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DEVELOPMENTS IN THE RESOLUTION OF THE LIBERIAN CONFLICT

Kofi Oteng Kufuor*

INTRODUCTION

On March 7, 1994, a transitional government was sworn in to administer war-torn Liberia.¹ The Economic Community of West African States (ECOWAS or Community),² the main warring factions, and the United Nations formed this new government after repeated efforts to effect a lasting solution to the conflict that began in December 1989.³ This Article reviews the peace process and explores the question of why five years of negotiations have still not managed to bring about lasting peace in Liberia.

Throughout the negotiations, the ECOWAS placed most of the blame for its inability to end the war on the main rebel army, the National Patriotic Front of Liberia (NPFL). These allegations were valid to the

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1. See *New Ruling Council Takes Over*, W. AFR., Mar. 14-20, 1994, at 463 (describing how the interim President of Liberia resigned and a five-member Liberian National Transitional Government replaced him).

2. See S.K.B. ASANTE, *THE POLITICAL ECONOMY OF REGIONALISM IN AFRICA: A DECADE OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS) 1200 (1986)* (describing how the ECOWAS is made up of the following members: Cape Verde, Cote d'Ivoire, Cuba, Dahomey (now Benin), Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, Togo, and Upper Volta (now Burkina Faso)). The ECOWAS was established in 1975 for the purpose of closer economic cooperation among the states in the West African sub-region. *Id.*

3. See *Invasion by Dissidents*, W. AFR., Jan. 8-14, 1990, at 33-34 (discussing the beginning of the conflict in Liberia).

extent that the NPFL repeatedly refused to disarm and encamp its fighters. The NPFL's refusal prevented the ECOWAS from deploying its peace-keeping force in parts of Liberia.⁴ The underlying problem for the impasse, however, was not rooted in any inordinate ambition of the NPFL to forcibly usurp power, but rather was a result of the origins and institutional framework of the main peace accords.

I. BACKGROUND OF THE CONFLICT AND THE ECOWAS INTERVENTION

The Liberian conflict began in December 1989, when the NPFL rebelled against President Samuel Doe with the purpose of overthrowing his government.⁵ The rebels succeeded in reaching the capital, Monrovia, and besieged the presidential residence where the President, the rump of his administration, and the remnants of the Armed Forces of Liberia (AFL) had sought refuge.⁶ In an attempt to peacefully resolve the conflict, the ECOWAS decided to intervene in the conflict in August 1990, over the opposition of the NPFL, by sending a peace-keeping force to Liberia.⁷

Five years after the insurgency began and four years after the ECOWAS intervention, Liberia remains a country in turmoil as of the signing of the most recent peace accord. The NPFL led by Charles Taylor occupies about half of Liberia, while the ECOWAS Cease-Fire Monitoring Group (ECOMOG) controls the capital and its outskirts. In addition, proliferation of guerrilla armies in Liberia since 1991 has complicated the peace process. The guerilla armies include the United Liberation Movement for Democracy in Liberia (ULIMO),⁸ which controls the counties on the border with Sierra Leone; the Nimba Redemption Council, which has done little since its initial attacks on the NPFL

4. See *Mediation Committee Meets (Banjul)*, AFR. RES. BULL., Aug. 1-31, 1990, at 9802 (reporting on the reaction of the NPFL to the introduction of the ECOWAS peace-keeping troops in Liberia).

5. See *Invasion by Dissidents*, *supra* note 3, at 33 (describing how the rebellion began when the dissidents entered Liberia on December 24, 1989).

6. See *Doe Clings On*, AFR. RES. BULL., July 1-31, 1990, at 9772 (detailing the street-to-street battle that took place between the rebel forces and President Doe's forces).

7. See *Mediation Committee Meets (Banjul)*, *supra* note 4, at 9801 (reporting that the peace-keeping force consisted of soldiers from Gambia, Ghana, Nigeria, Togo, Mali, Sierra Leone, and Guinea).

8. See *New Group Issues Ultimatum*, AFR. RES. BULL., June 1-30, 1990, at 10,176 (describing the formation of the ULIMO and outlining its objectives).

military positions;⁹ the Liberia Peace Council (LPC), which is fighting the NPFL in the southeastern part of Liberia;¹⁰ and the Lofa Defense Force, which is fighting the ULIMO in Lofa County.¹¹

II. THE INITIAL EFFORTS AT RESOLVING THE CONFLICT

As the fighting between the NPFL and the AFL intensified in 1990, the Community, relying on Article 5 of the ECOWAS treaty, which sets out the framework and powers of the ECOWAS Authority of Heads of State and Government (AHSG),¹² and on the ECOWAS Protocol on Non-Aggression,¹³ established a Standing Mediation Committee (SMC).¹⁴ The SMC comprises four members appointed by the AHSG and the Chairman of the AHSG, who will also act as Chairman of the SMC.¹⁵ The SMC's framework for dispute resolution, paradoxically, does not apply to internal conflicts, but rather to inter-state disputes in the sub-region.¹⁶

9. *Liberia: NPFL Radio Says Cote D'Ivoire to Retaliate After ECOMOG Raid*, SUMMARY OF WORLD BROADCASTS, Mar. 5, 1993, at B/10 (reporting that the Nimba Redemption Council began to attack the NPFL in February 1993, after it had crossed over the border into Liberia from neighboring Guinea).

10. See *Political Wrangling*, AFR. RES. BULL., Nov. 1-30, 1993, at 11,239-40 (discussing the fighting between the NPFL and the LPC in eastern coastal Liberia); see also *Official Says Reconstruction Programme Has Been Drawn Up*, SUMMARY OF WORLD BROADCASTS, Oct. 7, 1993, at A/13 (naming the members of the LPC).

11. See *Fierce Fighting Reported Between ULIMO and LDF in Lofa*, SUMMARY OF WORLD BROADCASTS, Dec. 17, 1993, at A/15 (describing the fighting between the Lofa Defense Force and the ULIMO following allegations that the ULIMO committed atrocities against non-Mandingo citizens in Lofa County, Liberia).

12. Treaty of the Economic Community of West African States, May 28, 1975, art. 5, reprinted in ASANTE, *supra* note 2, at 1200. The AHSG is the principal governing institution of the Community. It is responsible for and has general direction and control of the performance of the executive functions of the Community. *Id.*

13. Protocol on Non-Aggression, Apr. 22, 1978, reprinted in ECONOMIC COMMUNITY OF WEST AFRICAN STATES: POLICIES AND PROGRAMME SERIES 21-22 (1981).

14. Decision A/DEC.9/5/90 Relating to the Establishment of the Standing Mediation Committee, ECOWAS AHSG, 21 O.J. ECOWAS SPEC. SUPP. 5 (1992) [hereinafter Decision A/DEC.9/5/90].

15. *Id.* art. 1(2). The then-SMC comprised of members from Gambia as chairman, Ghana, Togo, Mali and Nigeria. *ECOWAS Mediation*, AFR. RES. BULL., July, 1-31, 1990, at 9772.

16. See Decision A/DEC.9/5/90, *supra* note 14, arts. 2-3 (providing the mechanism for resolving conflicts between member-states). The framework provides a system in which a member-state involved in a dispute or conflict could inform the Executive Secretary of the ECOWAS in writing of its intention to refer the matter to the SMC

The escalation of fighting in Liberia, however, forced the ECOWAS to reevaluate the appropriateness of the SMC in resolving this conflict. At its thirteenth session, the Community concluded that the SMC provided an appropriate mechanism for settling the dispute.¹⁷ Accordingly, the ECOWAS decreed that the warring factions cease all military or para-military activities,¹⁸ surrender their arms and ammunition to the ECOMOG,¹⁹ and refrain from importing and acquiring weapons or war materials.²⁰ The warring factions also have to refrain from activity that would impede the establishment of an interim government or the holding of general and presidential elections,²¹ and fully cooperate with the SMC, the ECOWAS Executive Secretary, and the ECOMOG so that a cease-fire can be maintained, and law and order be restored to Liberia.²² The ECOWAS also assigned the ECOMOG the function of assisting the SMC in supervising the implementation and strict compliance by the parties of a cease-fire.²³

This peace plan, however, was bound to fail from its inception because it did not take into account the real situation on the ground in Liberia. At that time, the NPFL controlled all of Liberia except the presidential residence and its immediate vicinity. Meanwhile, the ECOWAS had not yet established a military presence in Liberia. Thus, there was no incentive or pressure on the NPFL to abandon its insurgency and surrender to what was in effect a non-existent expeditionary force.

for settlement. *Id.* art. 2. The Executive Secretary then advises the Chairman of the AHSG and the governments of the other members of the SMC about the dispute, and takes measures to help the SMC in settling the conflict. *Id.* art. 3(1). The framework requires the AHSG Chairman to inform the member-states involved in the conflict of the intention of the SMC to mediate their dispute. *Id.* The AHSG Chairman must also report to the AHSG about the nature of the dispute, the parties involved, and the SMC's mediation efforts. *Id.* art. 4.

17. Decision A/DEC.1/8/90 on the Cease-fire and Establishment of an ECOWAS Cease-fire Monitoring Group for Liberia, ECOWAS SMC, 21 O.J. ECOWAS SPEC. SUPP. 6 (1992).

18. *Id.* art. 1(2)(a).

19. *Id.* art. 1(2)(b).

20. *Id.* art. 1(2)(c).

21. *Id.* art. 1(2)(d).

22. *Id.* art. 1(2)(g).

23. *Id.* art. 2(3).

III. THE CREATION OF THE INTERIM GOVERNMENT

As part of the peace process, the ECOWAS moved to expedite the creation of an interim government for Liberia.²⁴ This interim government would administer the country and organize free and fair elections to usher in a democratically elected government.²⁵ The SMC convened a conference of all political parties and interest groups for the purpose of establishing a broad-based interim government.²⁶

A communique of the National Conference of All Liberian Political Parties, Patriotic Fronts, Interest Groups and Concerned Citizens,²⁷ however, stated that all efforts by the Liberian Inter-Faith Mediation Committee and the SMC to end the hostilities and achieve a peaceful resolution of the conflict had proven futile because of the warring parties' inability to reach a consensus on the framework of a peace plan.²⁸ Accordingly, no government presently exists in Liberia. The warring factions have effectively apportioned the country and are holding the entire population hostage, depriving the people of food, shelter, health care, and other basic human needs.²⁹

As a result, the Conference declared that the Interim Government of National Unity (IGNU) should be established.³⁰ In establishing the IGNU, the Conference relied on the inherent sovereign right of the Liberian people to make laws consistent with the spirit and intent of the Constitution of Liberia.³¹ The delegates of the Conference, thus, drafted a framework for the establishment of the IGNU.³² First, the Confer-

24. Decision A/DEC.2/8/90 of the Community Standing Mediation Committee on the Constitution of an Interim Government in the Republic of Liberia, 21 O.J. ECOWAS SPEC. SUPP. 8 (1992).

25. *Id.* pmb., art. 1(2).

26. *Id.* art. 1(1).

27. Final Communique of the National Conference of All Liberian Political Parties, Patriotic Fronts, Interest Groups and Concerned Citizens Banjul, the Gambia, Aug. 27 - Sept. 1, 1990, 21 O.J. ECOWAS SPEC. SUPP. 29 (1992).

28. *Id.* ¶ 7.

29. *Id.* ¶ 8.

30. *Id.* ¶ 13(a).

31. *Id.* ¶ 13.

32. See Peter da Costa, *Interim Leaders Emerge*, W. AFR., Sept. 10-16, 1990, at 2438 (reporting the election of an interim government in Liberia). The main functions of the Interim Government are as follows:

(a) the adoption, with the support of ECOMOG, of measures to demilitarize the combatants and create an apparatus for the maintenance of law and order;

ence, upon the joint nomination by the political parties and interest groups, endorsed Dr. Amos Sawyer as the President of the IGNU and elected Dr. Peter Naigow from the Independent National Patriotic Front of Liberia (INPFL)³³ as the Vice-President.³⁴ Second, the Conference established a legislature comprised of twenty-six members from the thirteen counties of Liberia; thirteen from the Assembly in Gbarnga; thirteen from the Assembly in Monrovia;³⁵ twelve from the six existing political parties, two each;³⁶ six from the NPFL; five from the INPFL;³⁷ and two from interest groups not serving on the Interim Electoral Commission for a total of fifty-one members.³⁸

Even though the NPFL opposed the idea of establishing an interim government, the IGNU framework included the NPFL in the government of post-war Liberia. Six members of the legislature were going to be direct representatives of the NPFL and another thirteen were going to be elected from the Assembly at Gbarnga, a Taylor stronghold. The NPFL could gain even more influence in the interim legislature because, at that time, the NPFL controlled ten of Liberia's thirteen counties from which representatives were going to be elected.³⁹

(b) the facilitation of the repatriation and resettlement of refugees, displaced persons and exiled Liberians;

(c) the initiation of a process of national reconciliation and unity;

(d) the creation of the necessary conditions, including the establishment of an independent and acceptable electoral commission for the organization and supervision of general and presidential elections which should be held no later than the constitutionally prescribed date in 1991;

(e) the establishment of a National Commission on Resettlement, Rehabilitation and Reconstruction with a mandate to facilitate a normal life for the displaced population; [and]

(f) the establishment of the requisite bodies, boards and/or commissions that would enable the people of Liberia to effectively participate in the affairs of their Government by deliberation on normal issues and closely monitoring the activities of Government to ensure efficiency, economy and accountability.

Final Communique, *supra* note 27, ¶ 15.

33. The INPFL was a breakaway, and now defunct, splinter group of the NPFL.

34. Final Communique, *supra* note 27, at 34.

35. *Id.*

36. *Id.*

37. *Id.*

38. *Id.* The Final Communique announced that the Interim Legislative Assembly would consist of 35 instead of 51 members. *Id.* at 31. Of the 35 members retaining their seats, six would come from the NPFL, four from the INPFL, one from each of the 13 counties in Liberia, and two from each of Liberia's six political parties. *Id.*

39. *Id.* at 31.

Nevertheless, the NPFL remained distrustful of the ECOMOG and of the IGNU because several of the NPFL's concerns were left unanswered. For example, what would happen if the NPFL fighters disarmed and encamped, and the President, in control of the army and police, decided to suspend the Constitution and rule by decree? Who would then have the power to effectively challenge the President's power? In the event of a dispute between the executive (i.e., the ECOWAS-backed interim government) and legislative branches (presumably controlled by the NPFL), would the ECOWAS and ECOMOG remain neutral or would they support the interim administration which was their virtual ally? Conceivably, the exclusion of the NPFL from the executive branch of the IGNU deterred it from participating in the administration of Liberia, thereby continuing the deadlock.⁴⁰

In 1991, the Community organized another round of talks between the IGNU and the NPFL to end the conflict. These new talks attempted to foster a relationship of trust between the two parties. Therefore, this meeting not only involved the NPFL and neutral observers from the International Negotiations Network (INN), but also included member-states of the Community that were sympathetic to the NPFL's cause. The Community believed that by involving neutral parties in the negotiations, it could win Taylor's confidence and lay a solid foundation for reconciliation between the warring factions.⁴¹

40. See *id.* at 34 (presenting the NPFL's proposals for an interim government and its reasons for walking out of the negotiations). The NPFL submitted its own proposal for the framework of an interim government. The NPFL-proposed interim government would comprise a triumvirate of co-equals, called the Council of National Unity, who would run the executive arm; and a legislature consisting of 26 members, two members representing each of the 13 counties. The NPFL walked out of the Conference claiming that its proposals had not received adequate consideration. *Id.*

41. See Outcome of Deliberations of the Meeting in Yamoussoukro on 29 and 30 June 1991, 21 O.J. ECOWAS SPEC. SUPP. 22 (1992) (stating that the ECOWAS sought the aid of President Felix Houphouet-Boigny and of the INN). This meeting was the first of the four meetings held at Yamoussoukro on the Liberian crisis and should be regarded as Yamoussoukro I. Final Communiqué of the First Meeting of the Committee of Five on Liberia, Yamoussoukro, 29 July 1991, 21 O.J. ECOWAS SPEC. SUPP. 23 (1992). The Yamoussoukro Accords, collectively, were not the only peace initiatives designed to end the war. They, however, represented the major attempts at settling the conflict, which culminated in the Yamoussoukro IV Accord. Other efforts at resolving the conflict included the Joint Declaration on Cessation of Hostilities and Peaceful Settlement of Conflict, 21 O.J. ECOWAS SPEC. SUPP. 14 (1992); Agreement on Cessation of Hostilities and Peaceful Settlement of Conflict, 21 O.J. ECOWAS SPEC. SUPP. 16 (1992); Joint Declaration on the Liberian Situation, 21 O.J. ECOWAS SPEC. SUPP. 22 (1992); and Final Communiqué of the Informal Con-

Despite the Community's bona fide effort to expedite the peace process, the NPFL still refused to comply with the encampment and disarmament provisions of the peace plan.⁴² The NPFL opposed the peace plan because troops from the original member-states who had repeatedly clashed with the NPFL, made up the ECOMOG. Therefore, while the necessary diplomatic initiatives were successful, the Community failed to assess realistically the situation and, consequently, did not include soldiers from member-states who the NPFL could trust in the ECOMOG.

Because of the continued deadlock, the Community convened another round of talks. The Committee of Five on the Liberian Crisis held its second meeting in Yamoussoukro, Cote d'Ivoire.⁴³ At this meeting, the Committee took a more positive approach aimed at winning the confidence of the NPFL. It also recognized the importance of establishing peace and security on the ground. By securing peace, the Community could achieve its goals of gaining the confidence of the warring parties and holding free and fair elections in Liberia.⁴⁴ The Committee accordingly agreed to remodel and reinforce the ECOMOG.⁴⁵

In addition to the Committee's efforts, the IGNU sought to involve the NPFL in the electoral process. As part of the accord from this meeting, the IGNU and the NPFL agreed to set up a five-member Elections Commission for the organization and supervision of elections⁴⁶ and to establish a five-member Ad Hoc Supreme Court to adjudicate disputes arising out of the electoral process.⁴⁷

At the second meeting, the Committee also decided to hold a third meeting on the crisis in October 1991. At the third meeting, which produced the Yamoussoukro IV Accord, the Community was optimistic that the second meeting had formed a stable basis for the final resolution of the conflict.⁴⁸ The Committee issued a communique at the end

sultative group Meeting of the ECOWAS Committee of Five on Liberia, Genera, 6-7 April 1992, 21 O.J. ECOWAS SPEC. SUPP. 48 (1992).

42. Technically, the NPFL was no longer required to disarm completely. The Community found it necessary to rely on the NPFL to maintain security in parts of Liberia until the conclusion of the elections.

43. Final Communique of the Second Meeting of Five on the Liberian Crisis in Yamoussoukro, 16-17 September 1991, 21 O.J. ECOWAS 24 (1992). This Committee of Five consisted of members from Gambia, Togo, Senegal, Guinea-Bissau, and Cote d'Ivoire. *Id.*

44. *Id.* ¶ 5.

45. *Id.*

46. *Id.* ¶ 8.

47. *Id.* ¶ 9.

48. See Final Communique of the Third Meeting on the Liberian Crisis Held in

of this meeting acknowledging that the IGNU and the NPFL, in consonance with the agreement reached in the last meeting, had nominated a five-member Ad-Hoc Supreme Court to adjudicate disputes that may arise from the electoral process.⁴⁹ The Committee also urged the two parties to take all the necessary steps to ensure that the Interim Elections Commission could begin its work immediately.⁵⁰

With regard to disarmament and encampment, the Committee considered and agreed on a plan to implement the elements of a cease-fire. The plan envisaged peace and security on the ground within sixty days of its implementation and elections in Liberia with six months from the date of the third meeting.⁵¹

The NPFL, however, continued to refuse to abide by the terms of the Yamoussoukro IV Accord because of three major concerns: (1) the creation of the ULIMO; (2) the ULIMO's attacks on the NPFL positions; and (3) the continuing mistrust of the ECOMOG. The NPFL amplified its concerns through a letter from former U.S. President Jimmy Carter to the Heads of State of the Community.⁵² President Carter conveyed the NPFL's fears that the ECOMOG had not done enough to prevent the ULIMO from arming and entering Liberia or had actually encouraged the ULIMO to do so.⁵³ The NPFL also had considerable apprehension about the true motives of the ECOMOG. In the letter, the former U.S. President stated that the NPFL leaders want peace, stability, and free elections in Liberia, but feared that they and their forces would be destroyed if they abandon their defenses.⁵⁴ Taylor and his commanders emphasized that the size and strength of the ECOMOG contingent positioned in Monrovia and Sierra Leone appeared more like an offen-

Yamoussoukro, 29-30 October 1991, 21 O.J. ECOWAS SPEC. SUPP. 26 (1992) (citing developments since the Committee's last meeting).

49. *Id.* ¶ 4.

50. *Id.*

51. *Id.* ¶ 6.

52. Letter of Former U.S. President Jimmy Carter to ECOWAS Heads of State (Sept. 14, 1992), reprinted in 17 LIBER. STUD. J. 262 (1992).

53. *Id.*; see *Liberia: NPFL Denies holding Senegalese Troops; Alleges ECOMOG is Helping ULIMO*, SUMMARY OF WORLD BROADCASTS, June 8, 1992, at B/10 (reporting that the NPFL accused the ECOMOG of aiding the ULIMO to gain territory in Liberia). Even though it has a common enemy, the NPFL, the ULIMO has not always had a good working relationship with the Interim Government. See *Liberia: ULIMO Congress Postponed, Leadership Crisis Reported*, SUMMARY OF WORLD BROADCASTS, May 20, 1993, at B/8 (noting a disagreement between the IGNU and the ULIMO).

54. Letter of Former U.S. President Jimmy Carter, *supra* note 52, at 263.

sive force rather than a peacekeeper.⁵⁵ The Carter letter also stressed the NPFL's fear that its officers may be annihilated unless there is some trustworthy restraint on the ECOMOG. Lastly, the letter identified a related problem in that there is no dependable means of communication between the NPFL and the outside world, which can lead to isolation and distrust.⁵⁶

IV. THE ROLE OF THE UNITED NATIONS IN THE PEACE PROCESS

In October 1992, the NPFL launched an assault on Monrovia aimed at dislodging the ECOMOG and seizing power. The ECOMOG, however, was able to repel the attack. In response to this latest offensive, the United Nations decided to get involved in the peace process by adopting Resolution 788.⁵⁷ Resolution 788 reflected the U.N. Security Council's belief that the Yamoussoukro IV Accord represented the best possible framework for a peaceful resolution of the Liberian conflict.⁵⁸ The Resolution called for an immediate arms embargo against Liberia,⁵⁹ except for weapons and military equipment destined for the sole use of the ECOWAS peacekeeping force.⁶⁰

55. *Id.*

56. *Id.*

57. S.C. Res. 788, U.N. SCOR, 47th Sess., at 1, U.N. Doc. S/Res/788 (1992). This Resolution represents the first positive step taken by the U.N. to break the impasse. Ever since it first intervened in Liberia, however, the ECOWAS has tried to bring its role to the attention of the Security Council. The Community described its intervention to the U.N. as a response to the cries of women and children in the Liberian conflict. *Taylor Rejects Bamako Initiative*, W. AFR., Nov. 12-18, 1990, at 2836. The intervention involved authorizing and supporting the operations of the ECOMOG. The ECOMOG had a mandate not to take sides, but to reconcile the warring parties, restore peace, and create an atmosphere for free political activity and, eventually, democratic elections. U.N. SCOR, 47th Sess., 2974 mtg. at 9, U.N. Doc. S/PV.2974 (1991). The Security Council subsequently endorsed the ECOWAS peace initiative. U.N. SCOR, 47th Sess., at 1, U.N. Doc. S/22133 (1991).

Humanitarian concerns were not the only reasons for the Community's decision to intervene in the conflict. Some Community leaders believed that such conflicts could fall on or spread to their countries. *Fresh Impetus for Peace?*, W. AFR., Nov. 16-22, 1992, at 1968; *Taylor Rejects Bamako Initiative*, W. AFR., Nov. 12-18, 1990, at 2836.

58. S.C. Res. 788, *supra* note 57, ¶ 2.

59. *Id.* ¶ 8.

60. *Id.* ¶ 9.

By adopting the Resolution, the U.N. Security Council indicated that it did not have a full and proper understanding of the nature of the conflict. Apart from placing an arms embargo on the NPFL, the Resolution provided no new initiatives for breaking the political impasse. The Security Council believed that the Yamoussoukro IV Accord was still the best solution under the circumstances even though the NPFL and the ECOMOG never fully implemented the Accord. The Security Council needed to assess carefully the positions of all the parties, including the ECOWAS, before it adopted a resolution to bring about lasting peace in Liberia.

Resolution 788, however, contained one positive provision. It required the Secretary-General to submit a report to the Security Council on the implementation of the Resolution.⁶¹ The Secretary-General's Report, based on an appraisal of the conflict by his Special Representative,⁶² identified the main obstacles to a lasting solution as well as the role the U.N. should play in Liberia. The Report highlighted the views of some of the ECOWAS Heads of State. President Soglo of Benin, for instance, impressed upon the Special Representative that the U.N. has a clear role in monitoring a cease-fire, encampment and disarmament, demobilization, and the organization of free and fair elections. Because of the level of mistrust among the various protagonists, President Soglo felt that a greater U.N. involvement would ensure successful implementation of the Yamoussoukro IV Accord.⁶³ The Report also stated that Charles Taylor, the NPFL leader, supported greater U.N. involvement⁶⁴ as the NPFL was skeptical of the ECOWAS⁶⁵ and also lacked confidence in the effectiveness of the ECOMOG.⁶⁶

Based on the views of the warring parties, the Report concluded that the deployment of United Nations observers⁶⁷ was necessary to halt the

61. *Id.* ¶ 13.

62. *Report of the Secretary-General on the Question of Liberia*, U.N. SCOR, 47th Sess., U.N. Doc. S/25402 (1993).

63. *Id.* ¶ 23.

64. *Id.* ¶ 28 (commenting that the NPFL was amenable to a cease-fire and discussions leading to free and fair elections if the United Nations were fully involved in the process).

65. *See id.* (noting that the ECOWAS involvement in the creation of the interim government in Banjul in 1990 resulted in a circumvention of the country's existing constitution).

66. *See id.* (recognizing that the dominance of Nigeria in the ECOMOG lessened its neutral peace-keeping abilities and created a real threat to the personal safety of the NPFL leader, Mr. Taylor).

67. *Id.* ¶ 30 (suggesting that 200 United Nations observers work alongside the

armed conflict and to reach a cease-fire agreement.⁶⁸ The Report suggested that broadening the number of countries participating in the ECOMOG peacekeeping force would alleviate the distrust of the NPFL.⁶⁹ The Report also observed that the United Nations Charter supported its continued involvement in the conflict. Throughout the conflict, the ECOWAS undertook diplomatic initiatives⁷⁰ that the U.N. Security Council supported.⁷¹ The cooperation of the United Nations and the ECOWAS is consistent with Chapter VIII of the United Nations Charter.⁷² Hence, the Secretary-General stated that the cooperation and expanded involvement of U.N. observers in Liberia served the best interests of all parties involved, including the U.N. Security Council.

The Security Council adopted Resolution 813⁷³ after considering the Secretary-General's Report. Resolution 813 is an attempt by the Security Council to reaffirm its commitment to support the ECOWAS efforts to restore peace in Liberia while also accommodating the concerns of the NPFL. The Resolution reiterated the role of the ECOWAS, which is to facilitate rather than impose peace in Liberia.⁷⁴ The Resolution also embodied the United Nation's favorable response to the warring parties' suggestion that it should play a greater role in the peace process.⁷⁵ Finally, the Resolution suggested that the Secretary-General assemble the

ECOMOG forces at ports and border crossings).

68. *See id.* (recognizing that the presence of neutral United Nations observers could provide the "link" that brings the hesitant factions together peacefully).

69. *Id.* ¶ 32.

70. *Id.* ¶ 40 (recognizing that the ECOWAS was instrumental in the development and implementation of the Yamoussoukro IV Accord).

71. *See id.* (noting that the President of the Security Council was supportive of the efforts by the ECOWAS, which prompted the Security Council to adopt Resolution 788); *see also* U.N. SCOR, 47th Sess., at 1, U.N. Doc. S/22133 (1991) (endorsing the ECOWAS peace initiative).

72. *See* U.N. CHARTER art. 52(3) (encouraging the Security Council and regional organizations to work together to reach settlements of local disputes); *see also Report of the Secretary-General on the Question of Liberia, supra* note 62, ¶ 10 (showing the collaborative efforts of the United Nations and NGOs in coordinating aid for food, water, sanitation, disease control, and nutritional surveillance).

73. S.C. Res. 813, U.N. SCOR, 3187th mtg., U.N. Doc. S/Res/813 (1993).

74. *See id.* ¶ 4 (noting that under the Yamoussoukro IV Accord, the ECOWAS would assist in implementing the provisions of the Accord and allow for free and fair elections in Liberia).

75. *See id.* ¶ 11 (declaring the Security Council's readiness to enforce the encampment and disarmament provisions of the Yamoussoukro Accords when appropriate).

warring factions to "restate their commitment to the implementation of the Yamoussoukro IV Accord within an agreed timetable."⁷⁶

V. THE COTONOU PEACE ACCORD

The IGNU, the NPFL, and the ULIMO signed the Cotonou Peace Accord.⁷⁷ The Accord embodied the results of the preliminary negotiations at the Geneva Conference, which the three parties attended. One of the most important issues discussed at Geneva was the composition of the executive arm of a new transitional government to be installed as a successor to the IGNU. The IGNU representative proposed that the transitional government's Executive Branch be composed of a President and two Vice-Presidents. The IGNU would name the President while the NPFL and the ULIMO would each select a Vice-President. The NPFL, however, proposed that the parties should form a five-member Council of State. The parties would each select a member of the Council. The two remaining members would be selected from a list of nine nominees through a process of consultation. The Council would have a rotating chairmanship. Each member selected by the three parties would hold the position for two months.⁷⁸

The Cotonou Accord, signed July 25, 1993, was expected to be the final peace agreement. It marked a substantial departure from the Yamoussoukro IV Accord. Under this agreement, the ECOMOG and the U.N. Observer Mission would share responsibility for implementing the peace accord. This arrangement represents a significant change over the Yamoussoukro IV Accord, which gave the ECOWAS sole responsibility for such tasks.⁷⁹ The ECOMOG would also contain troops from outside the West African sub-region.⁸⁰ Finally, the parties agreed to establish a Joint Cease-Fire Monitoring Committee with the authority to monitor and investigate all reports of cease-fire violations until the arrival of the ECOMOG and a full contingent of the United Nations Observer Mis-

76. *Id.* ¶ 17.

77. See Cotonou Accord, July 25, 1993, reprinted in REGIONAL PEACE-KEEPING AND INTERNATIONAL ENFORCEMENT: LIBERIAN CRISIS 343, 352 (Marc Weller ed., 1994) (indicating that the IGNU, NPFL, and ULIMO were all signatories to the Cotonou Agreement).

78. *Liberia: Agreement Reported at Geneva Talks, But Some Issues Still Unresolved*, SUMMARY OF WORLD BROADCASTS, July 19, 1993, at ii.

79. See Cotonou Accord, *supra* note 77, art. 3(1) (recognizing the equal authority of the United Nations observers in the implementation of the Cotonou Agreement).

80. *Id.* art. 3(2).

sion.⁸¹ This Joint Committee would be made up of an equal number of representatives from the three parties, the ECOMOG, and an advance team of the United Nations Observer Mission. The Committee would divide into smaller groups, chaired by a United Nations observer, and monitor particular geographic areas.

The Cotonou Accord also dilutes the absolute supervisory role of the ECOMOG in the implementation of the peace process. Although the parties were to disarm the ECOMOG in its expanded form, the United Nations Observer Mission would monitor and verify the process.⁸² This condition was not part of the Yamoussoukro IV Accord. In addition, the U.N. Observer Mission would monitor and verify the encampment of the troops of the warring parties as well as the identification and security of the encampment sites.⁸³

Under the Cotonou Accord, the parties agreed to vest the executive powers of Liberia in a five-member Council of State during the transitional period. Each of three parties would appoint one member to the Council, and a panel of three eminent Liberians who the parties nominate would select the remaining two.⁸⁴ The Council would then select a Chairman and two Vice-Chairmen from its members.⁸⁵ The position of Chairman would not rotate the way the NPFL suggested. The members, instead, would be equal because the Council would make all decisions by consensus.⁸⁶ These provisions signified the incorporation of the NPFL into the government of Liberia and an acceptance, to a considerable extent, of the proposals the NPFL submitted at the Liberian National Conference in 1990,⁸⁷ and at the Geneva peace talks in 1993.⁸⁸

The Security Council responded to these developments by adopting Resolution 856.⁸⁹ In the Resolution, the Security Council noted the importance of the Cotonou Accord in contributing to the end of the Libe-

81. *Id.* art. 3(3).

82. *Id.* art. 6(1)-(7).

83. *Id.* art. 7(1)-(3).

84. *Id.* art. 14(7)(i). The remaining positions in the cabinet would be filled by consultation among the parties. *Id.* art. 14(7)(viii).

85. *Id.* art. 14(7)(v).

86. *Id.* art. 14(7)(vi).

87. See Final Communique, *supra* note 27, at 34 (noting that the NPFL's core proposal for the Executive arm of the government was a Council of National Unity consisting of three co-equal heads-of-state).

88. *Liberia: Agreement Reported at Geneva Talks, But Some Issues Still Unresolved*, SUMMARY OF WORLD BROADCASTS, July 19, 1993, at ii.

89. S.C. Res. 856, U.N. SCOR, 3263d mtg., U.N. Doc. S/Res/856 (1993).

rian conflict and restoring peace to this region of West Africa.⁹⁰ The Security Council also approved the immediate participation of an advance team of United Nation military observers to work with the Joint Cease-fire Monitoring Committee in monitoring the Cotonou Accord's cease-fire agreement.⁹¹

The Security Council, after considering the Report of the Secretary-General on the proposed establishment of the United Nations Observer Mission in Liberia (UNOMIL),⁹² adopted Resolution 866.⁹³ The Resolution provided a framework for the U.N. Observer Mission. The UNOMIL would monitor compliance with the Cotonou Accord's cease-fire agreement⁹⁴ and oversee the implementation of the Accord's other provisions.⁹⁵

Pursuant to the provisions of Resolution 866, the Secretary-General reported to the Security Council on the UNOMIL's efforts to end the conflict.⁹⁶ The Secretary-General's first report noted that despite the delays in implementing the Cotonou Accord, there were no major violations of the crease-fire.⁹⁷ The report also stated that progress was being made in disarmament and in the installation of the transitional government. The Secretary-General, however, doubted that the original timetable for elections could be met.⁹⁸

The Secretary-General's second report⁹⁹ highlighted two obstacles that continue to hinder the peace process. First, the parties disagreed over when the actual disarmament process should begin.¹⁰⁰ The parties

90. *Id.* pmb1.

91. *Id.* ¶ 2.

92. *See Report of the Secretary-General on the Question of Liberia, supra* note 62, ¶¶ 10-31 (recommending the structure of the U.N. Observer Mission and its operations under the Cotonou Agreement).

93. S.C. Res. 866, U.N. SCOR, 3281st mtg., U.N. Doc. S/Res/866 (1993).

94. *Id.* ¶ 3(a).

95. *Id.* ¶ 3(b).

96. *See id.* ¶ 2 (conditioning the UNOMIL's presence in Liberia upon the Secretary-General's report that progress towards lasting peace is being made).

97. *Report of the Secretary-General on the United Nations Observer Mission in Liberia*, U.N. SCOR, ¶ 32, U.N. Doc. S/26868 (1993).

98. *Id.* ¶ 34.

99. *Second Progress Report of the Secretary-General on the United Nations Observer Mission in Liberia*, U.N. SCOR, U.N. Doc. S/1994/168 (1994).

100. *See id.* ¶ 5 (reporting that the NPFL and the ULIMO would disarm if the installation of the Transitional Government coincides with the arrival of additional ECOMOG troops). The IGNU, however, wanted the installation of the Transitional Government to take place after the actual commencement of disarmament. *Id.*

eventually resolved this difference by making concessions.¹⁰¹ Second, a number of armed groups in Liberia emerged, each with its own agenda. The activities of the Liberia Peace Council (LPC), the Lofa Defence Force (LDF), and the Bong Resistance Movement (BRM)¹⁰² caused instability in the northwestern and southeastern parts of the country.¹⁰³ These developments could complicate the peace process because these groups are not parties to the Cotonou Agreement. Despite these obstacles, Liberia swore in a transitional government with David Kpormakpor as the Chairman.¹⁰⁴

Not surprisingly, swearing in a new transitional government did not bring about lasting peace in Liberia. Apart from the failure to include the new militia in the peace process, the United Nations, the ECOWAS, and the three main factions have not properly addressed the issue of institution and nation-building. The Transitional Government, to a large extent, was not built on firm democratic foundations and, therefore, not truly representative of ordinary Liberians. In contrast, when Amos Sawyer's Interim Government was established, it talked about the role of participatory institutions in the post-war reconstruction process. Before installing the Transitional Government, the parties involved did not delineate concrete measures to strengthen local democracy and re-empower traditional political institutions and community leaders. Old units of the local government should have been reinforced and new ones instituted. In areas where chieftaincy was strong and well-established before the outbreak of war, the ECOWAS and the United Nations should have helped traditional rulers re-establish and re-consolidate their authority, enabling them to unify forces unaligned to any one fighting faction. After building and strengthening the local institutions, local democratic or popular leaders would begin to emerge as political alternatives to the leaders of the various armies. These elected representatives could then convene a national conference to properly build a framework for the future government of Liberia.

101. *See id.* ¶ 6 (noting that the IGNU indicated its agreement to the installation of the Transitional Government at the same time as the disarmament process).

102. The leadership aims of the Bong Resistance Movement are unknown at this time.

103. *See Second Report, supra* note 99, ¶ 19 (acknowledging that the fighting among the new armed groups has resulted in the displacement of nearly 10,000 people in certain regions of Liberia).

104. *See New Ruling Council Takes Over*, W. AFR., Mar. 14-20, 1994, at 463 (identifying Prof. Kpormakpor as the head of the five-man Council of the Liberian National Transitional Government).

The Transitional Government, recognizing its lack of a popular power base when it assumed office, issued a statement to the Secretary-General on developments in the peace process.¹⁰⁵ The statement reaffirmed the new administration's authority and jurisdiction over the entire country, but noted the need to restore popular democracy to ensure the success of the Cotonou Accord.¹⁰⁶ The statement further mentioned that local democracy was not only necessary for political control over Liberia, but was also a prerequisite to enable the Transitional Government to prepare a full budget for the country, deliver relief supplies to all parts of Liberia, finance the electoral process, and enhance the success of the Cotonou Accord.¹⁰⁷ Thus, the failure to develop the peace process from the bottom up and the subsequent lack of full control of Liberia by the Transitional Government seriously impaired the Cotonou Accord.

Aside from the warring factions not trusting each other,¹⁰⁸ there were rifts growing within them. Both Charles Taylor and Alhaji Kromah appeared to begin losing control of their armies.¹⁰⁹ The rifts were threatening the peace process. The Transitional Government noted that the NPFL would not disarm if the Krahn and Mandingos¹¹⁰ continued their internal fighting within the ULIMO and as long as the LPC continued to bear its arms. The Krahn and Mandingos are two major ethnic groups within the ULIMO. The Krahn stated that they would continue to fight the Mandingos until the Chairman of the ULIMO, who is a

105. See *Letter Dated 18 May 1994 From the Permanent Representative of Liberia to the United Nations Addressed to the Secretary-General*, U.N. SCOR, U.N. Doc. S/1994/594 (1994) [hereinafter *Government Statement*] (submitting the Liberian Government's assessment of the Liberian situation).

106. *Id.* at 3 (declaring that arrangements were being made by the Government to expand its presence in all areas of the country by appointing local government officials).

107. *Id.*

108. See "A Lack of Faith," W. AFR., Sept. 5-11, 1994, at 1547 (discussing the problem of the warring factions' refusal to disarm).

109. See *Taylor's NPFL in Disarray*, W. AFR., Sept. 5-11, 1994, at 1546-47 (reporting of attempts by Nixon Gaye, an NPFL commander, to dislodge Taylor from power).

110. The conflict between these two ethnic groups was an indicator of the import of ethnicity in the outbreak of the war in 1989. Taylor received most of his support from the Gio Mano ethnic group while President Doe's regime relied closely on the Krahn for support. See W. Ofuatye-Kodjoe, *The ECOWAS Intervention in Liberia: Regional Organization and the Resolution of Internal Conflicts*, RALPH BUNCHE INST. U.N. OCCASIONAL PAP. SER. (XVII) (1994) (commenting on ethnicity as a catalyst for the Liberian war).

Mandingo, recommends different people to high-level posts in the Transitional Government. The Chairman of ULIMO, however, has refused to meet this demand. As a result, serious armed fighting erupted between the two groups, resulting in the loss of many combatant and innocent civilian lives. Both groups have vowed not to disarm as long as their rivalry continued. There are very few signs that the rivalry will subside soon despite the efforts of the Council of State, the ECOMOG, and others.¹¹¹

VI. THE AKOSOMBO AGREEMENT

The NPFL, ULIMO, and AFL met in Akosombo, Ghana on September 12, 1994, to amend and supplement the provisions of the Cotonou Accord with a new peace treaty, the Akosombo Agreement.¹¹² Through this Agreement, the parties intended to further the peace process.¹¹³ The underlying premise of the Akosombo Agreement indicated that the ECOWAS was prepared to reduce its role and cede greater responsibility to the Transitional Government.¹¹⁴ There are several salient provisions of the Akosombo Agreement. Section B states that the Transitional Government would participate in supervising and monitoring the peace process along with the ECOWAS and the UNOMIL.¹¹⁵ This represents a departure from the provisions of the Cotonou Accord, which placed the responsibility of overseeing the process only on the ECOWAS and the UNOMIL.¹¹⁶ Section C involves the Transitional Government in monitoring the air, land, and sea entry points into Liberia.¹¹⁷

Section D outlaws the LPC and the LDF.¹¹⁸ It states that the facilitation or creation of new or splinter armed groups would constitute a violation of the terms of this agreement. The ECOMOG in collaboration with the Transitional Government and verified by the UNOMIL, would disarm and disband such groups and prosecute their members under the laws of Liberia.¹¹⁹ The Akosombo Agreement also modifies the disar-

111. *Government Statement*, *supra* note 105, at 5.

112. Akosombo Agreement, Sept. 12, 1994, pmb.

113. *Id.*

114. *Id.*

115. *Id.* pt. I, § B, art. 3, ct. 1.

116. Cotonou Accord, *supra* note 77, art. 3.

117. Akosombo Agreement, *supra* note 112, pt. I, § C, art. 4, ct. 4.

118. *Id.* pt. I, § D, art. 5, ct. 2(k).

119. *Id.*

mament process. The process now includes the Transitional Government.¹²⁰

The Akosombo Agreement changes the peace-enforcement powers of the ECOMOG to be in compliance with U.N. Resolutions 788 and 813. Article 8(1) of the Cotonou Accord specifies that the ECOMOG has the right to defend itself against a warring faction physically attacking it.¹²¹ Paragraph (3) of the same article further provides that the ECOMOG may use its peace-enforcement powers against a party violating the Cotonou Accord and refusing to abide by the recommendations of the Violation Committee, which comprises representatives from the U.N. Observer Mission, the ECOMOG, and the warring factions.¹²² This last provision, however, is inconsistent with Security Council Resolutions 788 and 813. The resolutions insist that the ECOWAS implement the Cotonou Accord peacefully. Section G of the Akosombo Agreement rectifies this incongruity by providing that the Transitional Government and the ECOMOG shall have the power to use force against any party, new armed group, or splinter group who continues to violate the peace process.¹²³ Presumably, this provision implicitly gives primary peace-keeping responsibility to the government of Liberia. The Transitional Government, which is the de facto authority in Liberia, would have such powers. The ECOMOG would then play a secondary role. To further reinforce the Transitional Government's authority, section H expands the Government's responsibility to include internal security arrangements such as police, customs, and immigration.¹²⁴

The Akosombo Agreement also amends some of the provisions relating to the executive arm of the Transitional Government. The Cotonou Accord was silent on how the cabinet of the Transitional Government would make decisions, which lead to the inference that the five members of the Council of State would make decisions by consensus. Taking into account the division among the parties, the Akosombo Agreement now provides that the Transitional Government may make decisions by a simple majority.¹²⁵ Furthermore, the Council of State will now include an additional member from the Liberian National Conference

120. *Id.*

121. *Id.* pt. I, § G, art. 8(1).

122. Cotonou Accord, *supra* note 77, art. 8, § G.

123. Akosombo Agreement, *supra* note 112, pt. I, § G, art. 8(1)-(2).

124. *Id.* pt. I, § H, art. 9, ct. 4.

125. *Id.* pt. II, § A(ii).

recently convened in Monrovia.¹²⁶ And to avoid a repeat of the disagreements over nominations by the parties to key executive positions,¹²⁷ the Akosombo Agreement provides that when an executive post is allocated to one party, the two deputy posts will be allocated to the other two parties.¹²⁸

VII. LEGAL ISSUES IN THE EVALUATION OF THE SUCCESS OR FAILURE OF THE LIBERIAN PEACE PROCESS

The first question is what kind of legal framework does the Community need to prevent or to peacefully resolve future disputes in the sub-region? This is a very real and important question. Apart from the Liberian conflict, there is a civil war in Sierra Leone and a rebellion by the Touraegs in Mali. If these conflicts escalate, will the Community be in position to successfully intervene? Given the ECOWAS's shortcomings in Liberia, developing a legal framework that prevents arbitrary actions or measures would enhance future efforts at conflict resolution.

Any future attempt by the Community to resolve conflicts will require a transparent and democratic mode of decision-making and accountability at the Community level where non-state actors can exchange views, debate communal concerns, and work out strategies to bring about peace. Therefore, to peacefully resolve internal conflicts in the sub-region, this legal framework should institutionalize dialogue through which citizens of the ECOWAS can mediate with each other and with their respective governments, and can apply pressure on political organizations.¹²⁹ The ECOWAS should not intervene in a sub-regional conflict on an *ad hoc* or discretionary basis. Rather, participation by non-state actors should be annexed to the Community's Non-Aggression Protocol and the Protocol relating to Mutual Assistance on Defence.¹³⁰

126. *Id.* pt. II, § A(i).

127. *Deadlock in Cotonou*, W. AFR., Nov. 15-21, 1993, at 2074-75 (elaborating on the disagreements among the parties on this issue).

128. Akosombo Agreement, *supra* note 112, pt. II, § A(iv).

129. The ECOWAS did try to include Liberian interest groups in the peace process. Therefore, the SMC had to convene a conference of all political parties and other interest groups for the purpose of establishing a broad-based interim government. Decision A/DEC.2/8/90, *supra* note 24, at 8. Given the NPFL's distrust of the inter-governmental efforts, future conflict resolution processes should include non-state actors from the Community.

130. ECOWAS Doc. A/SP3/5/81, 3 O.J. ECOWAS 9 (1981).

This will legally bind the member states to seek the views of non-state actors.

The terminology used in drafting the Cotonou Accord raises another important issue. Although this peace plan was considered the final solution to the Liberian conflict, one main reason for its failure, which necessitated the amendment at Akosombo, was that it failed to clarify the position and role of the members of the Council of State. The Accord failed to specify whether the members nominated by the various parties would represent the interests of the parties, or whether, upon assuming office, the members would be independent decision-makers and represent the interests of all Liberians. Although the terms of the Cotonou Accord were unclear, the actions of the parties demonstrated an intention to view the members as persons to whom authority had only been delegated. Accordingly, Bismarck Kuyon, the first person nominated to the post of Chairman of the Council of State by the IGNU, had his nomination revoked when he took a position that was inconsistent with the views of the IGNU on the process of disarmament.¹³¹ The sum effect of this legal ambiguity is that the Accord merely transferred factional fighting from the battlefield to the cabinet room. The members were still tied to the various militia. They only represented the parochial interests of the parties to the conflict. Had the UN and the ECOWAS insisted on defining the members' roles with more explicit language, the U.N. and the ECOWAS could have swayed the members' loyalty to Liberia as a whole instead of to their respective armies. In the future, careful attention to drafting is required to express the relationship between the insurgent forces and their representatives.

The Akosombo Agreement tried to address this loyalty problem. Under the Agreement, each party has the right to review the status of its appointees in the Transitional Government through the Council of State. Once the appointments are made, the appointees can only be changed for cause. What "cause" means, however, is for the parties to determine. Thus, ostensibly, the nominees are still under the control of the respec-

131. The IGNU decided to remove Kuyon because he had compromised its position on the issue of disarmament before the seating of the Transitional Government. It alleged that while Kuyon described himself as neutral, he was siding with the NPFL and the ULIMO, who believed that the Transitional Government should be seated before disarmament and encampment took place. See *LNTG Leadership Drama*, W. AFR., Nov. 29 - Dec. 5, 1993, at 2162-63 (expounding on why the IGNU is dissatisfied with Kuyon); see also *Mathews Explains*, W. AFR., Dec. 20-26, 1993, at 2308 (stating that Kuyon ceased to represent the IGNU).

tive militia. This problem could continue to be an obstacle to the functioning of the Transitional Government.¹³²

Another legal issue was that the Cotonou Accord did not explicitly address the problematic question of disarmament. Article 6 of the Cotonou Accord identifies disarmament as the ultimate objective of the cease-fire. Accordingly, the parties agreed to disarm under the supervision of the ECOMOG, which the U.N. monitored and verified. The Accord enumerates a series of measures aimed at achieving disarmament.¹³³ The Accord, however, failed to stipulate when disarmament would actually commence. The parties disagreed on this crucial element. Their disagreement led the ULIMO and the NPFL to virtually disregard the Accord. The Akosombo Agreement, on the other hand, states that the Transitional Government would monitor and verify the disarmament,¹³⁴ which implies that disarmament would begin after the parties form the Transitional Government.

132. Akosombo Agreement, *supra* note 112, pt. II, § A(vii).

133. Cotonou Accord, *supra* note 77, art. 6. Article 6 provides as follows:

1. All weapons and warlike materials collected shall be stored by ECOMOG in armories designed by ECOMOG, monitored and verified by the United Nations observers.
2. All weapons and warlike materials in the possession of the parties shall be given to ECOMOG, monitored by the United Nations observers, upon appropriate recording and inventory, and placed in designated armories.
3. Said armories shall be secured by ECOMOG, monitored and verified by United Nations observers, upon proper documentation or inventory of all weapons and warlike materials received.
4. Each of the warring factions shall ensure that its combatants report all weapons and warlike materials to ECOMOG, monitored and verified by United Nations observers upon proper inventory. Such weapons and warlike materials, upon inventory, shall be taken to the designated armories by ECOMOG, under the monitoring and verification of United Nations observers.
5. All non-combatants who are in possession of weapons and warlike materials shall also report and surrender the same to ECOMOG, monitored and verified by the United Nations observers. Such weapons and warlike materials shall be returned to the owners after due registration, licensing and certification by the governing authority after the elections.
6. ECOMOG shall have the authority to disarm any combatant or non-combatant in possession of weapons and warlike materials. The United Nations observers shall monitor all such activities.
7. For the sole purpose of maintaining the cease-fire, ECOMOG shall conduct any search to recover lost or hidden weapons, observed and monitored by the United Nations observers.

Id.

134. Akosombo Agreement, *supra* note 112, pt. I, § E, art. 6.

Moreover, all the peace accords concentrated power in the executive arm of government and did not delineate specific roles for the judiciary and the legislature. The marginalization of these two arms of government weakened the peace process in two primary ways. First, neither the Yamoussoukro IV Accord, the Cotonou Accord, nor the Akosombo Agreement state how disputes over the interpretation of their provisions would be resolved.¹³⁵ The judiciary could have served as an avenue for arbitration and mediation of disputes arising out of the construction of the accords. The judiciary remained impartial throughout the conflict and could have won the confidence of the NPFL. Its involvement would have fostered a sense of fairness in the peace process, an essential ingredient that the NPFL considered lacking.

Second, the legislature played an insignificant role in the peace process. The Constitution of the IGNU suspended Chapter V of the Liberian Constitution, which sets forth the powers of the legislature, for the life of the IGNU and vested legislative power in an Interim Legislative Assembly (ILA). The ILA could have played a more constructive role in the peace process by participating directly in negotiations, helping to monitor the implementation of the various peace agreements, and serving as a forum for the discussion of alternative ways and means to end the conflict.

CONCLUSION

Recent events, including the attempted *coup d'etat* led by Charles Julu, a member of former President Doe's government,¹³⁶ the splintering of the NPFL, and the emergence of a faction led by Taylor's defense minister¹³⁷ at the time of the signing of the Akosombo Agreement, point to the continuing instability and volatility of the situation in Liberia. These events raise questions about the ability of the Akosombo

135. The Constitution of the IGNU, however, did provide that Chapter VII of the Liberian Constitution, captioned "The Judiciary," would continue to be in force. Therefore, the judiciary could have resolved the disagreement over when disarmament would begin under the Cotonou Accord. If the Accord had expressly stated that disputes should be referred to the judiciary, its weakening could have been avoided. Such a provision would have been consistent with the Liberian Constitution, which provides that the Supreme Court would be the final arbiter of constitutional issues and have final appellate jurisdiction in all cases. LIBERIAN CONST. art. 66.

136. *The Coup That Went Badly Wrong*, W. AFR., Sept. 26 - Oct. 2, 1994, at 1662-64.

137. *Turning the Tables*, W. AFR., Aug. 1-7, 1994, at 1342-44.

Agreement to move the peace process forward. Currently, disarming the LPC, LDF, the Krahn-led faction of the ULIMO, and the breakaway faction of the NPFL is the most pressing problem. Excluding these new factions from the talks at Akosombo and, subsequently, outlawing them may impede the peace process. Relying on peace-enforcement powers as a means of resolving the conflict may lead to further fighting and undermine the purpose of the Cotonou and Akosombo Agreements. The Transitional Government should engage the emerging factions in a dialogue in order to disarm and encamp their fighters. The main warring parties could amend the Akosombo Agreement to include these new factions in reconstructing Liberian civil society by permitting them to nominate representatives to the Council of State, allotting them positions in the Transitional Government, and granting them seats in the Legislative Assembly. If these new factions are not included in the peace process and the Transitional Government, Liberia will likely slide back into the chaos that began in 1989.