP 2008, 14).

Additionally over 50% of the population suffered some form of sexual violence during the conflict (Jaye 2009:1). This gory state of affairs now requires that government takes urgent steps to address the issues that led to the outbreak of conflict in a dispassionate manner to ensure that the state does not return to the past.

The current government of Liberia came to power in 2006 and has since started the process of rebuilding and reconstruction of the state destroyed by the years of civil war. The government has identified four priority areas which they refer to as pillars that the government intends to concentrate its reconstruction efforts on to rebuild the nation. These pillars are “enhancing national security; revitalizing the economy; strengthening governance and the rule of law and rehabilitating infrastructure and delivering basic services” (Liberia PRSP 2008, 17). The third pillar of strengthening governance and rule of law focuses on transitional justice processes to ensure that the country develops in a path of democracy, respect for human rights and the rule of law. The goal of the government in this respect is to “work in partnership with all citizens to build and operate effective institutions and systems that will strengthen peace, promote and

uphold democratic governance, accountability, and justice for all” (Liberia PRSP 2008:85). Despite this attempts by the government, Pajibo (2007) argues that the factors that led the country down the path of war are still visible and many perpetrators of the crimes of the past are still strong and powerful and they continue to undermine the authority of the state by seeking to recapture the state to continue to create the conditions that perpetuate impunity and misrule (2007, 296). What are the motivations that some people have that, they will prefer the status quo situation of impunity to remain and hence will stifle attempts at transforming the state? This research therefore investigates how the government of Liberia is implementing its transitional justice options in pursuit of creating a more stable state and consolidating the fragile peace in the face of emerging opposition to the reconstruction efforts.

1.3 Research Hypothesis

This paper worked with a central hypothesis that transitional justice mechanisms, both as backward looking and forward looking mechanisms improve governance and rule of law in post conflict societies.

1.4 Relevance of the study

This study is relevant to bring to light the peculiar challenges of implementing post conflict reconstruction transitional justice processes from a developing country perspective bearing in mind the peculiar developmental challenges that this part of the world already face. Also, the choice of topic also relates to my own personal observation of how transitional justice is perceived as one of a witch hunting process and one that is detached from peacebuilding and conflict resolution processes. This research therefore is partly an attempt to understand the inherent complexities of transitional justice processes which make them to be perceived in this light.

1.5 Chapter Outline of the thesis

This research is organized in five chapters, with the first chapter introducing the research topic of transitional justice and the hypothesis to be tested. Chapter two presents the theoretical and conceptual framework to provide an analytical lens to the experience of Liberia in transitional justice mechanisms. Chapter three briefly summarizes the situation of Liberia before, during and after the war as well as the Peace accord on which the peace process hinges and its main deliverable in relation to transitional justice processes. Chapter four present the finding of how the government of Liberia has implemented transitional justice processes (back and forward looking processes), whilst Chapter five presents the conclusions.

Chapter 2: Theoretical and Conceptual Framework

This research seeks to understand how transitional justice processes are dealt with in post conflict settings and how these processes contribute to dealing with and improving the core issues that led to conflict and state failure in the first place. To be able to do this, it is important to provide an analytical lens through which transitional justice mechanisms set in a post conflict context can be viewed and analyzed. This chapter discusses the theoretical concepts that this research will engage with namely transitional justice from post conflict perspective, governance and rule of law. These concepts are deemed important to allow for a clearer understanding of what transitional justice means or translate to within the context of post conflict Liberian state.

2.1 The Arena of Transitional Justice

As a discipline, theorization on transitional justice has evolved a great deal in the past two decades. From being a human rights instrument of democratization, it has become an essential component of any liberal peacebuilding operation (Andrieu 2010, 538). Van der Merwe et al posits that many analyst and advocates use the term transitional justice to “refer to societal responses to severe repression, societal violence, and systematic human rights violation that seek to reestablish the truth about the past, determine accountability, and offer some form of redress, at least of a symbolic nature” (2009, 1-2). Therefore, transitional justice processes are meant to address past systemic injustices and as well human right violation if a society is to move forward beyond its turbulent past and create a new stable and social order.

2.2 Transitional Justice in Post Conflict Setting

In post conflict settings, transitional justice often involves, but is not limited to transitions towards democracy and the rule of law. In this regard, the 2004 Report of the UN Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies

acknowledges that experiences made in the past decade have shown that consolidating peace in immediate post conflict situation as well peacebuilding in the long term is not achievable unless the population is assured that the wrongs of the past that they suffered will be sufficiently addressed through legitimate structures and processes of peaceful dispute settlement and fair administration of justice (2004, 3). Hence, transitional justice mechanisms in post conflict settings are relatively new and aim to provide channels to deal with the past for countries and populations that have emerged out of protracted civil and political unrest and seek for opportunities for healing and redress from the past. Other scholars like Sooka (2010, 24) argue that it involves the political choices that are made by states when confronting the pattern of human rights violations committed by former regimes and it is important to ask the question ‘where is the transition leading?’ ‘Where does the transition begin and when does it end?’ and ‘is an end to the conflict enough?’ These questions are useful for this research to examine the options that have been chosen by the government to deal with the injustices of the past and how this shapes the future direction of the state.

Therefore, transitional justice in post conflict setting is a double edge sword. It is both a backward looking as well as a forward looking process. Backward looking aimed to address past wrongs and forward looking aimed at restructuring and instilling a culture of respect for human rights, institutional functioning as well as law and order. These processes of backward looking and forwarding are very crucial for this research as they form the bases of testing how transitional justice mechanisms work in practice based on the options that state emerging out of conflict select as part of their rebuilding and reconstruction processes.

2.2.1 Transitional Justice as backward looking

The tools for looking back include trials, truth commissions, reparations, apologies, and purges¹ and they form part of a larger transition policy encompassing economic, political, and legal reforms (Posner and Vermuele 2004, 766). To lend credence to bringing the perpetrators of past crimes and abuses to justice, the United Nations through the Rome Treaty of July 1998, set up the International Criminal Court (ICC), and thus places prosecution of criminals of war on the transitional justice agenda (Villa-Vincencio 2010). Consequently, countries emerging out of conflict have the option of selecting a tool or a combination of tools to revisit its turbulent past as a way of finding solutions to address the issues of injustices and abuses that citizens suffered. This is to ensure that measures are taken to guard against the excesses of the past. Through these backward looking mechanisms the state acknowledges its past and initiates action to remedy this violations. This backward looking process will help analyze the experience of the Liberian state in dealing with the injustices of the past.

2.2.2 Transitional Justice as Forward Looking

Villa-Vicencio (2010, 45) argues that whether past wrongdoings are dealt with via prosecutions, tribunals, national courts, the ICC or amnesties, more is required to overcome the animosity, mistrust and historical inequalities wrought by decades of oppression and war. Therefore, the state needs to focus on robust programs to reform institutions that were involved in abusive practices or the laws that allowed such practices to take place (Hayner 2010, 10). In its forward looking nature it provides

Away for the public to recall lost traditions and institutions; depriving former officials of political and economic power that they could use to frustrate reform; signaling a

¹ Liberia chose to set up a truth and reconciliation commission as the option to revisit its past. The experience of Liberia in this endeavour will in part be the subject of discussion in the subsequent chapters.

commitment to property rights, the market, and democratic institutions; and establishing constitutional precedents that may discourage future leaders from repeating the abuses of the old regime (Posner and Vermuele 2004, 766).

It affirms that successive governments' takes steps to restore and build institutions that will seek justice from past transgressions, while showing their commitment to good governance in the future (Andrieu 2010, 538). Furthermore, Hayner argues that many different factors including the strength of the perpetrators of the abuses of the past and their ability to have a say in the transition policy options, the strength of the country's civil society and human rights groups as well as extent of the involvement of the international community can likely shape a country's transitional opportunities and constraints, and thus its post-transition reality (Hayner 2010, 17). Consequently the process of looking forward is a herculean one, and not clear cut to achieve, it is influenced by factors tied to the past and the strength or otherwise of policy options the state chooses. It also requires concerted efforts and support beyond the state in order to succeed in building a strong and democratic state. This process of looking forward through strengthening institutions is useful for this research to gauge the progress of the government of Liberia rebuilding an institutional culture that respect governance and rule of law structures.

2.3 Transitional Justice and Rule of Law

The rule of law is not a new idea. It is however receiving so much attention now due to its centrality to both democracy and the market economy in an era marked by a wave of transitions to both (Carothers 1998, 97, 2006, 5). It is considered part of the political system and is not a form of government nor is the rule of law the juridical articulation of politics (Sánchez-Cuenca 2003, 67). It guarantees the rights of individuals which are at the heart of democracy and government respect for the supreme power of the people and its construction is dependent on the acceptance of law (Carothers 1998). It is therefore a vital and essential component that has to be present in every transition process especially in post conflict settings.

According to Rachel Kleinfeld cited in Trebilcock and Daniels 2008, the phrase has been framed to imply at least five separate meanings or end goals: “as (1) government bound by law (2) equality before the law; (3) law and order (4) predictable efficient justice; (5) lack of state violation of human rights” (2008, 13). Thus, there is a lack of conceptual clarity of the term and what actually it means. Depending on one’s perspective, it could be signal an end of a transition process or the beginning of the process.

What the rule of law is can be perceived broadly or narrowly (Carothers 2006, Barros 2003). Explaining these notions of the rule of law, Barros (2003, 188) describes the conception “narrow”, “formal” or “instrumental” conception of the rule of law, as one which examines the formal characteristic that law must have if a legal system is to provide a non arbitrary framework around which subjects can form expectations and live their lives. This notion of the rule of law essentially concerns the appeal of law as a mechanism of mediation between state authorities and societal actors. The second or broader notion of the rule of law describes it as more challenging and requires that state authorities and law makers themselves be subject to law, such that laws and not men supposedly rule and thus dovetail the doctrines of constitutionalism, the separation of powers, and limited government (2008). However others like Gargarella (2003, 147) have challenged the common notion of the rule of law which argues that the rule of law is closely connected with liberal political systems which synthetically, are characterized by a system of checks and balances and entrenched individual rights protected by an independent judiciary.

In the fields of post conflict development, Bassu (2008) argues that “processes to strengthen the rule of law in post conflict states, is tightly bound with the development of a liberal democratic discourse which is has developed as part of a system of believe that includes the concept of

natural rights of a government controlled by the people and by checks and balances” (2008, 22). Mindzie (2010, 113) also argues that violent conflict and authoritarian regimes flourish on the denial of democracy and the rule of law, which, at the same time, are essential element for ensuring long lasting peace. Hence, helping war ravaged societies to re-establish the rule of law and respect for institutions by dealing with the wrongs of the past which is characterized by arbitrariness and the destruction of the population, livelihoods as well as economic resources is an overwhelming task which requires that maximum attention is paid to the factors that lead to this state of affairs in the first instance. These are flawed institutional processes, the lack of state capacity and political commitment to transform governance, lack of resources and the general absence for the respect for human rights, law and order as well as peace and security (United Nations 2004, 3).

This is useful to understand how Liberia is managing this transition from absence of rule of law to re-establishing it through the lens of transitional justice mechanism of reform of judicial and legal reforms as part of the broader peacebuilding and post conflict reconstruction goal.

2.4. Transitional Justice and Governance

According to Weiss (2000), the term governance is now fashionable, but it is as old as human history. The World Bank defines it as “... the traditions and institutions by which authority in a country is exercised for the common good. This includes (i) the process by which those in authority are selected, monitored and replaced, (ii) the capacity of the government to effectively manage its resources and implement sound policies, and (iii) the respect of citizens and the state for the institutions that govern economic and social interactions among them” (McCawley 2005, 2). Hence the term defies a common meaning and understanding. Its meaning encompasses various issues and dimensions of what is expected of governments who are entrusted with the

power to manage the affairs of the state by building strong institutional frameworks and also direct policy in ways that are acceptable and retains confidence and trust of citizens within the affairs of the state.

To achieve results, the design and implementation of governance reforms in post-conflict states target three areas: (1) reconstituting legitimacy, (2) re-establishing security and (3) rebuilding effectiveness. Reconstituting legitimacy involves constitutional reform, re-establishment of the rule of law and institutional design as well as civil society development. Also, participation and inclusiveness, reducing inequities, creating accountability, combating corruption and introducing contestability (elections). Re-establishing security involves classic trio of disarmament, demobilization and reintegration. Finally Rebuilding effectiveness has to do with functions and capacity of the public sector and its ability to provide social services to the citizens. (Brinkerhoff 2005:5-6). Therefore, governance mirrors on a broad issues and processes that are supposed to control and also put government in check to increase transparency and accountability in decision making. The nature of governance in transitional justice processes like in the case of Liberia cannot be overemphasized since putting into place the appropriate governance institutions processes, systems and control is key to achieving lasting peace and achieving the goals of transitional justice at the very end.

2.5. Methodology of the Research

This research is a qualitative case study that makes extensive use of primary data. It is situated within the theorization of transitional justice from post conflict perspective and relies on the feedback and views of citizens, civil society organization and government workers to analyze how transitional justice interventions are handled in post conflict settings.

Case selection: This research considers the attempts by Liberia to implore transitional justice mechanisms as part of its post conflict reconstruction efforts. The selection of Liberia is based on the fact that its present one of the most recent cases of a country undergoing transitional justice processes in sub Saharan Africa.

2.5.1 The Research Site

This research was carried out in Montserrado County in which the national capital Monrovia is located. Statistics from the county indicates that it is home to approximately 1.5 million people, which correspond to about half the population of the country. About 70% of the people reside in the capital, attracted by urban life, commercial business and government jobs (Montserrado County Development Agenda 2008, 1).

2.5.2. Sampling Method.

Respondents for this study were selected using purposive sampling. This is due to the fact that the research limited itself to institutions and organizations that are involved in the implementation of the government interventions in the area of governance and rule of law as well as some civil society actors who are also contributing their resources and efforts to support the reconstruction process. Furthermore, citizens who have returned to the country after the cessation of hostilities and are reintegrating within the Montserrado County were also purposely selected and interviewed. This was done with the support of officials of the county who provided a list of returnees registered with them. From the list, respondents were randomly selected and contacted for interviews. Returnees were targeted for interviews due to the limited time for field research.

2.5.3 Sources of Data and methods

To test the hypothesis, and also due to the type of information that was being gathered, semi-structured questionnaires were used for the interviews. Some interviews were done over the telephone due to conflicting schedules of respondents and the limited time available for the conduct of the interviews. Also NGOs specifically selected for interviews were contacted with the questionnaire and they duly responded to it. Of the five organizations targeted, only three responded to the questionnaire. Interviews with citizens were conducted in their homes after they consented to the interviewee consent statement. In all 17 citizens were randomly selected for interviews, however, only 8 respondents were available and able to grant interviews on the scheduled time and date.

To complement the field survey, this research also engaged with literature on historical development of the state and the conflict, the peace accord, the preliminary and final reports of the work of the truth and reconciliation commission and various other reports from the government and civil society.

2.5.4 The challenges of research in post conflict setting

Due to the lack of trust among citizens, especially for most who are yet to put behind them the traumatizing experiences of the war, and most importantly the sensitivity of the issue under investigation, soliciting interviews with people took much longer than expected and in most cases people contacted turned down request to be interviewed or simply left home at the agreed time for the interviews without any notice of absence or rescheduling the interview. In some instances, respondents also chose not to give answers to the questions being asked them by indicating they did not have an answer or simply remained silent.

Chapter 3: Disintegration and reintegration of the state

This chapter presents a brief overview of the historical development of the Liberian state. It briefly summarizes how the state was formed and then proceeds to present the disintegration of the state. A synopsis of the comprehensive peace agreement, the framework/agreement upon which the peace that the country currently enjoys hinges and which also forms the basis of the reintegration and rebuilding efforts is presented.

3.1. Liberian State and the genesis of the conflict

The Liberian state was created in 1822 as a settlement for returning freed slaves from the Americas and gained independence in 1847. Descendants of the freed slaves, generally known as Americo-Liberians, remained since then in full control of the affairs of the state until 1980 (Dennis 2006:2). These returnees constitute only about five percent of the population (Dème 2005:11). Therefore, the Liberian state, unlike other states in Africa was never colonized. The country thus has a much longer history of political independence than any other country in Africa. Despite this long journey the country seem not to have witnessed any form of stable government and was finally plunged into civil war in the late 1980s.

The conflict was characterized by violent and widespread human rights violations and resulted in the deaths of over 250,000 Liberians and the displacement of one-third of the population (James-Allen et al 2010:5). Others like Jaye (2009:1) adds that "...850,000 sought refuge in neighbouring countries, and 500,000 were displaced within the country as a direct result of the war". According to Pajibo, some studies have shown that more than 50 percent of the population suffered some form of sexual violence during the conflict. The gruesome civil war destroyed the country, its citizens pauperized, and the economy ruined (Pajibo 2010:2). Thus, governance of the country

was brought to a stand-still and the entire social fabric of the Liberian state destroyed. The following subsection describes the different stages of the conflict.

3.1.1. The first phase of the war – 1989 – 1997

The first phase of the war, known in Liberia as the “Taylor” war, ended with the election of Charles Taylor as President of Liberia in July 1997 (Jaye 2007:1). This came on the heels of a brokered peace agreement and internationally supervised elections in 1997. Charles Taylor, who began the war in 1989, received 75 percent of the vote in what were generally described as free and transparent elections (Moran 2006:5). Tarr (2008:3), however, criticized the process of election and argues that it was flawed since the conflict in Liberia did not end but ‘was terminated when Charles Taylor won a flawed election by threats to resume the war if not elected President of Liberia’. Therefore, arguably the termination of the conflict, without having addressed the inherent challenges, led to the second phase of the conflict since the prolonged war led to the emergence of different groups and the continued fighting and violence witnessed even after the elections.

3.1.2. The second phase of the war – 1999 – 2003

Within two years of Charles Taylor’s presidency, his tenure was faced with dealing with another armed faction which had emerged. He spent his five-year term as president trying in vain to hold off “rebels” who were occupying most parts of the country (Moran 2006:5). Thus, the continued fighting with armed groups opposed to Taylor returned the country to war in July 1999. This phase of the war lasted until August 2003 (Jaye 2009:2). The conflict was finally ended with the initiation and signing of the Comprehensive Peace Agreement, the framework which provided a peaceful exit from the violent fighting that the country witnessed for fourteen years.

3.2. The Road to reintegration and reconstruction.

3.2.1. The Comprehensive Peace Agreement (CPA)

In May 2003, the Taylor administration agreed to peace talks, convened by ECOWAS and the International Contact Group on Liberia, hoping to find an end to the upheavals between his government and the armed adversaries. Finally in August 2003, parties to the Liberian conflict signed the Comprehensive Peace Agreement (CPA) in Accra, Ghana. The signing of this agreement, begun Liberia's long and difficult journey to build peace with justice (Pajibo 2007:287). However, some critics like Tarr (2008:3) argues the CPA is flawed since it rewarded the many rebel factions and their supporters with senior positions in the then National Transitional Government of Liberia that was formed.

The CPA included "agreements on the cantonment, disarmament, rehabilitation, and reintegration of combatants (CDDRR); security sector reform (SSR); and human rights issues, including the establishment of a Truth and Reconciliation Commission (TRC)" (Jaye 2009:1). Specifically part six of the agreement (articles XII and XIII) dealt with human rights issues and mandated the creation of an Independent National Commission on Human Rights (INCHR) and a Truth and Reconciliation Commission (TRC), respectively (James-Allen et al 2010:5). During the research, some residents of Montserrado County citizens expressed doubt about the disarmament process and largely attributed the rising armed robbery cases to the number of arms and ammunitions that are still in the possession of most people who were combatants in the war. Arguably, the inability to complete this process of cantonment, disarmament, demobilization, rehabilitation and rehabilitation has serious repercussions for the future of Liberia especially in maintaining and consolidating the relative peace and order and the fragile security in the country

3.2.2. The landmark elections of 2005

The transitional government stayed in power for a period of two years. With the support of the international community, the transitional government organized the elections of October 2005, bringing Ellen Johnson-Sirleaf to power as the first democratically elected female president in Africa (Jaye 2009:2). The elections were hailed by both local and international observers as being free and fair. The elections were for both parliamentary and presidential candidates. However, some individuals who got elected to the parliament Dennis (2006) describes as possessing questionable human rights records, namely the former rebel leaders of various warring factions, the former wife of Charles Taylor, his son-in-law and some members of the authoritarian regime of the early 1980s (2006:6). The political landscape is hopeful, although the emerging political class in Liberia resembles too closely those who brought mayhem and misrule to the country in the first place (Pajibo 2007:289). The questionable character of some of the people who are alleged to have committed crimes against the people raises serious questions about the credibility of government but is also a reflection of the destruction that the state suffered as a consequence of the war.

3.2.3. Setting up the Truth and Reconciliation Commission

The CPA included the establishment of a Truth and Reconciliation Commission (TRC). This is contained in article XIII of the accord. The law establishing the TRC was approved in June 2005 and actual work began in June 2006. The TRC was mandated to investigate all forms of human rights violations and violations of international humanitarian that occurred in the past from January 1979 to October 14, 2003 as well as the exploitation of natural or public resources of the country to fuel the armed conflicts (Jaye 2009, 3).

Thus, like in many other post conflict settings, Liberia has also tried to visit the past and to seek answers to the injustices and human rights violations that were perpetuated during the fourteen

years of civil war. The research findings based on respondents' views about the setting up of the TRC and how the findings from the process are being implemented is presented in the next chapter.

3.2.4. Strengthening Governance and Rule of Law

Strengthening governance and the rule of law constitutes Pillar 3 of the reconstruction efforts. The areas that the efforts focuses on are “enhancing citizen participation in and ownership of government, building effective and efficient public institutions, strengthening the effectiveness and integrity of the legal and judicial system and access to justice, and the protection and promotion of human rights” (Liberia PRSP Progress Report 2010). The experiences of the implementation process will be reviewed and analyzed in the next chapter to help gain an understanding of how transitional justice processes work in reality.

Chapter 4: Recasting the Image of the State through Transitional Justice Mechanisms: Options and Practices

This chapter presents the findings of the field survey on how the government of Liberia is implementing transitional justice mechanisms (backward and forward looking mechanisms) as part of its post conflict reconstruction process. It summarizes and analyzes the views of respondents on the TRC process and how the government is responding to the recommendations made in the final report. Respondent's experiences with attempts at institutional reforms are also summarized and analyzed.

4.1 A Glance at the Past: The Truth and Reconciliation Process

The TRC was Liberia's main tool of looking back at the past as part of their transitional justice processes. This important first step aimed to discover and bring to light the wrongdoing of the past. To fulfill its mandate, the Commission conducted "public awareness campaigns, collected thousands of witness testimonies and held public hearings in all 15 counties of Liberia as well as in the Diaspora" (TRC Report 2009:12). The TRC worked from June 2006 to December 2009, when it issued its final report. Survey participants made similar statements as to why the setting up of the commission was important and agreed that it was a very necessary step in forging ahead as a country. For example one NGO respondent said that

For us to move forward as a people there is the need to revisit the past and to ensure that all the crimes and injustices that were committed against citizens were investigated and punishment determined for perpetrators of such criminal acts as a means of ensuring justice, fairness, truth, reconciliation and respect for human rights. The TRC have done their work but we are still waiting on government to also act on the recommendations of the TRC.

Thus, it can be argued that the setting up of the TRC as a first step of taking up transitional justice issues was very much welcomed and gave hope of dealing with the atrocities and injustices of the past. The TRC provides hope to those who have suffered injustices as a result of the war an opportunity to get justice and reparation or compensation. The general acceptance of the TRC as the transitional justice mechanism of looking back to the past, to take stock and reflect on the past is a major first step if transitional justice interventions are to succeed in the long run in transforming the state.

4.1.1 Implementing the Findings of the TRC

To complete the TRC process, the recommendations made on it findings have to be implemented by the government which commissioned the process. One government worker said that

The TRC has finished its work and submitted their report. The report is very good and tells us what to do to move forward as a country. The government is already taking steps to address the recommendations made. It will take a long time to cover all the issues but we are working on it...A lot of recommendations have been made in the report and government will deal with them.

However, not everyone was optimistic about this. Some survey participants expressed doubts whether implementing the findings will contribute to healing the wounds, hatred and also whether it will brings justice to victims of the war. Several NGO respondents commented that the report of the commission had serious shortcomings and fell short of their expectations as far as transitional justice was concerned. They raised issues with the phrasing of recommendations; failure to address in clear terms in what forms government should pay reparation and how such a measure was to be met. The lack of prioritization of the recommendations for implementation by

government and the failure to link properly those recommendations centering on social services with the overall reconstruction efforts were the shortcomings these respondents mentioned.

It can be argued that, despite the hailing of the TRC mechanism as being very necessary, its outcomes and findings do not really meet the satisfaction of all. These shortcomings identified by respondents have direct bearing on the implementation, since these recommendations will be the basis for government action in addressing the identified wrong doings. These shortcomings also have a bearing on maximizing the benefits of the TRC process as well as contributing to the success of transitional justice processes.

Another angle to the implementation process has been government delay in responding to the findings. One NGO worker commented that

Despite repeated calls to government as a matter of urgency to implement the findings of the report, nothing concretely has been done. These recommendations though not adequate still need to be implemented in a timely manner, nothing seems to be happening and it gives cause to worry. It is more than a year now; nothing concretely has been done – NGO worker.

A resident of Montserrado County and an NGO worker indicated that the government's inability to implement the findings of the report is because some people in government have been cited in the report. Specific mention was made of recommendation of the TRC that all those who have had some involvement in human rights violations or sponsored rebel activities should be debarred from holding public office for 30 years which has already been violated.

The current president is one of them. There is overwhelming evidence against her and her sponsorship of some rebel activities during the war. She should not be office since her stay is illegal. She has violated and undermined the laws of this country and international humanitarian law. She intends to seek a second term in office and has managed to get the constitutional court to rule in her favour that the verdict of the TRC was unconstitutional and that she could stand for a second term in office – NGO worker.

This seemingly lack of action on the report by government arguably has serious consequences for the success of this intervention and the quest of achieving justice for those who have been wronged by the events of the past and are seeking some form of relief and redress from this process. Furthermore, the lack of action on the part of government contravenes section 48 of the TRC Act, mandates the head of state to update the legislature on a quarterly basis the progress made in implementation of the recommendations.

The choice of the TRC as a mechanism for revisiting the past can only be meaningful when government takes decisive steps to ensure that the recommendations made by the TRC are implemented in a timely manner. Also, the delay to implement the recommendations is in contravention of Article 12 of the CPA, which mandates the setting up of an Independent Human Rights Commission (IHRC) as well as section 46 of the TRC Act, which mandates the IHRC as the body to have oversight responsibility over the implementation of the findings of the TRC. The process seems to have stalled after the public hearing and the gathering of evidence. Participants during the survey were unanimous in their voice that there is no political will to continue the process to the end to ensure that victims who went through the process receive justice and compensation for the pain and suffering they went through. Civil society participants and key informants all expressed frustration about the unnecessary delays to appoint

commissioners to the IHRC. Though the IHRC has finally been formed, however, it is yet to take concrete steps on the recommendations of the TRC.

4.2 Government Institutional Reforms

Looking ahead also requires the government to embark on reforms of the key institutions that deliver services to citizens. Reform of governance institutions and the judicial and legal system are very vital for forging ahead. This subsection summarizes and analyzes government intervention in reforming governance and rule of law institutions in this regard.

4.2.1 The public Face of Governance

Survey participants' views on reforming governance institutions and the setup of new ones stipulated in the CPA as well as reform of government bureaucracy is presented. The United Nations Development Programme (UNDP) indicators of good governance will be employed as bench mark to analyze whether the governance reform efforts match up to acceptable standards.

4.2.1. a. Bench Marking Governance Reforms: The UNDP principles good governance

The UNDP's Governance and Sustainable Human Development Report, 1997 indicates that good governance is set around the five principles below:

TABLE 1: UNDP PRINCIPLES OF GOOD GOVERNANCE

| Principles of good governance | The UNDP Principles and related text on which they are based |
|-------------------------------|--|
| | <u>Participation</u> – all men and women should have a voice in decision-making, either directly or through legitimate intermediate institutions that represent their intention. Such broad participation is built on freedom of association and speech, as well as capacities to participate constructively. |

| | |
|-----------------------------|---|
| Legitimacy and Voice | <u>Consensus orientation</u> – good governance mediates differing interests to reach a broad consensus on what is in the best interest of the group and, where possible, on policies and procedures. |
| Direction | <u>Strategic vision</u> – leaders and the public have a broad and long-term perspective on good governance and human development, along with a sense of what is needed for such development. There is also an understanding of the historical, cultural and social complexities in which that perspective is grounded. |
| Performance | <u>Responsiveness</u> – institutions and processes try to serve all stakeholders. <u>Effectiveness and efficiency</u> – processes and institutions produce results that meet needs while making the best use of resources. |
| Accountability | <u>Accountability</u> – decision-makers in government, the private sector and civil society organizations are accountable to the public, as well as to institutional stakeholders. <u>Transparency</u> – transparency is built on the free flow of information. Processes, institutions and information are directly accessible to those concerned with them, and enough information is provided to understand and monitor them. |
| Fairness | <u>Equity</u> – all men and women have opportunities to improve or maintain their wellbeing. <u>Rule of Law</u> – legal frameworks should be fair and enforced impartially, particularly the laws on human rights. Impartial enforcement of laws requires an independent judiciary and an impartial and incorruptible police force. |

Source: Graham et al 2003

These principles are important to gauge the governments' interventions in improving governance institutions and practices as it is currently happening.

4.1.1. b. Governance Reform Commission

Article 16 of the CPA mandates the establishment of a Governance Reform Commission (GRC). This Commission is to ensure that the government adheres to tenets of good governance and spearhead the institutional reform process. This is consistent with Hayner (2010, 10) that the state needs to focus on robust programs to reform institutions that were involved in abusive practices or the laws that allowed such practices to take place. However, an NGO worker commented that

The commission since it was set up has achieved very little in terms of its mandate due to the fact that they have oversight responsibility on issues which are within the scope of other bodies. This has made it difficult for the proper functioning of this institution.

Arguably despite the inability of the commission to impact very much the reform processes, the setting up of this body is an indication of the sense of direction (strategic vision) that the government wants to give to the process by harmonizing the all interventions under this body.

4.1.1. c. The Anti-Corruption Commission

The Liberia Anti-Corruption Commission was set up in 2008. However, respondents indicated that the work of the commission has been hampered by lack of resources to deliver on their mandate. As a result, they have not been able to investigate the numerous cases brought against public officials. Survey participants from civil society indicated that the work of the commission is constantly being interfered with by the government through its refusal to make information available and also cooperate with the commission especially when it concerns allegations of corruption against its appointees who have embezzled state money.

This implies that government interventions in this area are in convention of the principle of accountability and transparency and will need to show more commitment to the work of this institution.

4.1.1. d. Reform of Government Bureaucracy

A key challenge has been the lack of requisite personnel at the various ministries and agencies to carry out government and donor sponsored interventions. Government officials, civil society respondents and key informants admitted that institutional reform in general have started but expressed concerns about the slow pace of progress in this area. The whole process has been plagued with lack of resources, both human and financial. Government workers indicated that their work is challenged by lack of basic office stationery and equipments, limited capacity and skills among staff and poor remuneration. On the other hand, citizens and NGO workers indicated that corruption is still a big issue in government bureaucracy.

So many civil servants have been implicated in large scale embezzlement of public funds before; during and after the war... they continue to walk the streets with no attempt being made at arresting and prosecuting them.... These are not mere allegation, there are various investigative reports and commission of enquiries that investigated such charges and people recommended for prosecution yet no action was taken against them by the government.

Therefore, the reform of the bureaucracy, though it has started, it is not making the desired impact of reforming the government bureaucracy to work more effectively due to the resource constraints that they face and the lack of incentives, lackadaisical attitude among staff.

Examining the efforts that have been made in governance reform against these principles of good governance, it is evident that the government will need to do more in terms of strategizing

and carrying out interventions in a manner that differentiate the intervention from past practices which were an eminent cause of the civil war. Also, government needs to show more political will and commitment to ensure that all these new bodies set up as part of the peace process work towards improving institutions and institutional culture if the process of reform is expected to achieve result and help transitional justice to succeed. Participants in the survey were quite pessimistic whether these interventions meet best practices and standards but were quick to add that more commitment to the process will make it succeed.

We are making meaningful strides and this could even be better if our political leaders show more commitment to the process of reform. Our efforts are far off from best practices that pertain in other post conflict societies and also in the developed world...

There is no incentive to ensure that the right thing is done by our leaders – NGO worker.

Though it is difficult to achieve these standards in real terms, making efforts to accomplish governance institutional reform efforts in line with the discourse of good governance should not be comprised. Taking into concentration the specifics of the socio-political history and institutional culture that this intervention aims to change is very vital if forward looking processes of transitional justice will be successful. The government attempt at rule of law reforms is presented in subsection 4.2.2 below.

4.2.2. Revitalizing Rule of law.

This subsection reviews government rule of law reforms. It presents the views and experiences of survey participants on judicial and legal reforms as well as the functioning of the police service. This will be bench marked against the key tenets of the UN framework on the rule of law to gauge the success or otherwise of the intervention so far.

4.2.2. a. Benchmarking rule of law (judicial and legal system)

The United Nations framework on the rule of law requires measures to ensure “adherence to the principles of supremacy of the law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness, and procedural and legal transparency” (United Nations 2008, 1). These key tenets of this framework will be used to gauge the efforts of the government in rule of law reform whether they commensurate these standards.

4.2.2. b. Judicial and legal reforms

The survey participants were unanimous they feel that there is steady progress in the reform of the judiciary. However, also like governance reform efforts, the process is slow and constrained by the lack of resources. In the survey, participants indicated that judicial processes are still constrained by sufficient personnel, courtrooms, logistics (vehicles, photocopies, computers for record keeping), willingness of judges to accept bribe, corrupt practices among the staff in the court – clerks, prosecutors, high number of remand cases, unwillingness of some witnesses to testify of fear of their lives and that of their family. This is consistent with Gloppen et al (2004), who indicate that the challenges that courts in new democracies faces range from lack of social legitimacy, lack of economic resources as well as political weaknesses (2004, 4). This means that restructuring this institution to ensure that it works effectively requires more efforts to ensure that not only the processes but also personnel are up to the task to deliver justice and restore public confidence.

Additionally, to support the process of ensuring that the rule of law is made to work and the basic rights of citizens respected, the Law Reform Commission was set up in June 2009 by the government to oversee the reform process. The slow pace of the reform process in this area does

not help rebuild citizen's confidence and trust. Therefore, there is a need to intensify efforts to restore public confidence in this institution if rule of law reforms is to be successful.

4.2.2. c. Reform of the Police Service

Though respondents acknowledge that there is improvement in the work of the police, more needs to be done to build public confidence in this institution of the state. Thus, public confidence in the police is still low. Respondents indicated that the work of the police is still constrained by lack of equipment and vehicles, inability to properly investigate criminal activities reported to them as well as high levels of bribery and corruption.

Though there has been improvement in the work of the police especially in the capital Monrovia since we have seen a drop in crime levels especially in the last quarter of 2010. However, the general lack of trust and professionalism in the work of the police has resulted in the increased cases of mob justice on alleged criminals leading to deaths sometimes of innocent people – NGO worker.

Respondent in the survey indicated that there are still high rates of crime, which they attribute to high unemployment rate and the high cost of living in general. Also not much has been done to protect vulnerable people such as women and children.

Therefore arguably, more needs to be made in reforming the police service. Whilst acknowledging that government has done relatively well in supporting the police service work better in a professional manner, it still requires more resources and logistics to function well. The link between this institutional and the judiciary makes them vital in the rule of law reform processes. Building public trust and confidence in the police is therefore very vital. Whilst citizens mostly declined to offer an opinion on whether the current efforts meet international standards,

participant in the survey from civil society simultaneous in their responses indicated that the entire process as it is happening in Liberia do not meet any international acceptable standards.

Our efforts do not commensurate with international standards due to the fact that we are faced with numerous constraints but are still trying to reach these standards and target. The country also requires a lot more of attention from the International Community likes the UN to assist this process to achieve. Other organizations are contributing to these efforts but more hands are needed to partner government in direction. Civil Society in this country is not very strong to bring pressure to bear on government – NGO worker.

Examining the effort made in rule of law reforms against the bench mark shows that there is a gap in implementation of the reform efforts mainly constrained by the lack of resources and skills. A well-resourced police service and a functional judicial and legal system are very important for maintaining law and order and deliver justice to citizens. It is also vital to re-establish the confidence of citizens in seeking redress through legal systems and processes. This reform especially of the legal system is also key to addressing the recommendations of the TRC especially those related to criminal prosecutions.

4.3. Conclusion

Achieving transitional justice will require that the combination of backward looking processes as well as the forward looking is implemented in a way that complements each other. The TRC has completed its work, but there is undue delay on the part of government to implement the recommendations contained in the report of the commission. It is evident that the lack of action to implement the recommendation has dire implications for whether this mechanism will make any impact on the success of transitional justice processes.

Institutional reforms have started both in governance institutions and also in the judicial and legal system. However, these reforms are being hampered by a lack of resources both human and

financial ones. Bench marking this reform processes against UNDP principles of governance and UN tenets of rule of law show that these efforts need to be intensified to be able to meet international acceptable standard and practices. Consequently, transitional justice efforts so far seem not to be yielding successful results due mainly to lack of political will and resource constraints.

Chapter 5: Conclusion

This chapter concludes the study and re-examines the working hypothesis in relation to the empirical evidence that this study gathered. It also examines the significance of the findings in relation to the theorizing on TJ processes.

5.1. Revisiting the Hypothesis

This paper hypothesized that implementation of transitional justice processes (both backward looking and forward looking mechanisms) improves governance and rule of law in post conflict societies. Using post conflict Liberia as a case study, the central objective of this study was to find empirical evidence to support this claim.

The empirical evidence from this preliminary study of Liberia, however, contradicts this research hypothesis. Thus, more data and a much deeper research with a bigger sample size would be required to fully validate this claim. The findings show that in real terms not very much has changed in Liberia since it started transitional justice processes as part of their overall post conflict reconstruction efforts. The processes in Liberia suffer from truncation or inability to complete the processes which otherwise started very well. For the mechanisms of transitional justice to succeed, more efforts are required beyond the rhetoric of adopting them as a means of national reconciliation, healing and institutional restructuring. The state therefore needs to do more by way of implementation to reap the benefits from the processes of dealing with past wrongs, re-building a culture of human rights and reforming state institutions. In other words, transitional justice processes only become meaningful when they have been applied to the fullest.

5.2. Theoretical and Empirical Conclusions

Theoretically, transitional justice processes embody numerous mechanisms intended for recognition of the past and restitution in the form of reparation or compensations as well

restructuring of formal state institutions in the hope of forging a new phase in the history of the state. Thus, through these processes the challenges of the past that resulted in the collapse of the state will be addressed. The case of Liberia tells us how the reality partly contradicts this theory. Though sound theoretical reasons exist to anticipate a shift from the past through transitional justice process, the empirical evidence does not wholly support this theoretical thinking. Consequently, more efforts are required from the state if these mechanisms are to bring about any change in post conflict societies.

5.2.1 Lack of Political Responsibility to the Process.

In practice, transitional justice processes require more efforts to be successful beyond deciding on the kinds of mechanism to use in this transition phrase. The success of this process depends to a large extent on the implementation strategy or policy that the government puts in place to accomplish the process. This process in Liberia has become a politically sensitive and difficult task to accomplish. This is due to the fact that the officials of government who need to take policy decisions to ensure that the processes work have themselves been cited to have perpetuated human rights violations and supported rebel activities during the war. The TRC report recommends that all who have been cited for their involvement in the conflict should be debarred from holding public position for the next thirty years. However, some of these people are already in government positions. Hence there seems to be no change in the ruling class.

5.2.2 Revisiting the Past

Despite some skepticism about the report of the TRC process, urgent steps need to be taken to implement its recommendations. The delay in implementing the findings of the TRC presents a major constraint to the overall success of this intervention. Consequently, the process of revealing past wrong doing should be linked to punishing perpetrators of these human rights violations, reparations and institutional reform efforts. Implementing these processes in a

complementary manner will likely contribute to achieving the success of transitional justice processes.

5.2.3 Forward looking process: Institutional Reforms

Institutional reform efforts have not been able to fully address the dysfunctional government bureaucracy as well as the judicial and legal system. These institutions still remain weak, corrupt and generally under resourced. There are few visible signs of establishing a new institutional culture and restoring public confidence in institutions and institutions processes. Therefore, government needs to pay much more attention to strengthening governance and rule of law institutions to improve public perception, build trust and confidence in their functioning. This will likely contribute immensely to rebuilding a new institutional culture within the state, a shift from pre-conflict institutional challenges that led to break down of law and order.

In sum, attempts at implementing transitional justice mechanisms in Liberia are making slow progress in transforming the face of governance and rule of law. The decision to embark on such a process in the first instance is worthy of note despite the challenges being encountered in implementation. These processes have contributed in a way to keeping the fragile peace and security situation in the country. We can only imagine what the situation would be like today if the state had not attempted such processes at all, taking into consideration its turbulent past. For these reasons, these attempts are still admittedly a good start which can be improved and consolidated overtime

Bibliography

- Andrieu, K. 2010. Civilizing Peacebuilding: Transitional Justice, Civil Society and the Liberal Paradigm. *Security Dialogue*, 41(5), 537–558
- Barros R. 2003. Dictatorship and the Rule of Law: Rules and Military Power in Pinochet's Chile. In J. M. Maravall, and A. Przeworski, Eds. *Democracy and the Rule of Law*, Cambridge: Cambridge University Press. 188-219.
- Bassu, G. 2008. Law Overruled: Strengthening the Rule of Law in Post conflict States. *Global Governance*, 14, 21–38
- Brinkerhoff, D. W. 2005. Rebuilding Governance in Failed States and Post-Conflict Societies: Core Concepts and Cross-Cutting Themes. *Public administration and development*, 25 (1), 3–14
- Carothers, T. 2006. Promoting the rule of law abroad: in search of knowledge in Thomas Carothers, ed. Carnegie Endowment for International Peace: Washington D.C.
- Carothers, T. 1998. The Rule of Law Revival. *Foreign Affairs*, 77(2), 95-106
- Déme, M. 2005. *Law, Morality and International Armed Intervention: The United Nations and ECOWAS in Liberia*. Routledge, New York and London.
- Gargarella, R. 2003. The Majoritarian Reading of the Rule of Law. In J. M. Maravall, and A. Przeworski, Eds. *Democracy and the Rule of Law*, Cambridge: University of Cambridge Press. 147-167.
- Gloppen, S., Gargarella, R. and Skaar, E. 2004. Introduction: The Accountability Functions of Courts in New Democracies. In S. Gloppen, R. Gargarella and E. Skaar. Eds. *Democratization and the Judiciary: The Accountability Functions of Courts in New Democracies*. Frank Cass Publishers

- Hayner, P. B. 2010. *Unspeakable truths: Transitional Justice and the Challenges of Truth Commissions*^{2nd} edition. Routledge. New York and London.
- Jaye, T. 2003. Liberia: Setting Priorities for Post-Conflict Reconstruction. *Journal of Security Sector Management*, 1 (3)
- Jaye, T. 2009. Transitional Justice and DDR: The Case of Liberia. International Centre for Transitional Justice. Research Brief.
- McCawley, P. 2005. Governance in Indonesia: Some Comments. Asian Development Bank Institute, Tokyo
- Mindzie, M. A. 2010. Transitional Justice, Democratization and the Rule of Law. In: C. L. Sriram, and S. Pillay, eds. *Peace versus Justice? The Dilemma of Transitional Justice in Africa*. Centre for Conflict Resolution: University of KwaZulu-Natal Press. 113-134
- Moran, M. H. 2006. *Liberia: The Violence of Democracy*. Philadelphia: University of Pennsylvania Press.
- Pajibo, E. 2007. Civil Society and Transitional Justice in Liberia: A Practitioner's Reflection from the Field. *International Journal of Transitional Justice*, 1, 287–296,
- Posner, E. A. and Vermeule, A. 2004. Transitional Justice as Ordinary Justice. *Harvard Law Review*, 117 (3), 761-825
- Republic of Liberia. 2003. Comprehensive Peace Agreement. United States Institute of Peace.
- Republic of Liberia. 2008. Montserrado County Development Agenda 2008-2012. Prepared by the County Development Committee, in collaboration with the Ministries of Planning and Economic Affairs and Internal Affairs.

- Republic of Liberia 2008. Poverty Reduction Strategy. International Monetary Fund Publication Services: Washington DC
- Republic of Liberia. 2005. Truth and Reconciliation Act. Monrovia.
- Sánchez-Cuenca, I. 2003. Power, Rules and Compliance. In J. M. Maravall, and A. Przeworski Ed. *Democracy and the Rule of Law*. Cambridge: Cambridge University Press. 62-93
- Sooka, Y. L. 2010. The Politics of Transitional Justice. In: C. L. Sriram, and S. Pillay, eds. *Peace versus Justice? The Dilemma of Transitional Justice in Africa*. Centre for Conflict Resolution: University of KwaZulu-Natal Press. 21-43
- Tarr, B. 2008. Orientations and Challenges of Economic and Social Reconstruction in Sierra Leone and Liberia. Paper Presented At Regional Workshop on Post-conflict and Development.
- Trebilcock, M. J. and Daniels, R. J. 2008. *Rule of Law Reform and Development: Charting the Fragile Path of Progress*. Edward Elgar Publishing Limited: Bodmin, Cornwall
- Van Der Merwe, H., Baxter V., and Chapman A. R. 2009. Introduction. In H. Van Der Merwe, V. Baxter V. and A. R. Chapman, eds. *Assessing the Impact of Transitional Justice: Challenges for Empirical Research*. United States Institute of Peace Press: Washington, D. C.
- Villa-Vicencio, C. 2010. Inclusive Justice: The Limitations of Trial Justice and Truth Commissions. In: C. L. Sriram, and S. Pillay, eds. *Peace versus Justice? The Dilemma of Transitional Justice in Africa*. Centre for Conflict Resolution: University of KwaZulu-Natal Press. 44-68
- Weiss, T.G. 2000. Governance, Good Governance and Global Governance: Conceptual and Actual Challenges. *Third World Quarterly*, 21, 795-814.

Electronic Sources

Dennis, P. 2006. A Brief History of Liberia. The International Center for Transitional Justice.<http://es.ictj.org/static/Africa/Liberia/BriefHistory.pdf>. [Accessed 24th January 2011].

Graham, J., Amos B. and Plumptre, T. 2003. Good Governance in the 21st Century. Institute on Governance, Ottawa, Canada. Policy Brief No.15.<http://iog.ca/sites/iog/files/policybrief15.pdf> [Accessed 18th February, 2011].

International Centre for Transitional Justice. 2008. What is Transitional Justice? [http://www.ictj.org/static/TJApproaches/WhatisTJ/ICTJ_WhatisTJ_pa2008 .pdf](http://www.ictj.org/static/TJApproaches/WhatisTJ/ICTJ_WhatisTJ_pa2008.pdf). [Accessed 2nd January 2011].

Pajibo, E. 2010. Liberia Case Study. A Paper Presented at the African Transitional Justice Research Network Workshop. “Advocating Justice: Civil Society and Transitional Justice in Africa” 30–31 August 2010, Johannesburg, South Africa.
http://www.transitionaljustice.org.za/docs/2010workshop/2_Pajibo.pdf [Accessed 18th January, 2011]

James-Allen, P., Weah, A. and Goodfriend, L. 2010. Beyond the Truth and Reconciliation Commission: Transitional Justice Options in Liberia. International Centre for Transitional Justice.<http://allafrica.com/download/resource/main/main/يداتcs/00020126:d95a98ec10130ea8f7b0605905fba5a2.pdf> [Accessed 17th February, 2011]

Republic of Liberia. 2009. Truth and Reconciliation Commission Volume II: Consolidated Final Report. <http://trcofliberia.org/> [Accessed 1st December, 2010]

United Nations. 2007. Department of Economic and Social Affairs, Governance and Public Administration Branch of the Division of Public Administration and Development

Management. Governance Strategies for Post Conflict Reconstruction, Sustainable Peace and Development. Discussion Paper

<http://unpan1.un.org/intradoc/groups/public/documents/un/unpan028332.pdf>.
[Accessed 2nd May, 2011]

United Nations. 2008. Guidance Note of the Secretary-General: UN Approach to Rule of Law Assistance.

<http://www.unrol.org/files/RoL%20Guidance%20Note%20UN%20Approach%20FINAL.pdf> [Accessed 2nd May, 2011]

United Nations Security Council. Report of the Secretary-General. 2004. The Rule of Law and Transitional Justice in Conflict and Post-conflict Societies.

<http://www.unrol.org/files/2004%20report.pdf> [Accessed 12th January, 2011]

World Bank 2010. Liberia: Poverty Reduction Strategy Progress Report (April 2008-March 2009).

International Monetary Fund Publication Services
<http://www.imf.org/external/pubs/ft/scr/2010/cr10194.pdf>. [Accessed 3rd February, 2011].

Appendices

Appendix 1: Interview Questions for government officials

- Have the recommendations of the TRC report being adopted?
- What are the steps being taken to address the issues in the made in the recommendation?
- What are the specific institutional reformed being implemented
 - Governance/Government bureaucracy
 - Judiciary reforms
 - The police service
- Are the government activities/programmes that have been carried out or being implemented by the government addressing the overall objectives of strengthening governance and the rule of law?
- What are the impediments to achieving the objectives of strengthening governance and rule of law?
- In your estimation, are the outcomes of the process of implementation commensurate to international acceptable standards?

Appendix II: Civil Society Level Questions

- What are your general impressions about the Truth and Reconciliation Commission?
- What are your experiences and reactions to the work and report of the Truth and Reconciliation Commission?
- Do you think/believe that the recommendations made by the Commission are being addressed by government?
- In what way/areas is it being done?
- What is your assessment of the institutional reforms? How and why?
 - Governance/government bureaucracy
 - Judicial and legal reforms
 - The Police
- How would you overall assess the performance of the government in these in this area of transforming governance and rule of law?
- What are civil society contributions to strengthening governance and rule of law?
- Is the intervention of government and civil society (your organization) commensurate international standards specifically the UN charter on rule of law and UNDP good governance principles?

Appendix III: Citizens Level Questions

- What are your general impressions about the Truth and Reconciliation Commission?
- What are your impressions of the Truth and Reconciliation Process, its final report and recommendations?
- Do you think that they will address the injustices and restore trust for you as a citizen?
- What in your view is being done by government to implement the report from the process?
- Do you think that what government is doing will help strengthen the peace and security that is prevailing?
- How will you assess the performance of these government institutions?
 - The government bureaucracy
 - The legislature
 - The judiciary
 - The police