

## Background

The Liberia Anti-Corruption Commission (LACC) was established in 2008 by the Government of Liberia. The establishment of the Commission was initiated by discussions with stakeholders and the international community after the civil wars to have a specialized institution to look into corruption matters and bring corrupt people to book as a benchmark to correct some of ills that were pivotal in causing the civil wars.

As part of the mandates given the Commission to implement appropriate measures and undertake programs geared toward investigating, prosecuting and preventing acts of corruption, the 2008 Act also had some ambiguities, to point out but a few;

1. **Section 10.4** of this Act provides that the power of investigations conferred on the Commission, the manager of the Enforcement Division shall the powers, privileges, rights and immunities of a police officer,
2. **Section 11. 1** stated that prosecution of cases shall be carried out with the Ministry of Justice (MoJ) coordinating with the Commission,
3. **Section 11. 2** provides that in the event that an investigation reported by the Commission to the finds that there is substantial evidence of corruption; and that a recommendation be made that the person (s) or entity (ies) involved be formally charged and prosecuted through the MoJ,
4. **Section 11.3** states that the MoJ may decline to prosecute a case of corruption recommended for prosecution if it determine that the evidence adduced by the commission is manifestly inadequate or illegally acquired. In such case the Commission shall be given the opportunity to augment evidence or to show that the evidence is in fact adequate and properly acquired.
5. **Section 11.4** Notwithstanding the above, the Commission may directly prosecute acts or cases of corruption through the courts if, the MoJ does not take an action to prosecute a case of corruption forwarded to it by the Commission within three (3) calendar months of the receipt of the request to prosecute.

Predicated upon these provisions as provided in the 2008 Act, the Commission became handicapped to adequately prosecute cases of corruption.

So, in 2020, a bill was introduced before the Legislature to amend the Act to give direct prosecutorial powers and to establish an economy crimes court to accelerate the adjudication of corruption cases.

While discussions and consultations were ongoing to amend the 2008 Act, in 2022 the Senate after an in-house investigation into acts of corruption involving the Minister and other officials of the Ministry of Agriculture (MoA) forwarded their findings to the commission for a criminal investigation and to prosecute anyone found culpable of acts of corruption.

The Commission launched an investigation, the outcome of the investigation, as you will see below puts the entire Commission into public disrepute which gave rise to a totally new act titled **“An Act to Amend and Restate an Act to Establish the Liberia Anti-Corruption Commission and to Re-establish the Liberia Anti-Corruption Commission”**.

Under the 2022 Act which upon passage, signed by the President and printed into hand bill came into force. The new Act gives the LACC direct prosecutorial powers and conferred unto all investigators police powers (Section 10.4 2022 Act). The Act 2022, Section 16.1 allows Commissioners appointed under the 2008 Act to perform the power and functions under the 2022 Act until the appointment of the successor Commissioners pursuant to part VI of the 2022 Act.

**Why is it important to mention these provisions of the two laws in connection to the case below?**

In 2021, two bills 1. To give the LACC direct prosecutorial powers and 2. To establish an economic crime court were before the Houses of the Liberia Legislature. Final discussions were held in 2022 geared to consider passage of the two bills.

- The MoA corruption investigation emanated from a Senate investigation with recommendations for the LACC to conduct criminal investigations.
- The LACC investigation established collusion and accomplices in crimes involving key officials of the Government, particularly, in connection to fundings provided by donors and partners during the COVID 19 pandemic.
- The Commission announced the outcome of the investigation with recommendations to prosecute senior officials of the MoA, some member of the Senate and some members of the Executive that were culpable of theft and related offenses.
- Right after that announcement by the Chairperson of the Commission, within one day, it was announced by the Senate that the LACC has been re-established and re-stated and that Commissioners that were brought in under the 2008 Act will hold on temporarily until their new successors are announced.
- A Supreme Court ruling provides that the Commission is a creature of the Legislature. It can decide at any point in time how it should look like, among others.

My point trying to share this scenario with colleagues here is that corruption fight back and the fight against corruption in many countries face these draconian laws and void of being independent in their functions and responsibilities.

## Financial Crime Investigation

The Ministry of Agriculture, Liberia (investigation) A case study

### I. Case History

On January 10, 2022, the Liberia Anti-Corruption Commission (LACC) received an internal investigative report from the Liberian Senate with instructions to launch a criminal investigation into allegations of Financial Improprieties, Conflict of Interest, violations of the Public Financial Management (PFM) and Public Procurement & Concession Commission (PPCC) Laws, as well as Diversion of Project Funding by public officials at the Ministry of Agriculture.

Details of the allegations revealed that.

1. The Minister awarded a contract valued at **US\$180,000** to her own company (**XTRA**) for the supply of 750 Metric-tons of Rice Schemes for farmers under the **Smallholder Agriculture Transformation and Agribusiness Revitalization Project (STAR-P)**; a project being funded by the World Bank.
2. That the Minister allegedly hired four (4) of her relatives, including her Junior brother, Zubin Cooper, into her office under the guise of consultants, who are collectively being paid the amount of **USD459,000** from the STAR-P project without evidence of work done.
3. The allegation furthered that the Minister unilaterally cancelled an existing MOU of USD1.4 million between a Ghanaian Company and the MOA for the supply of quality cocoa seeds, and unilaterally awarded same to one of her relatives,
4. That Rice Processing Equipment and other farming material/tools purchased under the STAR-P valued at **US\$636,900.00** were distributed without being marked or inventory taken by the Assets Management Department of the MOA to account for quantity and quality purchased, as well as quantity distributed to farmers.

5. That proceeds from the Korean Development Fund (KDF) in the amount of 275,000 euros intended for Value-Change Development /Policy Development at the MOA were allegedly diverted by the Minister from being saved in an original account opened at Ecobank Liberia Limited to a rather Bogus account she opened at the LBDI. And that said amount cannot be accounted for.
6. That the National Government gave US\$5.5 million for the MOA to purchase farming tools, including fertilizers, and other farming equipment, for distribution to farmers as a way of revitalizing and stimulating the agriculture sector following the outbreak of the COVID-19 Pandemic; and that the said amount cannot be properly accounted for.

Base on the findings and Evidence collected, the following charges were recommended

#### COUNT 1.

Section 1.3.6 (Conflict of Interest) of the National Code of Conduct for all Public Officials and Employees of the Government of Liberia.

Section 1.3.6 (conflict of Interest): Is when a public official, contrary to official obligations and duties to act for the benefit of the public, exploits a relationship for personal benefit.

- Subchapter E (Abuse of Office) of the Penal law of Liberia

#### § 12.72. Speculating or wagering on official action or information.

*1. Speculating during and after employment.* A person has committed a first-degree misdemeanor if, during employment as a public servant or within one year thereafter, in contemplation of official action by himself as a public servant or by an agency of the government with which he is or has been associated as a public

servant, or in reliance on information to which he has or had access only in his capacity as a public servant, he:

(a) Acquires a pecuniary interest in any property, transaction or enterprise which may be affected by such information or official action;

## **COUNT 2.**

Section 1.3.6 (conflict of Interest): Is when a public official, contrary to official obligations and duties to act for the benefit of the public, exploits a relationship for personal benefit.

- *Subchapter E. Abuse of Office*

### **§ 12.70. Official Oppression.**

A person acting or purporting to act in an official capacity of taking advantage of such actual or purported capacity commits a first-degree misdemeanor if he knowingly:

1. Subjects another to unlawful arrest, detention, search, seizure, mistreatment, dispossession, assessment, lien, or other infringement or personal or property rights; or  
(b) Denies, or impedes another in the exercise or enjoyment of any right, privilege, power or immunity. **Section 1.3.6 (Conflict of Interest) of the National Code of Conduct for all Public Officials and Employees of the Government of Liberia.**

## **COUNT 3**

*Subchapter B. Perjury and Other Falsification in Official Matters*

- § 12.30. Perjury.

1. *Offense.* A person has committed perjury, a third-degree felony, if, in official proceeding, he makes a false statement under oath or equivalent affirmation, or swears or affirms the truth of a false statement previously made, when the statement is material and he does not believe it to be true.

#### **§ 12.31. False statements.**

1. *False swearing in official proceedings.* A person has committed a first-degree misdemeanor if, in an official proceeding, he makes a false statement, whether or not material, under oath or equivalent affirmation, or swears or affirms the truth of such a statement previously made, if he does not believe the statement to be true.

COUNT 4.

#### **1. § 10.4. Criminal conspiracy.**

1. *Offense.* A person is guilty of conspiracy to commit a crime if, with the purpose of promoting or facilitating its commission, he agrees with one or more persons to engage in or cause the performance of conduct which constitutes the crime, and any one or more of such persons does an act to effect the object of the conspiracy.

### ***Subchapter D. Theft and Related Offenses***

#### **§ 15.56. Misapplication of entrusted property.**

A person is guilty of a misdemeanor of the first degree if he disposes of, uses or transfers any interest in property which has been entrusted to him as a fiduciary, or in his capacity as a public servant or an officer of a financial institution, in a manner that he knows is not authorized and that he knows to involve a risk of loss or detriment to the owner of the property or to the government or other person whose benefit the property was entrusted.

### **COUNT 3.**

#### **Chapter 10. Inchoate Offenses**

##### **§ 10.4. Criminal conspiracy.**

1. *Offense.* A person is guilty of conspiracy to commit a crime if, with the purpose of promoting or facilitating its commission, he agrees with one or more persons to engage in or cause the performance of conduct which constitutes the crime, and any one or more of such persons does an act to affect the object of the conspiracy.

#### **Subchapter D. Theft and Related Offenses**

##### **§ 15.51. Theft of property.**

A person is guilty of theft if he:

Knowingly takes, misappropriates, converts or exercises unauthorized control over, or makes an unauthorized transfer of an interest in, the property of another with the purpose of depriving the owner thereof;

(b) Knowingly obtains the property of another by deception or by threat with the purpose of depriving the owner thereof or purposely deprives another of his property by deception or by threat, or

(c) Knowingly receives, retains or disposes of property of another which has been stolen, with the purpose of depriving the owner

##### **§ 15.56. Misapplication of entrusted property.**

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***Subchapter F. (Economic Sabotage).***

**- Section 15.80 © (Fraud on the Internal revenue of Liberia)**

A person is guilty of a first-degree felony, if he:

(c) Does or omits to do any act with intent to enable another to defraud the Government of Liberia;

**- § 15.81. Misuse of public money, property or record.**

A person is guilty of a first-degree felony, if he:

Knowingly steals, takes, purloins, or converts to his own use and benefit or the use of another; or without authority, sells, conveys or disposes of any record, voucher, money or thing of value of the Government of Liberia or any Ministry, or Agency thereof, or public corporation, or any property made or being made under contract for the Government of Liberia or any Ministry, Agency thereof or public corporation;

(b) Receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been stolen, purloined or converted;

(c) Disposes of, uses or transfers any interest in property which has been entrusted to him as a fiduciary, and in his capacity as a public servant or any officer of an institution, in a manner he knows is not authorized and that he knows to involve risk of loss or detriment to the owner of the property or to the Government of Liberia or other person for whose benefit the pro

**- § 15.82. Theft and/or illegal disbursement and expenditure of public money.**

A person is guilty of a first-degree felony, if he:

(a) Knowingly fails to render his account or accounts for public money or property as provided by law, said person being an officer, employee or agent of the Government of Liberia or of any Ministry or Agency thereof or public corporation, having received public money which he is not authorized to retain as salary, pay or

emolument;

(b) Knowing takes, misappropriates, converts, or exercises unauthorized control over, or makes unauthorized transfer of an interest in the property of another or the Government of Liberia, with the purpose of depriving the owner thereof or purposely deprives another of his property by deception, or by threat; or  
(c) Knowingly receives, retains or disposes of property of another or the Government of Liberia which has been stolen, with the purpose of depriving the owner thereof or the Government of Liberia.

## 2. *Chapter 10. Inchoate Offenses*

### - § 10.4. Criminal conspiracy.

*Offense.* A person is guilty of conspiracy to commit a crime if, with the purpose of promoting or facilitating its commission, he agrees with one or more persons to engage in or cause the performance of conduct which constitutes the crime, and any one or more of such persons does an act to affect the object of the conspiracy.

### - *Subchapter D. Theft and Related Offenses*

#### § 15.56. Misapplication of entrusted property.

A person is guilty of a misdemeanor of the first degree if he disposes of, uses or transfers any interest in property which has been entrusted to him as a fiduciary, or in his capacity as a public servant or an officer of a financial institution, in a manner that he knows is not authorized and that he knows to involve a risk of loss or detriment to the owner of the property or to the government or other person whose benefit the property was entrusted.

*COUNT 4.*

*Chapter 10. Inchoate Offenses*

- **§ 10.4. Criminal conspiracy.**

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A person is guilty of theft if he:

- (a) Knowingly takes, misappropriates, converts or exercises unauthorized control over, or makes an unauthorized transfer of an interest in, the property of another with the purpose of depriving the owner thereof;
- (b) Knowingly obtains the property of another by deception or by threat with the purpose of depriving the owner thereof or purposely deprives another of his property by deception or by threat, or
- (c) Knowingly receives, retains or disposes of property of another which has been stolen, with the purpose of depriving the owner thereof.

- **§ 15.56. Misapplication of entrusted property.**

A person is guilty of a misdemeanor of the first degree if he disposes of, uses or transfers any interest in property which has been entrusted to him as a fiduciary, or in his capacity as a public servant or an officer of a financial institution, in a manner that he knows is not authorized and that he knows to involve a risk of loss or detriment to the owner of the property or to the government or other person whose benefit the property was entrusted.

- **Subchapter F (Economic Sabotage)**

**§ 15.80. Fraud on the internal revenue of Liberia.**

A person is guilty of a first degree felony, if he:

- (a) Knowingly conspires or colludes to defraud the Government of Liberia;
- (b) Knowing makes an opportunity for any person to defraud the Government of Liberia or another;
- (c) Does or omits to do any act with intent to enable another to defraud the Government of Liberia;
- (d) Makes or signs any fraudulent entry in any book or record of any Ministry or Agency of Government or signs any fraudulent certificate, return or statement;
- (e) Demands greater sums than authorized by law or receives any fee, compensation or reward for the performance of any duty except compensation from the Government of Liberia;
- (f) With intent to defeat the application of any provision of the Revenue and Finance Law of Liberia, fails to perform any of the duties of his office or employment;
- (g) Having knowledge of a violation of any Revenue and Finance Law of Liberia, or any fraud, fails to report in writing such information to the Commissioner of Internal Revenues or the Minister of Finance of Liberia;
- (h) Demands, accepts, attempts to collect, directly or indirectly, as a payment, gift or otherwise of sum or thing of value for compromise, adjustment or settlement of any charge or complaint.

#### **§ § 15.81. Misuse of public money, property or record.**

A person is guilty of a first degree felony, if he:

- (a) Knowingly steals, takes, purloins, or converts to his own use and benefit or the use of another; or without authority, sells, conveys or disposes of any record, voucher, money or thing of value of the Government of Liberia or any Ministry, or Agency thereof, or public corporation, or any property made or being made under contract for the Government of Liberia or any Ministry, Agency thereof or public corporation;
- (b) Receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been stolen, purloined or converted;
- (c) Disposes of, uses or transfers any interest in property which has been entrusted to him as a fiduciary, and in his capacity as a public servant or any officer of an institution, in a manner he knows is not authorized and that he knows to involve risk of loss or detriment to the owner of the property or to the Government of Liberia or other person for whose benefit the property was entrusted.

## **§ 15.82. Theft and/or illegal disbursement and expenditure of public money.**

A person is guilty of a first-degree felony, if he:

- (a) Knowingly fails to render his account or accounts for public money or property as provided by law, said person being an officer, employee or agent of the Government of Liberia or of any Ministry or Agency thereof or public corporation, having received public money which he is not authorized to retain as salary, pay or emolument;
- (b) Knowing takes, misappropriates, converts, or exercises unauthorized control over, or makes unauthorized transfer of an interest in the property of another or the Government of Liberia, with the purpose of depriving the owner thereof or purposely deprives another of his property by deception, or by threat; or
- (c) Knowingly receives, retains or disposes of property of another or the Government of Liberia which has been stolen, with the purpose of depriving the owner thereof or the Government of Liberia [of such property].

### **Count 5**

#### ***Chapter 10. Inchoate Offenses***

- **§ 10.4. Criminal conspiracy.**

*Offense.* A person is guilty of conspiracy to commit a crime if, with the purpose of promoting or facilitating its commission, he agrees with one or more persons to engage in or cause the performance of conduct which constitutes the crime, and any one or more of such persons does an act to affect the object of the conspiracy.

- ***Subchapter D. Theft and Related Offenses***

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- Subchapter F (Economic Sabotage)

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- (b) Knowing makes an opportunity for any person to defraud the Government of Liberia or another;
- (c) Does or omits to do any act with intent to enable another to defraud the Government of Liberia;
- (d) Makes or signs any fraudulent entry in any book or record of any Ministry or Agency of Government or signs any fraudulent certificate, return or statement;
- (e) Demands greater sums than authorized by law or receives any fee, compensation or reward for the performance of any duty except compensation from the Government of Liberia;
- (f) With intent to defeat the application of any provision of the Revenue and Finance Law of Liberia, fails to perform any of the duties of his office or employment;
- (g) Having knowledge of a violation of any Revenue and Finance Law of Liberia, or any fraud, fails to report in writing such information to the Commissioner of Internal Revenues or the Minister of Finance of Liberia;
- (h) Demands, accepts, attempts to collect, directly or indirectly, as a payment, gift or otherwise of sum or thing of value for compromise, adjustment or settlement of any charge or complaint.

COUNT 6

### *Chapter 10. Inchoate Offenses*

- **§ 10.4. Criminal conspiracy.**

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This case is before the MoJ pending prosecution. We could not provide details neither mention names due to that.

Thanks.