



**OFFICE OF THE EUROPEAN COMMISSION IN LIBERIA
9th European Development Fund (EDF)**

KONRAD ADENAUER FOUNDATION (KAF)

“Support of the Legislative Assembly in Liberia”

**Strengthening the Parliamentary Practise – Legislation and Law
Drafting**

MISSION REPORT

by

**Dr. Iris Breutz, Lawyer
(Partner of the Law Office Froemming & Partner, Hamburg)
Rothenbaumchaussee 3
20148 Hamburg
email: ibreutz@web.de**

1. Executive Summary:

The EU/KAF project "Support to the Legislative Assembly of Liberia" focuses on the legislative branch of the Liberian government. The 2005 elections met democratic standards and the present Legislature can claim to be representative. The legislative branch of previous governments was not able to fulfil any of these vital functions in an appropriate way.

The legislators will go on recess in August. Looking back at the first session period of the 52nd Legislature of Liberia, it can be said that first movements into the right directions have been made. As far as legislation is concerned, the legislators adopted important laws such as the national budget. First public hearings have been carried out. But the Legislature is still in the process of organizing and structuring itself. The existing deficiencies in infrastructure and equipment are still one obstacle on the way to a functioning Legislature. Besides this, the two houses still have problems in parliamentary procedures and practises. Most of the staff members are not qualified to fulfil their functions and are underpaid (although their salaries have just been increased from US\$ 26 to US\$ 30 per month). The access to information of the legislators is very poor as the baseline study will show. Research capacities need also to be strengthened.

The Government of Liberia has embarked upon a massive program of Public Sector Reform. The Governance Reform Commission (GRC) oversees the Government's public sector initiatives which also includes Legislative Capacity Building (with the cooperation of the National Legislature). But by the time this report was finished the GRC has been focusing mainly on the executive branch.

The expert was involved in the part of the project dealing with legislation and law drafting as one of the key functions of a democratic Legislature. A key component for good governance and laws of good quality is information. The expert carried out a baseline study on the access to information and resources of the legislators. A roundtable discussion on the results of the baseline study took place after the study has been finished. A workshop on the "Handbook on Legislation and Law Drafting" was organised in order to prepare the final draft of the Handbook drafted during the first year of the project.

The report describes the work of the expert in Germany and Liberia considering the specific situation in Liberia and the information obtained during the expert's stay in Monrovia. Each part of the report contains recommendations and proposals regarding the specific activity of the project.

2. Introduction

The expert followed the instructions laid down in the Terms of Reference. In order to get an overview over the information resources of the legislators, the expert was assigned with a baseline study on the access to information and resources of the parliamentarians as well as with a roundtable discussion on the results of that baseline study. Furthermore, a workshop on the "Handbook on Legislation and Law

Drafting” was to take place in Monrovia. The expert started the work in Germany and prepared the baseline study, the workshop and the roundtable discussion. Prior to her visit the expert sent a written memo to the project office containing recommendations for steps to be taken in Liberia to organise the workshop and the work on the ground. After that, the expert communicated with the project office on a regular basis. The project office found two excellent local experts that contributed immensely to the expert’s work: Cllr. Cyril Jones and Cllr. Tuan Wreh, both lawyers practising in Liberia. After her arrival In Monrovia the expert consulted with the local experts, the project coordinator and the office team. A time schedule for the three activities has been set up. The expert began with the baseline study immediately. The expert also participated in an international donor meeting. The results of all research activities are included in the baseline study. In regular meetings the local and international experts discussed the findings and prepared the workshop on the Handbook and the roundtable discussion. The project team and the local experts gave the expert the most possible support and provided her with valuable information.

3. Workshop on the “Handbook on Legislation and Law Drafting”

The workshop was scheduled for a whole day for August 9th. At the beginning there were serious concerns that none of the legislators will attend the workshop. Normally, the Parliament would have been gone on recess until January 2007 on July 31st, 2006. They adjourned the beginning of the recess due to a tight working schedule. Two laws of great importance still were to be passed: the national budget and the New Forestry Law (the latter had to be passed in order for the UN sanctions to be lifted). The legislators called special sessions and were sitting on the bills and in committees almost every day. So they were under time pressure and busy. Regardless these difficult circumstances, it was decided to let the workshop take place. In order to secure attendance of the lawmakers Dr. Jockers, Menekeh Pschorr and the expert went to the Capitol several times to invite MPs personally, to hand over copies of the Handbook in order to attract the attention of even more legislators to it and visited the Speaker of the House to further “promote” the workshop. In addition, the project office team called each invited legislator as a reminder. The response was immense. Even more legislators than invited showed up despite their tight schedule. Also key staff members (such as, e.g., the Secretary of the Senate and the Deputy Chief Clerk of the House), representatives of civil society (e.g. Transparency International, LINLEA), members from the Press Office, the legislative archives and the law community attended the workshop.

As expected though, most of the participants were not familiar with the content of the Handbook. So the two facilitators, local expert Cyril Jones and the international expert, decided beforehand to go through the most important parts of the Handbook: the legislative process in different sessions as there were:

Session I : The Legislative Process in Liberia

Session II: The Policy Background of New Legislation

Session III: How to Draft Laws

Sessions IV: Evaluation of Bills and Laws

The aim was to present the content of the Handbook, to discuss the legislative procedure thoroughly and to obtain information and input from the participants. All this has been achieved. The legislators showed great interest and participated in lively and inspiring discussions. With strong reference to the Handbook each stage of the legislative process has been discussed in detail. The following issues received more scrutiny and were of special interest for the participants:

- difference between joint committee and conference committee
- committee stage: referral to committees and committee procedures
- public hearing
- participation of civil society in the legislative process:
- communication between the two chambers
- lack of trained staff and equipment
- law drafting
- public relations of the Legislature

It has turned out that the Senate and the House partly follow different procedures in the legislative process, e.g. regarding the time of referral of the bill to the committees. The Standing Rules of the HoR contain a discharge petition saying that each member may file a discharge petition when the committee has not reported on the bill within 30 days. The Standing Rules of the Senate do not contain such a provision. A discharge of the committee takes place on a case-to-case basis and is put to vote. It also turned out that the conduct of public hearings needs to be improved. Apart from procedural problems, the legislators mentioned that committee members have to ask the leadership of the house to facilitate public hearings in terms of providing fuel for the generator etc. It should be avoided that the leadership of the house has the power to decide whether a public hearings will be conducted or not. The committee shall on its own solicit the participation of the public at all committee hearings.

It was also interesting to learn from the participants that the Foreign Office is in charge with the printing and publication of new laws. The problem is that the legislators do not get a free copy of the new law from the Foreign Office. In case the legislators want a copy, they have to pay a fee for duplication.

Representatives of NGO's complained that the Parliament is not communicating with the civil society. Whenever they send comments, e.g. on proposed laws, or write to the chambers, they get no response. The Secretary of the Senate was of the opinion that public interest in parliamentary work is still low as only few citizens visit plenary sessions. Another participant mentioned that the reason for communication problems might be the lack of a mail system in Liberia. Written messages or letters have to be typed and handdelivered. The missing mail systems and the problems with telecommunication or emailing makes interaction with the Parliament indeed more difficult. But it must also be considered that networking and interaction between Parliament and civil society is still underdeveloped. A permanent cooperation mechanism has not been established yet. It seems that both sides are not yet fully aware of the importance of the cooperation and its benefits. Moreover, mechanisms and forms of cooperation have not been established yet.

During and after the workshop the legislators expressed their great interest in the Handbook and stressed the importance to finalize it so that the MPs and staff can use it as a manual for their daily work soon.

The legislators made some suggestions for amendments of the Handbook. After the workshop the expert discussed with the local expert which suggestions make sense and should be included in the Handbook. As far as practicable the expert will include the proposals of the participants in the Handbook after her return to Germany.

The expert is especially grateful to local expert Cllr. Cyril Jones. He not only contributed immensely through his expertise and competence. He managed to inspire the participants and to engage them in fruitful discussions.

Special thanks go also out to the whole team of the project office. Without their help and support, the workshop would not have been as successful as it was.

Recommendations:

The Handbook is an important output of EU/KAF project activities. Given the positive response of the legislators and their demonstration of interest, there is a good chance that the Handbook will be adopted by the Parliament as an official guideline and a tool for their daily work. The following steps are recommended to achieve this goal:

For the Handbook being adopted as an official guideline it is of utmost importance that there is “ownership” of the Legislature to secure acceptance. They have to get involved. With the workshop the first step was made. Now, EU/KAF should keep the process going and use the momentum in it. The expert’s recommendation is to produce as soon as possible more copies of the Handbook to make sure that all MPs and the key staff members get a copy. A timeframe should be set up taking into consideration that the MPs need time to review the Handbook and are on recess until Jan. 2007 so that most of them will go back to their constituencies and ain’t in Monrovia during this time. The recipients shall have the opportunity to submit comments on the Handbook and make suggestions for amendments until Oct. 1st 2006. In the meantime, the project office shall get in contact with the MPs on a regular basis and reminding them to submit comments. A reminder shall also be in written. From the experience the expert had so far, it is necessary to stay in contact with the MPs and to remind them. By the end of November, all comments and submissions (if there are any at all) may be forwarded to the expert in Germany to be reviewed and – as far as possible and practicable – incorporated into the final version. At the very beginning of the new session in mid January 2007 one of the first activities of the MPs should be a short “session” on the Handbook but this time in the Capitol as it has been strongly suggested by the legislators. In this workshop, the final version of the Handbook will be presented and handed over to the MPs for adoption.

When soon additional copies are given to the MPs that haven’t received a copy yet, an official letter should be attached outlining the above mentioned procedure (requirement of comments until Oct. 1st, 2006; input will be incorporated into the final version, final version will be presented in the Capitol in mid Jan. 2007). This letter must also be sent to the MPs and staff members that already have a copy of the Handbook.

4. Baseline Study on the Access to Information and Resources of the Legislators in the Legislative Process:

Access to information is a key component for good governance. Previous rubber stamp legislatures needed little information other than the time and place to vote. The present emerging Legislature of Liberia needs a lot more information in order to participate effectively and efficiently in the legislative process.

Talking about the US Congress, Frantzich¹ stated that legislators need several basic types of information: Firstly, Congress as a whole and individual congressmen need information to coordinate and plan their work schedule and that of their staff. Secondly, as a decision making body Congress needs to track legislative activity and record aggregate and individual voting behavior. Individual legislators need to track constituent demands, improve their efficiency in dealing with them, and develop means for following up constituent interests in both the legislative and non legislative realms. Legislators in their legislative role need improved information for monitoring problems, developing solutions, predicting consequences, and facilitating influence strategies. Finally, legislators need to monitor the success of ongoing programs and to identify areas of weakness.

There is a direct link between the performance of a legislature and its access to reliable, independent information and its research capacities. The Legislature of post-war Liberia needs to perform its vital democratic functions of representation, oversight and lawmaking in order to cope with the challenges ahead. Thus, the Legislature needs access to information and resources, especially in the legislative process.

To get an overview of the access to information and resources of the legislators the expert investigated the situation inside and outside the Parliament. This included site visits inside the Parliament, review of physical facilities, assessment of the general infrastructure, the library, the archive, office rooms and the press office. The expert interviewed the leadership of both houses, legislators and their staff members as well as the staff of the Press Office, library and archive. The outside facilities were also assessed. With the support of the local experts and the project office team the expert visited universities, the Liberian Bar Association, the law library, the Temple of Justice, ministries and NGO's. Representatives of civil society organisations, lawyers, professors and ministers have been, among others, interviewed.

5. Roundtable Discussion of the Results of the Baseline Study on Access to Information and Research Capacities:

The roundtable discussion took place on Friday 11th, August. It was a very interesting and fruitful discussion with good results that may form a basis for further support measures in order to contribute to the progress of the capacity building within the Legislature and thus to the project activities of EU/KAF.

The chairpersons of the relevant committees (Committee on the Executive, Committee on Rules and Order, Committee on Information) of both houses

¹ Frantzich, Stephen E., „Computerized Information Technology in the U.S. House of Representatives, Legislative Studies Quarterly, vol. IV, n. 2., 1979, pp. 255-280

participated in the round table as well as members of the Press Office and the archive.

5.1. Presentation of Results of the Baseline Study

After an introduction of local expert Cyril Jones, the expert presented the results of the baseline study. The key findings of the study shall be briefly summarized as follows:

- The inhouse research capacities and access to information of the legislators are extremely poor. This goes for the infrastructure and the equipment of the Parliament building (the “Capitol”) itself, the offices of the MPs and their staff, the administration of the two houses as well as for the organisation of research division or similar services to the MPs. The office rooms of the MPs, their staff and the administration of the two houses have no internet access or computers. Nor are they equipped with books or any other research material. In the section of the House of Representatives you find on the upper floor a room with 11 computers, all with internet access, one printer, light and air condition. It has to be noted though that the room is relatively small. The Senate does not have an equivalent computer/internet centre.
- The legislators have no overview over the existing Liberian laws. The archive of the Capitol also has a collection of Liberian laws but they are not catalogued or indexed. There is no archival system. It is almost impossible to quickly find a certain law in the archive. Additionally, there is no photocopier neither in the archive nor in the Law Libraries so that copies cannot be made. New laws are printed and published by the Foreign Office. In case the legislators want a copy of the laws, the Foreign Office charges a fee for copying and duplicating. So the lawmakers have to pay to get the laws they have made.
- The library of the Parliament is of no use and provides no source of information for the legislators. Neither the lawmakers nor their staff is using the library at present.
- The archive is of no use for the legislators. Due to its location, the archive is sticky and has hardly any air supply. There is no light or air condition. The materials and documents, that have not been destroyed or looted during the war, are kept in piles and boxes. There is no archival system. The materials are not indexed or catalogued. Thus, it is impossible to use the archive as a source of information at present.
- Each legislator has one research person. In most cases, the research person is not qualified and trained for research work. As all of the staff members, the research person is underpaid.

The role of civil society within the Legislature is, while growing, still in its infancy. Historically, in the past 25 years there has been very little room for action or cooperation between civil society and the Legislature. The Legislature was working behind closed doors and reduced to a rubber stamp branch of government. There are no permanent mechanisms of cooperation between civil society and the Legislature. With the conduct of public hearings a step in the right direction has been

made. But civil society must be supported to contribute more effectively to public hearings, whereas the Legislature needs more training in conducting public hearings.

- There are no permanent mechanisms of cooperation between civil society and the Legislature. Consultation takes place on a case-to-case basis. The input of civil society organisations in the legislative process is still low.
- Materials and books can be found in the law libraries of the University of Liberia, Monrovia and of the Bar Association in town. There is no permanent cooperation between the universities and the Legislature.
- It seems that most of the information for the legislators come from the executive branch. This kind of information is of value for the parliamentarians but should not be the only source. For Liberia as a democratising state it is even more important that the Legislature does not exclusively rely on government-generated information. The legislators need independent and reliable information to be able to effectively overseeing the executive, to understand government choices, decisions and policies, to assess whether they are valuable or not and, if not, to criticize them and to propose policy alternatives.

5.2. Roundtable Discussion on Possible Solutions

5.2.1.

Regarding the improvement of access to information and research capacities, the participants have been asked about their opinion on measures with short-term priority. All participants stressed the need for a resource center including internet facilities, a library and an archive. Library, archive and resource center should be grouped together in one unit.

Another concern of the legislators is training and payment of staff members. Research staff is neither trained nor paid appropriately. All participants agreed that the training of staff members in research and the use of information resources should take place simultaneously to the building and creation of information resources. Also the legislators themselves need training in using information resources.

5.2.2.

Talking about the cooperation with civil society the participants showed interest in possible forms of cooperation. Experiences from other democratising countries have been discussed such as:

- cooperation with universities: Internships programs may be established. Qualified students can work as interns for the Legislature. Students may produce research studies on proposed laws. Qualified students may even work for the Legislature after graduation. On a senior level, professors or lecturers may also cooperate with the legislators. They could provide the legislators with expert opinions, analysis or research studies on proposed laws.

- permanent cooperation mechanisms with civil society organisations: Civil society organisations can also provide the Legislature with useful information. Participation of civil society groups in legislation also leads to open governance, transparency,

credibility and laws of good quality. The participants agreed that civil society and the Legislature must link. Forms of cooperation with the Legislature could involve: database of experts, that provide the legislators with information; public hearings; annual conferences with civil society organisations, regular public interest forum and others. The Legislature may adopt a resolution setting out a concept of cooperation between the Parliament and civil society.

5.2.3.

One participant pointed out that all reform measures within the Legislature must be supported by the political will of the legislators. The experts took up that point and mentioned that all reform activities have to be owned by the Legislature. The two houses have to adopt a legislative development plan containing all necessary reform activities. For this purpose the two houses have to overcome their frictions. Both, Legislature and the international community could then work on the capacity building according to the specific needs set out in the development plan.

It has turned out in this discussion that the Legislative Reform Coordination Committee (consisting of members of both houses) was an ad-hoc committee not established to work on a permanent basis. Referring to experiences in other post-conflict countries the expert pointed out that a permanent central body, a joint committee responsible for reform activities, makes reform procedures easier both within the Legislature and in cooperation with donors. A development plan and a permanently established joint committee would not only secure that all legislators and both houses benefit from reform activities in the same way but helps coordinating reform activities to speed up the process.

So the participating lawmakers agreed to set up a joint committee for the coordination of the reform activities. They also agreed that the following measures are necessary to improve the access to information and research capacities:

- Training of research staff
- Establishment of a functioning library and archive
- Building of a Resource Center with Internet access
- Cooperation with CSO and universities

5.3. Recommendations

The improvement of the access to reliable and independent information is urgent. Without information the lawmakers are not able to perform any of its functions in a proper way. A situation where theoretical knowledge cannot be applied due to a lack of basic infrastructure and equipment should be avoided. The legislators repeatedly stressed this point.

The participants confirmed that USAID will fund the renovation of the Capitol building whereas it only finances the building of the structure but not any equipment or supplies. UNDP already carried out a needs assessment regarding the Legislature and an African association is funding the creation and development of a Legislative Development Plan and provides assistance.

The Legislature still needs assistance to improve its access to information and research capacities. The following activities are recommended:

- Training of research staff
- Establishment of a functioning library and archive
- Building of a Resource Center with Internet access
- Cooperation with CSO and universities

As the structure of the Capitol will be redesigned during the renovation, it has to be figured out whether space is available or could be made available to group together a library, the archive and a resource center for both houses.

- The library could start with a basic collection such as Liberian laws, newspaper clippings, statistic information about the country, its districts and counties (available at the HIC-Centre in Monrovia that is collecting data and information about the country). The basic collection might be completed with books and material about Liberia. The biggest collection of Liberian material is available in the United States. An expert group consisting of local and international experts could develop a library system and train the library staff (18 people!) in library management. Reportedly, there is only one Liberian in the country who studied librarian science; he is currently the head librarian of the University of Liberia (Director of the Library). Another Liberian works as a librarian scientist in Sweden. After the library has been set up, the legislators and their research staff should be trained in using the library effectively.
- The archive should be part of a resource center, together with the library. In case the archive should remain in the current rooms, it needs to be restored. The rooms have to be renovated and equipped with furniture, electricity and air condition. With the assistance of local and international specialists an archival system should be developed (the administration of the two houses should also be involved). A specialised team should carefully review all documents stored in the archive. Especially historical documents are in bad condition. It may be considered to microfiche those and to provide the archive with a microfiche system. Documents should be ordered according to the newly created archival system. Activities must also include sufficient training for the archive staff. Legislators and their staff should also be trained in using the archive properly. Training should also be given to the archive staff (17 people) on archive management.
- It seems like the Foreign Office has material (recent laws etc.) which is useful for the legislative archive and vice versa. Each of them should review their documents and swap with the other or provide the other office with material. Thus, both offices can extend their stocks. An ongoing cooperation in the exchange of material may be established.
- A Resource Center should be developed with Internet facilities for all legislators.
- The Press Office should be further supported and an Information Center may be created.

- Training of research staff: In any case, trained research staff is needed. Candidates for training may be recruited from the outside or from among the existing parliament staff. In workshops they should receive intensive training on research methods whereas training must consider the specific Liberian situation.
- List of experts: The legislators, especially the committees, need technical expertise in their areas of jurisdiction. Experts in the respective issue of concern could provide the legislators with expert knowledge, opinions and other information on proposed legislation on request. Possible experts that are qualified and willing to assist the Legislature in obtaining non-partisan information on proposed laws have to be found and be linked with the legislators to figure out the conditions of cooperation. Cooperation could be on a contractual or pro bono basis. Assistance could be given to the Legislators in developing a directory of experts on hand. Another option is to make the experts work for an outside research center that provides research assistance to legislators.
- University: The universities in Liberia should be included in research services for the Legislature. By the time the expert carried out this study the importance of universities has repeatedly been stressed, not only by the President. The country needs qualified people for further development. It also seems that students are becoming more and more active in politics. Students may produce research studies on proposed laws and internships programs with the Legislature could be established. Qualified students may work for the Legislature after graduation.

Obtaining information through cooperation and consultation with the civil society needs to be improved further developed, e.g., by the following measures:

- Training in conducting public hearings for the legislators
- Training for citizen organizations in participating in public hearings
- Training for civil society organizations and special interest groups in legislative advocacy(input and feedback on proposed legislation). Those organizations can serve as a valuable source of information for the Legislature.
- Supporting the direct exchange between civil society and the legislators by organising by organizing a public forum. EC/KAF could fund the organization of such a forum
- Link the legislators with civil society: Civil society organizations may host an exhibition for legislators to become acquainted with their work and expertise. Organizations working on a variety of reforms and public policies can place their lobbying and advocacy agendas directly before those empowered to enact the nation's laws. Now, when MPs want to learn more about the implications of a specific policy, they will know where to turn for more information.

Knowledge transfer through training courses may be combined with “physical” support in terms of equipment and infrastructure. If possible, the project may participate in one or more of these activities through funding of equipment, training or expert knowledge. This would not only secure visibility. It will be support designed to the urgent needs of the Legislature. The project activities include for the second year the establishment of a Press Office. If this could be extended to the establishment of an Information Center grouped together with the Press Office is, of course, a question of the budget. The same goes for any involvement of the project in the development of a library, archive or resource center.

For further capacity building it is important that the Legislature adopts a Legislative Development Plan. Other NGO's offered assistance in the development of such a plan. Regardless this fact, EU/KAF may also provide assistance and consultancy to support the Legislature in this respect. The second phase of the project includes the work with the "Parliamentary Reform Coordination Committee". As stated above, this committee has so far been an ad-hoc committee not working on a permanent basis. Although the participating legislators agreed in the roundtable discussion to establish a permanent Reform Committee, it has to waited if and when this will happen. The project should continue the dialogue with the legislators regarding this point.

The "The Handbook on Legislation and Law Drafting" should be finalised and taken to the "next level" in order to be adopted as an official guideline (see recommendations under 2).

The project has so far been able to contribute effectively to the capacity building of the Legislature. The work of the project is highly appreciated by the lawmakers. Like one legislator put it: "I know that when KAF is doing something, it is substantive".

The constant cooperation between the EU/KAF office and the legislators and the open dialogue should continue. During the first year of the 52nd Legislature of Liberia only four laws have been passed. In the next session period the legislators will face enormous tasks. It will be called upon to pass urgent civil service, budget and reform measures, the TRC process will intensify. The Legislature needs further assistance in many kinds of different fields, such as parliamentary working procedures, law drafting, improvement of access to information and research capacities, constituency work and public relations work. It has to be taken into consideration, though, that the legislators are on recess until Jan. 2007. Training courses and other activities involving the legislators during recess will depend on the availability of the lawmakers during this period.

Dr. Iris Breutz

