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This brief examines the effective implementation of the Liberian Truth and Reconciliation Commission (TRC) recommendations. It seeks to make recommendations in support of efforts aimed at building durable peace that will lead to democratic development and economic growth in Liberia.

After 14 years of civil war that flouted six peace agreements, Liberians representing the warring parties along with civil society groups, and political parties, signed the Comprehensive Peace Agreement (CPA) in Accra, Ghana, on 18 August 2003. The CPA called for the establishment of a truth and reconciliation commission and an inclusive two-year interim national government. The interim government consisted of members of the Charles Taylor regime, representatives of the two rebel factions - the Movement for Democracy in Liberia (MODEL) and Liberians United for Reconciliation and Democracy (LURD) - and representatives of civilian opposition and civil society organisations. In keeping with provisions in the 2003 CPA, the transitional government passed the Truth and Reconciliation Commission Act in May 2005, which called for the creation of a commission mainly modelled on the South African Truth and Reconciliation Commission. The TRC (also referred to as the commission) began its hearings in January 2008. It faced the arduous task of moving the peace process forward to establish the truth about the civil war by providing a platform to discuss issues of impunity and promote national reconciliation and cohesion.

The Commission consisted of nine commissioners, five men and four women. Efforts were made to mainstream gender in the work of the commission given women played a significant role during, and were notable victims of, the conflict. The TRC mandate was restricted to events that happened between January 1979 to October 2003.

1 Before the CPA, more than ten unsuccessful peace conferences were convened to end the civil war.
The TRC released its final report on its findings and recommendations in dealing with the conflict related and peace related issues in December 2009 after gathering testimony for more than three years. Between 2005-2006, the commission recruited and trained approximately 200 individuals from local communities nationwide to serve as statement takers. Their role was to solicit and record voluntary statements of individuals whose wartime experiences warranted their inclusion in the transitional justice process. The statement taking process was complimented by public and in-camera hearings that took place across Liberia's fifteen counties and in the US over a period that lasted more than one year. Through these hearings, the commission was able to hear testimony from 607 witnesses, of whom 499 were conflict survivors.

The report provided significant insights into Liberia's turbulent history, including gross human rights violations committed during the country's 14-year conflict. The TRC's recommendations covered a range of issues critical for durable peace and democracy in Liberia. It highlighted the need for criminal accountability, reparations, memorialisation, reconciliation and institutional reforms. A key recommendation was that an extraordinary tribunal or domestic Economic War and Criminal Court to prosecute individuals who committed gross human rights violations, crimes under international humanitarian law, and economic crimes should be established. It also recommended that 49 individuals, including then President Ellen Johnson Sirleaf, be banned from public service for 30 years.

To support reconciliation efforts, the report recommended the use of traditional conflict resolution mechanisms through a "Palava Hut" approach; the establishment of a Reparations Trust Fund; the observance of a national memorial and unification day; and called for renewed commitments aimed at the protection and promotion of the rights of women and children. The building of a new culture and integrity in politics, as well as administration of justice, was also amongst its recommendations.

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3 TRC of Liberia Final Report, IV.
Testimony from 607 witnesses were conflict survivors.
Liberia was founded in 1822 on land that agents of the American Colonization Society appropriated from indigenous people for the settlement of free slaves from the Americas. Coming from a capitalist society, the free slaves perceived the land as their property with unlimited rights within its parameters, including the right to organise a government that excluded the original owners of the land. Accordingly, they established settlements that became a commonwealth, which eventually achieved independence in 1847 (the modern state of Liberia), without the participation of the indigenous people. Between 1847 and the mid-twenty century, the settlers exploited the indigenous communities as an internal colony. As a result, the state witnessed regular resistance and conflict. A by-product of this colonial exploitation and the attending human rights violations.

The Americo-Liberian minority, many of whom were mixed-race African Americans, established a caste-like system. They established plantations and businesses and generally controlled politics and commerce in the new republic. Even after the indigenous people were assimilated in 1904 they did not fully participate in the governance of the country. From 1878 the settlers inaugurated an autocratic one-party system under the True Wings Party (TWP) that ruled the country until it was dethroned by a violent military coup staged by a group of indigenous soldiers led by Samuel K. Doe of the Armed Forces of Liberia (AFL) on 12 April 1980. Officials of the TWP government led by Reverend William R. Tolbert were charged with rampant corruption, nepotism, and abuse of power. Several were arrested, tried and sentenced to death by a military court that was set up by the People’s Redemption Council.

Elections took place in 1985 amidst the harassment and intimidation of opposition political parties, the press, and the student movement. Doe declared himself and his party, the National Democratic Party of Liberia victorious in the elections, which were widely perceived as fraudulent. Throughout his reign, Doe and his government engaged in widespread human rights violations, including torture, enforced disappearances and extrajudicial killings.

As a result, on 24 December 1989, Charles Taylor and a group of Liberians under the banner of National Patriotic Front of Liberia (NPFL) launched a so-called liberation struggle to free the Liberian people from the ‘redeemer’ turned dictator. Frustrated by Doe’s oppressive rule and coupled with the general state of insecurity in the country, many Liberians initially welcomed the Taylor revolt. However, the human rights violation under Taylor’s NPFL fighters and National Patriotic Party (NPP) led government ignited another round of civil war that was only ended by the CPA.

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6 Dr. Amos C. Sawyer, “The Emergence of Autocracy in Liberia”, pp.196-209, 1992
Truth and reconciliation commissions are a mechanism to capture the story of an authoritarian past and create a record of it, replete with political repression and human rights violation. It is viewed as the central point for a transitional justice strategy. By 2003 when the CPA was being signed by the Liberia warring factions in Accra Ghana, TRCs had captured popular imagination with more than 25 formed worldwide. From Latin America to postcolonial South Africa, to the West African states of Nigeria, Sierra Leone and Ghana, and to the island of East Timor (Timor-Leste) in South East Asia, truth-telling mechanisms were to the fore.

The Liberia TRC emerged as a compromise between the two perspectives at the Accra peace conference. A truth commission, which would help the country, eschew past division through truth telling, reconciliation, and accountability was incorporated into the peace agreement, thus making the CPA the first peace agreement in Liberia's conflict to include an element of accountability.

Initially, an attempt by the interim government to establish a truth commission after the CPA was ratified was unsuccessful. Subsequently, a conglomeration of civil society groups

13 The Liberian civil war invited about 14 peace conferences before the signing of the CPA
collaborated with the United Nations Missions in Liberia, the United Nations Development Program and the Economic Community of West African States (ECOWAS) to mount pressure on stakeholders, which led to the passage of the Truth and Reconciliation Commission of Liberia Act in 2005. The Act not only prohibited the TRC from granting amnesty, though it could recommend it, but granted it the authority to recommend prosecutions and censure.\textsuperscript{14}

It is trite to say that the credibility of any transitional justice process largely hinges on the stature of those who are called to preside over the process as well as the appointment process. This was particularly true in a context where belligerent forces were united in their disdain for accountability. Though a selection panel, headed by ECOWAS, was constituted to supervise the vetting of candidates for the TRC, the vetting was not as rigorous as it should have been.\textsuperscript{15}

In fact, the commissioners were “vetted,” and appointed by the interim president even before the enactment of legislation establishing the Commission. At least two commissioners, including the chairperson, were appointed by the interim president based on mistaken identity.\textsuperscript{16} The lack of due diligence in the selection of commissioners was a contradiction that forcefully manifested itself in the internal wrangling within the commission; a situation that almost undermined the credibility of the process and nearly diminished the hope of the victims for accountability and healing.

In contrast, the South African TRC, from which Liberia drew extensive ideas, consisted of commissioners, appointed through a competitive and consultative process, which involved civil society and relevant sectors. The extensive consultation and transparent process in the appointment of its members reinforced the importance of an independent, representative, and competent truth and reconciliation commission as a precursor to guaranteeing the rights of victims to truth, justice, and reparations.

The expectations of Liberians regarding the mission of the TRC was shaped by their experience during the conflict. The belligerent parties and their sympathisers perceived the TRC as an alternative to criminal prosecutions, while many ordinary Liberians saw the TRC process as a precursor to criminal justice. The prospect of prosecutions was outlined in the TRC Act, which empowered the commission to make detailed recommendations on prosecutions.\textsuperscript{17} The overall stated objective of the commission was to “promote national peace, security, unity and reconciliation.”\textsuperscript{18}

\textsuperscript{14} Interview with Dr. Thomas Jaye Director of Research and Public Policy Institute, University of Liberia, Monrovia, 27-28 April, 2020
\textsuperscript{15} See also “An Act to Establish the Truth And Reconciliation Commission (TRC) of Liberia” Section 9.b
\textsuperscript{16} According to Cllr Pearl Brown-Bull, former commissioner of the TRC, the Chair was mistaken for his brother James Verdier, while Commissioner Dolopai, who was a nurse, was mistaken for one Dr. Dolopai
\textsuperscript{17} Section 26 of the TRC Act states that the TRC can make recommendations on “the need to hold prosecution in particular cases as the TRC deems appropriate.”
\textsuperscript{18} The TRC Act, Art. IV, Sec. 4.
The TRC was designed as a strategy to reshape the future of the country to create a viable and stable national polity that was democratic and inclusive in every respect. The TRC Act of 2005 gave the commission a broad mandate to:

1. Investigate gross human rights and international humanitarian law violations; and other abuses including massacres, rape, murder, extra-judicial killings, and economic crime, and abuse of privileges.

2. Provide a forum to address impunity to reconcile the people and heal the wounds of the conflict.

3. Conduct a critical review of the country’s history to recognise and unveil historical truths as the way of addressing falsehoods and misconceptions of the past relating to socio-economic and political developments.

4. Adopt mechanisms and procedures to specifically deal with the experiences of women, children and vulnerable groups.

The Act further gave the commission the function and powers to collect statements, hold public hearings, and conduct research to identify those involved in committing violations and help restore the human dignity of victims. It detailed how a final report would cover all aspects of the TRC’s work from investigations and hearings, to findings and recommendations for prosecution.19

The final report was also to recommend for amnesty for persons who confess their guilt and express remorse for their actions except for perpetrators of gross human rights violation, and violation of international humanitarian law. The Act further stipulated that the report make recommendations for reparations for victims, and for government to take specific actions in furtherance of its findings, the enactment of specific legislation and other reform measures to address specific concerns identified by the TRC.20

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19 TRC Act, Art. X, Sec. 45
20 Ibid., Sec. 45
Challenges

From its launch to the publication of its report in 2009, the TRC faced considerable operational challenges. Firstly, the TRC has been designed by the warring parties. During the negotiations they were very keen to ensure that criminal prosecution was not enshrined in the final peace accord. The consensus on the TRC as the ideal mechanism to help the country reckon with the legacy of human rights violation offered a delicate compromise.

One of the critical challenges in the initial phase of the TRC’s work has to do with the composition of the commission. In a country with deep-seated social, economic, political and cultural divisions, the character and integrity of those selected to drive the process were fundamental to the success of the TRC. However, unlike other countries where the membership of TRCs have been drawn from prominent citizens with proven records of integrity and neutrality during conflict periods, this was not the case in Liberia. Some were perceived to have, one way or another, participated in the conflict or to have made comments during the conflict that was deemed to have compromised their neutrality. Perhaps because of competing loyalties within the commission, it became immersed in infighting that generated mistrust and which tainted the image of the commission and eroded the trust of some members of the international community in its credibility. Two of the nine commissioners refused to endorse the final report, accusing the chairperson and some commissioners of bias and hypocrisy.

Once published the TRC report became the target of a hostile reaction, particularly from those in positions of political power. The central reason for this was that the report put forward several recommendations that directly threatened the country’s political establishment. The TRC called for the establishment of an extraordinary tribunal and domestic criminal court to prosecute close to 200 individuals, some of whom were in power at the time, for gross human rights violations and egregious domestic crimes. President Ellen Johnson Sirleaf was among those the Commission recommended to be barred from

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21 Interview with Dr. Thomas Jaye, Security Expert, and Director of the Research and Public Policy Institute, University of Liberia
public office for 30 years. Prominent public figures challenged the credibility of the report. They included Dr. Amos C. Sawyer, then Chairman of the Governance Commission, a closed ally of President Sirleaf and member of the Association for Constitutional Democracy23 (ACDL), and Justice Minister, Phillip A.Z. Banks. Using his authority as the Attorney General of the republic and Senior Legal Advisor to the government, Banks had previously advised the president against testifying at the TRC hearings.24

That the TRC had the tenacity to hold the most powerful person in the country accountable for her past action was unprecedented in a country where the justice system has historically been a tool for oppression.

But President Sirleaf responded by unleashing every weapon at her disposal against the commission. As part of her strategy to protect her international image, the President discredited the report and questioned the credibility of the commissioners that had recommended her for sanction. Commissioners of the TRC, especially those perceived to have voted to sanction President Sirleaf, faced reprisals and were denied their salaries and benefits. Some received death threats that prompted their flight into exile.25

The Ministry of Justice (MOJ) was supposed to coordinate between relevant ministries and agencies - including the National Election Commission, Governance Commission, Law Reform Commission, Land Reform Authority, and the Liberia Anti-Corruption Commission - and the Independent National Commission on Human Rights (INCHR) in taking the appropriate actions on the TRC recommendations. The TRC report affirmed that corruption, injustice and bad governance in general were the root causes of the civil war and proposed institutional reforms to the governance framework to avert future conflicts. However, it appears as if the MOJ is not aware of these functions assigned to it or, and more likely, it simply chose to ignore them for reasons of political expediency.

Beyond political opposition to the recommendations, other factors hampered the transitional justice process in Liberia. Resources to implement the TRC recommendations were reliant on the generous support of international partners that was not always forthcoming. The deficiencies of Liberia’s legal system are so profound that the TRC’s recommendations for legal accountability could not be pursued domestically without international technical and financial support. In fact, many Liberians not only view the formal system as failing to deliver justice, but regard it as one of the most effective mechanisms through which powerful and wealthy social actors are able to perpetrate injustice in order to serve their own interests.

The lack of inclusion of critical stakeholders like the media and civil society from the onset also impacted their ability to push for accountability.

13 The Liberian civil war invited about 14 peace conferences before the signing of the CPA
Opportunities

Not much has been done by the government to ensure that the TRC recommendations are implemented, since the report was submitted more than a decade ago. Even though recommendations on remembering and memorialising the past, and that focused on the establishment of the ‘Palava Hut’ mechanism\(^{27}\) enjoyed some level of progress and support they have struggled to exist as envisioned. The TRC recommendation on memorialisation calls for the establishment of a national remembrance day for the dead, and the building of memorials in all of Liberia’s 64 administrative districts and at every massacre site\(^{28}\). But only two memorials have been established in Bomi and Montserrado counties. Since the Palava Hut was successfully piloted in 2017 the process had become ineffectual due to lack of funds coupled with the INCHR’s compliancy.

Despite the challenges that beset the commission and the controversy surrounding its recommendations, the vast majority of the population now perceives the TRC report as the road map for correcting the legacy of violence and impunity and a central pillar for building a wholesome functioning nation. Multiple civil society groups have been campaigning for the full implementation of the TRC report, and in 2019, 52 of Liberia’s 73 members House of Representatives signed a landmark resolution supporting the calls for the establishment of War and Economic Crimes Court. Even those who were once skeptical of the TRC report as a roadmap for the future are now become ardent campaigns for full implementation of the TRC recommendations. And since 2017 the quest for accountability for violation of the past through the implementation of the recommendation of the TRC has gained more traction in Liberia raising the prospects that the government will eventually implement some of the key recommendations.

In September 2019, George Weah, elected president in 2017, wrote a letter to the legislature which stated that “I... do hereby call on the National Legislature to advise and provide guidance on all legislative and other necessary measures towards the implementation of the TRC report, including the establishment of the Economic and War Crimes Court.”\(^{29}\) Weah’s public commitment followed on from sustained discussions that have been given impetus by the establishment

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27 The Palava Hut is a traditional justice and accountability mechanism to foster national healing and reconciliation at the community and grass root levels creating the opportunity for dialogue and peace building
28 See section 17 of the Consolidated Final Report.

Liberians see OHCHR as an ally in the quest for accountability for abuses of the past. In May 2019, OHCHR and the Center for Democracy and Development (CDD) supported the INCHR to convene a National Colloquium to discuss the way forward on the implementation of the TRC recommendations in Gbarnga, Bong County. This provided a platform for Liberians from all backgrounds to discuss the TRC recommendations and proffer suggestions to the government on the way forward to implement them. Liberians agreed that the government should immediately commence implementation of all TRC recommendations including the establishment of WECC. The Liberian National Bar Association (LNBA) was mandated to draft a bill for the establishment of this court. The draft is now ready and is waiting for its submission to the lawmakers to take the necessary action.

Complementing the position of the LNBA, in September 2019, the Liberia National Traditional Council, which comprises of elders and chiefs from across the country, issued a resolution calling for the setting-up of the court to address past human rights violations. Following that, a group of lawmakers drafted a resolution and tabled it for the signature of their colleagues that would, at last, establish the EWCC. The broad support for accountability in the country has also given impetus to the work of the Transitional Justice Working Group and other civil society organisations that consider justice and accountability as the best remedy for healing past grievances. The group continues to galvanize public support by holding conferences and engaging with different civil society organizations, other actors and traditional leaders mobilizing them to pressure the government to fulfill its obligation to implement the TRC recommendations.

At a three-day National Economic Dialogue, convened in September 2019 in Monrovia, and comprised of 350 participants from government, political parties, youth, men and women groups, development partners, civil society organisations and representatives from institutions of higher learning called on the government to ensure that implementation of the TRC recommendations should form part of the terms of reference given to political appointees under the present government. Following this request, President Weah wrote his letter to the legislature in which he affirmed that “accountability for past human rights violation are essential ingredients for sustainable peace and achievement of inclusive development.” However, progress has again stalled since the outbreak of COVID-19, with the government choosing to focus on pressing economic and health needs in the immediate term.

30 Source?
Conclusion

The Liberia TRC was established as a transitional justice mechanism to holistically look at human rights and political problems that confronted Liberia during a 14-year period of conflict. The Commission's mandate was to heal the wounds of the past and set a road map for the beginning of a new Liberia founded on principles of respect for human rights and rule of law. An analysis of its work and output reveal that despite its shortcomings the TRC was a laudable initiative that should, and can still, pave a way forward for Liberia. It has the potential to shape the future of democratic development and political governance in Liberia and its recommendations can serve as a platform for generating debates and dialogue on transitional justice issues. A few memorials have been erected and there has been truth telling, but the challenges of reparations, building a new political culture, reconciliation and prosecution must be addressed to contribute to the overall process of post-conflict reconstruction and development. The findings of the commission were geared towards consolidating peace and security, and rebuilding the state, with emphasis on the modern state in a society characterised by hybrid political order. Establishing the INCHR has been laudable, but a lot still needs to be done. So what is to be done? Should Liberia settle for selective implementation of the TRC recommendation or adopt a holistic approach? What about the issue of the EWCC? And the status of the Palava Hut process?

Since the end of the conflict, the country had remained polarised. Reconciliation should still be a priority issue on the national agenda. The TRC process has provided Liberia with an opportunity to dig into its past and address the causes of conflict. It has also offered an opportunity to deal with the issue of governance by negotiating the rule of law and constitutionalism. It must now, at last, take action to respond to the TRC's recommendations.
Recommendations

Against the backdrop of the above, the following recommendations are made:

1. Conduct research outlining the gaps in the implementation of the TRC recommendations and highlighting what remains to be done.

2. Strengthen the institutional capacity of the INCHR, specifically the transitional justice unit, so it can provide intellectual leadership and interject critical thinking on transitional justice issues.

3. There is much more to the TRC report other than recommendations on criminal accountability. There should be more public awareness-through radio, meetings and other forms of public discourse- on other peace building and reconciliation measures in the TRC recommendations.

4. Provide funding and build the capacity of the TJWG secretariat and other civil society organisations working on transitional justice to make them more functional and effective.

5. The establishment of a War and Economic Crimes Court should be given the priority it deserves. Without accountability for past human rights violation a culture of impunity will deepen in the country. The legislature should expedite action to subject the draft bill from LNBA to their legislative process to agree and adopt an acceptable law for the establishment of a Court in Liberia.

6. Implementation of the TRC recommendations require international support to ensure the resources required are in place. The Liberian government should take the lead, commit to implementing the TRC recommendations and seek international assistance to enable it to do so. It's worth stating that the fundamental goal of the Liberian transitional justice process is to address the root causes of the civil war and promote peace; hence public sentiment is for the prioritization of accountability in this process.
FULL RECOMMENDATIONS OF TRC
Annex 1
A. ACCOUNTABILITY:
A PROSECUTION MECHANISM
The Commissioners of the TRC determine that a criminal court with the competence and jurisdiction to adjudicate criminal responsibility for individuals, armed groups and other entities that the TRC determines were responsible for ‘egregious’ domestic crimes, ‘gross’ violations of human rights and ‘serious’ humanitarian law violations is appropriate. Such institution shall be specifically endowed with the authority and jurisdiction to adjudicate domestic, IHRL and IHL violations. The TRC will submit a comprehensive recommendation on the competence, jurisdiction, structure, function and other authority of the recommended criminal court to the National Legislature and the President of Liberia in the Final Consolidated Report (Volume II).

B. NATIONAL ‘PALAVA HUT’ FORUM
The Commissioners of the TRC determine that the establishment of a National Palava Hut Forum under the aegis of the Independent Human Rights Commission is a useful tool for peace building, healing and national reconciliation at both the national and district levels. Commission to organize and administer national ‘Palava Hut’ Committees in all of Liberia’s sixty-four districts in order to provide victims a public venue to confront perpetrators living in their communities to hasten reintegration and reconciliation and community-based atonement. The TRC will submit a comprehensive recommendation on the competence, jurisdiction, structure, function and other authority of the National ‘Palava Hut Forum to the National Legislature in the Final Consolidated Report (Volume II).

C. AMNESTY
The Commissioners of the TRC reserve the right to make recommendations of amnesty for children and persons, groups or entities that it has determined not to have committed ‘gross’ violations of human rights or ‘serious’ humanitarian law violations. The TRC will submit a comprehensive recommendation on the nature and character of any amnesty in the Final Consolidated Report (Volume II).

D. PERSONS NOT RECOMMENDED FOR PROSECUTION
The Commissioners of the TRC reserve the right to recommend and will recommend to the Government of Liberia, National Legislature and any criminal court that persons it determines are responsible for committing domestic and international crimes not be prosecuted if the TRC believes said persons testimony was truthful and remorseful.

The TRC will submit a comprehensive recommendation on those persons that it recommends not be prosecuted in the Final Consolidated Report (Volume II).

E. REPARATIONS
The Commissioners of the TRC reserve the right to and will make individual and community reparations to any persons, groups, entities or communities, and to establish Reparations Trust Fund(s) as it deems appropriate.

The TRC will submit a comprehensive recommendation on the nature and character of any reparations in the Final Consolidated Report (Volume II).