



INNOVATIONS FOR SUCCESSFUL SOCIETIES

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BLAIR: This is Graham Blair, I'm here with Counselor Philip Banks who, until recently, was the Minister of Justice of Liberia and now is the Chair of the Law Reform Commission. We'd like to speak with you about the—starting out in the early days of your time in the Ministry of Justice. Looking back to that time, what were the major issues and priorities on your mind in terms of beginning to build and rebuild the ministry?

BANKS: *Well, part of what I had thought about when I went to the ministry was actually of a three-fold nature. Firstly, I wanted to really reinforce our prosecution because I thought that there were some serious problems with prosecution, not merely that we were unable to handle a great deal of the cases that were brought to the ministry but also because we didn't have the qualified manpower to be able to deal with those matters. And so I thought that part of our primary focus would be prosecution.*

The second thing that I really had looked forward to was improving the security of the country. Now you know, the Ministry of Justice currently has responsibilities for most of the security agencies in the country. The Liberian National Police is under the Ministry of Justice, the Bureau of Immigration and Naturalization is under the Ministry of Justice, the National Bureau of Investigation, the NBI is under the Ministry of Justice, the Fire Service is under the Ministry of Justice and the Drug Enforcement Agency is also under the Ministry of Justice.

And ours was to see if we could improve the security elements of all of these agencies so that the performance would be better, particularly given the fact that we had just emerged out of a civil crisis. It was important that we be in a position where we could improve the security and prevent criminal activities taking hold of the country, or at least substantially diminish those criminal activities that had taken hold of the country.

That was my second focus. The third was really to see if we could begin the process of publishing all of our legal materials again. We thought that our justice system was seriously impaired and that one of the reasons for that impairment was our own inability to produce our legal materials. Except for under a limited sponsorship by the United States government, our Supreme Court Opinions, for example, have not been published since 1979, and that is a long period of time. Under the sponsorship of the US government, a team of Liberians including myself—before I got to the Ministry of Justice—had managed to bring those opinions up to 1999. So, we took twenty years off it and we did work and brought them up. But since 1999, except for the private effort that I had made which brought it up to 2003, we had again become stalled. Our statutes had suffered a similar fate and there were consequences for all those because when you go back and you start to read our Supreme Court Opinions, you find that there are a lot of inconsistencies there. Primarily because the courts did not have access to opinions previously delivered by the courts.

There were many opinions that were in conflict with our statutes. No reference was made to the statutes because the courts were unaware of the existence of some of those statutes. Many of the statutes that existed were themselves inconsistent and so I thought that one of the things that I would really love to do was to see if I could get our codification program moving again. In that way, we'd be able to service the courts by providing them with all the legal materials they needed. Servicing the legislature by providing them with all the materials they needed as well as providing other government agencies so that they would be

aware, not only of their functions and through other things, but also of their limitations so that they would not transgress the laws of the country. Those were really my primary vision for the ministry.

BLAIR: Maybe we could start with the prosecution angle. What first brought that onto your agenda? What made you think the time was right to move that forward?

BANKS: *Well, before I went to the Ministry of Justice, I had done consultancy work with the Governance Reform Commission and, in the course of the studies that I had done while I was with the Governance Reform Commission, I discovered that there was a serious problem with our prosecution. That firstly, the quality of people we had there was very low; most of our county attorneys and our state prosecutors did not have any legal education. They were not graduates of the law school, many of them were high school graduates, and others were even elementary school functionaries. I thought there was a need to in fact take a hold of our prosecution if we were going to improve the—both the justice system and our own people feeling that in fact they were—they had access to an adequate justice framework.*

Prosecution was key on my agenda. It was also important because we thought that if we didn't have—well, I thought that if there was not an adequate machinery in place to prosecute criminals, the temptation for people taking the laws into their own hands would be great. They would then feel the need to retaliate rather than use the justice system. And I thought it would present a serious obstacle. We had learned, and this was verified, that part of the problem that we had had in the past, which in fact was a factor in our resort to war, was the inadequacy of our justice system. And so we thought that it was important that there should be improvement in those.

In the course of the period, we were able to initiate a number of programs with respect to that. We started a new policy where only law school graduates would now become county attorneys, and we were able to achieve that. It meant that we had to divert the resources from other programs of ours in order to upgrade, but we thought that the sacrifice was one that was important for the system, so we undertook it.

BLAIR: Were there people in other parts of the government that you had to get behind that particular initiative or the other programs to push forward the prosecutions?

BANKS: *Not really. It was primarily re-organizing the Ministry of Justice's own program so that, where the government had budgeted other programs for us, we determined that there was a need to strengthen our prosecution and therefore, we would not neglect, as such, but that we would prioritize prosecutions so that we could go forward with it. The other thing that had troubled us at the time when we took over was that there was too great a rape level, a percentage of rapes that was occurring in our society. When we had done some studies of it we had found out that in one medical facility alone they were recording upwards of 100 rape cases a month and we thought that if you multiply that by the number of medical facilities just in Monrovia you probably might be looking at more than a thousand rape cases a month. This was of serious concern to us. Not to talk about what was going on all over the country. And so again, we thought there was a great need to strengthen our prosecution.*

And what we did in that respect was that we set up a special gender based violence unit so that that unit would concentrate exclusively on prosecuting cases that related to gender violence with the focus being on rape, particularly where the offense was committed against a minor. And so we took on that responsibility and we managed to achieve it, we thought also in the process that we could not achieve that goal unless we would also be able to work very closely with the judiciary in that. And so in that respect we prepared legislation, which was enacted into law for the establishment of criminal court "E," which is a special court that exclusively handles gender violence cases.

All of these elements really contributed to our having to focus and making it a matter of priority to prosecution at the ministry.

BLAIR: Right. When you made the requirement that all county attorneys had to be law school graduates, did that mean displacing people that were already in those positions?

BANKS: *Yes, that is what it meant. We made a number of offers, we said to those folks that if there were any of them who wanted to pursue their education, the ministry would take responsibility to sponsor them so that they would be able to even get a law school degree. We spoke with OSIWA (Open Society Initiative for West Africa), and they were kind enough to offer as a means of helping us in that respect to sponsor at least 50 law school students at the law school for a period of three years—the duration of the program—and they came through on that commitment. So even currently, we have close to 60 students at the law school who, when they have graduated, will now be infused into not just prosecution but all elements of the Ministry of Justice. We had them sign under contracts that they will provide at least three years of service after graduation and then, if they are not satisfied with the level of compensation, they are free to go to other places.*

But in order to attract them, we did upgrade the level of compensations. Whereas our prosecutors were earning between \$189 and \$300 a month, United States dollars, we immediately improved the compensation so that the minimal that a prosecutor who has a law school degree gets now is \$1250 United States dollars, which is higher than even some of the law firms are offering. But we thought that was a good incentive to attract some of our best, and it paid off because then we began to notice improvements in our whole prosecution framework.

The superintendents of the various counties—the superintendents are actually the people that are representative to administer the affairs of each of the counties. We have fifteen counties, as I'm sure you know, but the superintendents began to give us feedback. They were very impressed that the people who had now taken over were much more equipped to carry out the tasks and so we and they were happy for that.

BLAIR: That's a substantial amount of money to be increasing when you think about the ministry as a whole. How did you go about increasing the salary budget?

BANKS: *Well there was not an increase in the budget. We had an application to the Bureau of the Budget and this was approved by the President (Ellen Johnson-Sirleaf) for a transfer of the funds that were allotted to a number of other programs at the ministry. So they just transferred those and then allowed us to*

use that to increase the salaries of the new attorneys until the new budget was passed, which will pass over the last month.

BLAIR: Yes.

BANKS: Yes.

BLAIR: What were some of the other sort of capacity building programs that you had? Them sending people to law school was one, were there other internal programs to bring people?

BANKS: *They had one which was to train junior staff members, but I have to confess that we didn't succeed quickly with that. There is still a need to increase capacity at the junior levels. The other thing that occurred is that we were able to get a number of the NGO's (Non-governmental Organization) particularly our foreign partners to undertake periodic programs so that attorneys who were not fully equipped could be exposed to periodic training programs, so that occurred too. We had also recommended, and I am happy to say it was on our recommendation initially, that we proposed the establishment of a judicial training institute so that it would be a forum where there would be training of our judges. Again, we were working with the full realization that our justice system will still have difficulties because even where we now determine and actualize representation in the various counties by our county attorneys who are law school graduates. There were tremendous instances where they would be appearing before judges, especially magistrates who themselves had no exposure to legal education. And so we had proposed the setting up of the Judicial Training Institute and our hope had been and still is that that institute would then hold our long-term programs where these magistrates could now be trained in the rudiments of the law.*

I had taken the position and again I maintain the position that it took me three years of law school training before I earned a law degree. I didn't think that the kind of programs that were met where some group or some team would come in and provide three days of training for magistrates would sufficiently capture what it took me three years to capture. And so I said I had some serious difficulties with it. I didn't think it was actually beneficial to the country and the evidence was there because many times after those training programs when the magistrates went back they performed as poorly as before. If they were corrupt they remained as corrupt as they were before. There was no noticeable change, but I thought that with the judicial training institute, where, instead of three or four days of training, they would be exposed at least to maybe six months of training. And the institute would then also have the responsibility to certify that these people were adequately trained in the law for them to be able to dispense justice.

Our magistrates are appointed, like all other judges, by the President. But what we had thought to do in the case of magistrates, since we knew that they were not exposed to formal legal training, was that you would have this institute now that would certify to the President that this person was sufficiently qualified to be able to serve as a magistrate. In that way, we thought it would improve the justice system. The institute has been set up, at least established, but it is not fully operational just yet. But again, we're hoping that that goal will be achieved soon.

BLAIR: Right. In the first year or two, along with sending people away for training, there must have been a need to hire new people. What were some of the challenges to bringing in talented people with particular training in the beginning?

BANKS: *Well I have to confess it was difficult. Firstly, like I said, the salary scale was so low that no one would come in.*

BLAIR: Right.

BANKS: *After we upped it—yes, almost all of the people who now serve as county attorneys were new people that were brought in. We determined to also provide some additional incentives to them especially for those who we thought we needed to send out to the leeward counties. Each of them, for example, was provided a generator. They were not given as much as they required because we had to operate within our budget, but they were provided the fuel to run the generator, they were each provided laptop computers and printers, they were each provided phones so that communication was made easier. And it took a little bit of time, but at the end of it they were also provided with transportation. Each of them now has a new vehicle, something we believe will assist them both in the investigative and the prosecutorial elements of it.*

I always cite to—I cite it to the budget people when, when they were not readily forthcoming with providing us those things. I said, “If you take a county like Lofa, which is a huge county with one county attorney, you can’t expect this man to travel the entire county without any means of transportation; it is just not realistic to expect.” And when you then begin to say to us that the justice system is not performing as it should, my response to that is if you want the kind of performance that I also think should be given then you need to provide the facilities for us to be able to make that.

I was happy when vehicles were provided to all the county attorneys so that they would be able to get around and that also helps the justice process because these are the people who also have to transport the witnesses. For example, if you have a trial, they have to go and get the witnesses and bring them to court. If there’s an investigation that is going on, they have to try to facilitate the police or the security I should say. Getting to crimes scenes and collecting evidence and all of those so it was important that they had these facilities available to them and yes, fortunately they now have those so I think that it’s serving to improve the system. Not the level where we would like to have it, but there is certainly improvement in there.

BLAIR: Right. There are a lot of demands placed on the Justice Ministry to deliver a great deal of change in a short period of time. What was your strategy for trying to convince the other parts of government to sort of increase the budget and help to, help to move that forward?

BANKS: *I moved into the—with the theme that in order for anything to succeed the condition had to exist, I said to the Budget Bureau, to the President, to the Cabinet, all of them that there were two things that had to be focused on. One was that with respect to most other government agencies, foreign assistance was a matter of priority. If you read the newspapers, you listen to the radios; you will learn that China will be putting in 10 million dollars for the construction of a hospital, for the construction of various clinics. The United States will be putting in a tremendous amount for the Ministry of Education, for the establishment of*

more schools. They will be pouring in millions and millions of dollars for agriculture and those kinds of activities. And I said if that is the case we know that all of these other agencies are basically being supplemented by foreign assistance. So if it comes to budgetary appropriation, you have to be cognizant of the fact that the Ministry of Justice is not similarly privileged to those kinds of assistance and therefore, there is a need for the Ministry of Justice to have a higher budget ceiling rather than a lower one. Because if you give it a lower one then it really makes the ministry seem like it's not performing. If someone is—if the US government has determined that they are going to build eight or ten schools, so you see more kids going to school, and people say oh yes the Education Ministry is performing because there are more children that are going to school. If they assist and more hospitals are built the facilities are now available to more people then and you have a great rate of cure in a society so naturally people will say the Ministry of Health is performing tremendously. And I said we should probably have a situation, which didn't exist at the time, but I said we should have the situation where we too can be able to boast that the Ministry of Justice is performing. But for us to do that then it means we have to rely more on the government to provide that budgetary support, which many times wasn't available.

The second thing that I had that I always made to them was that no matter how many hospitals you build, no matter how many schools you build, no matter how many roads you build, no matter how extensive you made your agricultural program—all those could only succeed if the people who were expected to be involved in those activities there were able to have safety. I said it's no use to me that you have a school that I can send my child to if that child is not alive.

BLAIR: *Right.*

BANKS: *Certainly, there is no benefit then many times. They would laugh. I'd tell them even if you wanted to take me to the hospital, I have to be alive before you even carry me to the hospital. But that was designed primarily to give them an appreciation of how important the justice system was and why there was a need to support that justice system. Many times, it wasn't listened to, but there were occasions when they listened and I think it was probably part of the reason we managed to get some level of increased support from the government. It was not as much as we thought we needed, but it did help us get that level of support. It was that kind of approach that I think helps us.*

BLAIR: *Where were those conversations, those were in Cabinet meeting and with the President?*

BANKS: *Some of them were with the President on a one-on-one dialogue. Others were raised in Cabinet meetings, others were raised in sub-committee meetings, and others were raised with individual ministers like talking with the Minister of Finance and the civil service director—primarily, of course, on his end so that we could see how they could be of assistance. And sometimes it succeeded, where we were able to get two voices on the SES (Senior Executive Service) program, two lawyers. We had also raised the issue with some of our partners and I don't know if you've heard of the Scott Fellow Program (Center for Global Development Scott Family Fellows Program). We were able to get three persons on that program. So yes, it sort of helped in some ways.*

BLAIR: For me that's a good segway to talk about the sort of security sector reform which you mentioned as your second priority when you came into office. What was the sort of detailed plan, what were the steps that you were going to take to begin to tackle that huge problem?

BANKS: *Well firstly, and this was unfortunate because with respect to the military, for example, we had a commitment from the United States that they would be responsible for training the military. So you could look at an initial uniform, unified training program for the military. It was coming from one source and that was good—chain of command and basic operational things, they were all coming from one source so that was good. Unfortunately, that was not the case with the police, and I should also add that when it came to the military, you'd have from that single source a single standard. They set a standard. You have to meet these qualifications standards before you are admitted into even a training program and we were happy about that because it was good.*

The police was not that way and I always say to folks that our police are actually the first line of defense for our citizens and for our country. But that process didn't follow through as was with the military. We had UNMIL (United Nations Mission in Liberia) that was in charge, but again, UNMIL compiles people from an array of countries, Ghana, Nigeria, Britain, Sweden, Finland, so we have—and they even brought in a few Americans but the consequence of that was that then there was no uniform standard because we had all of these. But I thought the greatest problem that we had was that the vetting process seriously flawed. I believe that the vetting process was seriously flawed, and as a result of that, there was very little respect for integrity in our police.

When I took over there was an absentee rate of upwards of 70 and that—

BLAIR: Wow, meaning days that—?

BANKS: *Yes, on a daily basis, and you know that had to be a matter of very serious concern. The level of indiscipline was very high, and like I said, the vetting process was so seriously flawed that one of the things I insisted should happen was that there should be a new vetting process. That is underway gradually but there was a lot of opposition to that so it was slow.*

BLAIR: Because of factional interests or political interests?

BANKS: *No, not really. I think part of it was pride on the part of UNMIL admitting that the process was flawed and that it created some serious problems for the operational side of the police. It wasn't something that people were prepared to admit so readily, but I thought it existed. There were people who had human rights records, there were people who had committed various crimes, the interview process was not such that you could easily or readily identify violators of human rights and other things. And so a lot of these people that were admitted into the force you know should not have been there.*

But I think under the circumstances, they did as best they could in the recruitment, I mean, this was immediately out of war. I thought that they did make an error though, in dismissing the entire force and then trying to re-organize a new force. I thought that they could, and probably should have, first identified some of the key folks who had knowledge and experience of the force and could serve as a driving element for all of the new recruits. But the entire force was

dismissed. So it was starting from scratch and therefore, the lines of authority were, I guess I should say, smeared, because no one really had the experience. That was gained over a period of time, but I think it caused the system to suffer a good deal.

The other thing was that we were just not getting the kind of support I thought was needed. Whereas there were a couple of hundreds of millions of dollars being spent on the military, on a small number because they are some 2000, which I don't have a problem with but there's very little that was being spent similarly on the police. I thought the training was not as adequate as it should have been. And so coming in we thought that we might try to design a new mechanism for the police, one in which you would be able to monitor the daily activities of the force.

BLAIR: A new command?

BANKS: *That was difficult but I think they're now achieving it.*

BLAIR: That was a new command structure to monitor or it was a new body within the Justice Ministry?

BANKS: *No, the police have always been a part of the Ministry of Justice so the command structure was, I mean as far as the ministry is concerned. But within the police itself, yes, prior to the war our police force has been patterned basically after the US police structure. Again, that was one of the things that I had a problem with because that was done by statute, whereas when UNMIL came in they redesigned the structure. An individual we used to call a Director of Police was now given a new nomenclature of Inspector General, Deputy Inspector General; people who used to be Assistant Directors of Police now began Commissioners and Assistant Commissioners.*

When I took over I told them it wasn't a structure that I could recognize because as a lawyer and given that I thought that they would respect the rule of law, it should be one where if there was a need for any changes to be made we should do it by statute. So yes, there was a new structure, but I didn't see that as any serious impediment; no it wasn't. If the training program was adequate and we had the commitment there, I thought you could achieve the goal also. But I think one of the biggest problems that we had was that the level of compensation was so minimal.

BLAIR: For the police?

BANKS: *Yes, that it was difficult to insist on commitment and honesty, the lack of corruption in the force. So we had all this working against us, it wasn't something that the government could have been blamed for because, firstly, when this government took over, there were very little resources available to it. But when we started, we started off with a budget of like about 80 million dollars so, and the government has been really striving to improve the budgetary performance. So you did have, over a period, an increase in the level of compensation—still inadequate in my view, but at least you had that level you had that increase. And the hope—my hope and I think the hope of the government—is that as the budgetary performance improves, you will have improvement in the security.*

I know in the new budget the government did agree that the minimal a security personnel should receive is \$100 United States dollars, which may not be as high as people would like to have it, but I think the increase just encourages people to enter the force. And one of the arguments that I made when I came to the salary of the police—and not just the police, let me say broadly the security—was that unlike other institutions where people are asked to perform a task but are not exposed to any danger to perform that task, with the security, there is an inherent danger in there. Once you agree to enlist into any of the security agencies, you immediately take on the risk to your life, and I say that for any job where there is that level of risk, there should be an appreciation of it by the appropriate compensation.

And I think gradually the government is trying to get there. So hopefully, we'll get there, because a janitor and a policeman were practically making the same salary, and we said that didn't make any sense. Then I would prefer to become a janitor rather than have go out at night and have to face all these armed robbers. But things are improving, and we'll work to continue to improve.

BLAIR: So we've spoken about when you first came in and were dealing with this UNMIL police force; that the first couple of things you began to do were to try to increase the salaries and to initiate this new governance mechanism for the police. What other strategies were there to try and improve the quality of policing, and perhaps work on corruption?

BANKS: *Actually, the first thing that we asked of UNMIL was to help start a verification process so that we could verify, firstly, that the representation made was correct as regards the numbers of police officers. We thought that part of the reason for the low performance was that the police were not adequately deployed. And so we wanted a verification process where they would be able—we would be in a position where we knew how many officers were assigned to various police depots, how many officers were assigned to the various counties.*

And the exercise was good because they were relying that out of the 3500 officers they had for the entire country, they had around 2200 of them stationed in Monrovia. And of that number that was stationed in Monrovia, half of them were stationed at headquarters. That, in and of itself in our opinion, sort of encouraged criminal activities because, if you have half of the country's forces deployed right at police headquarters, then I guess you might ask the question who are out there really.

So that was what that exercise revealed, and it provided the opportunity to now take another look to see how to re-deploy the police officers. Also, there was basically no incentive for deploying police officers in the counties because they were earning the same salary as people were earning in Monrovia. There were problems with the Ministry of Finance having to make payments to those people; many times they had to leave the counties and come to Monrovia in order to get paid and that left a vacuum in the areas. So we complained about that, and the Ministry of Finance, well, they will wipe out some mechanisms so that people are paid in the counties. Something which they are pursuing, not perfectly, but at least they are making the attempt to do that. But the other thing is that, even if these people went to the counties, there were just not the facilities that they needed that were available in the counties to encourage them to want to stay there. I mean, if someone left Monrovia and you deployed him in Lofa, he had to find a place where he could live, rental place. He had to move around and try to

find his own food, which I guess one in Monrovia would do, but there is a cafeteria at the headquarters of the police so that he would just have to go right down to the cafeteria where the food was relatively inexpensive to get rather than if he were up there, and had to move around and look for his own feeding things, look for his own housing facilities and all.

So we have tried to encourage the construction of police barracks, which is now in the budget. The current budget does call for the construction of a number of police barracks around the country. It still will not be sufficient but the hope is that over a number of years they will reach the level that is required. So yes, that was another challenge, and I guess also the initial appointments that were made didn't reflect the most efficient or the most qualified of our people. It's a problem having to now; it was a problem having to replace them.

BLAIR: How did you go about that?

BANKS: *Well, they haven't been replaced; most of them are still there. There is a new undertaking by the government now to try and replace a good number of those so that you can now have I guess a more efficient force.*

BLAIR: What were some of the obstacles to starting to remove those people earlier?

BANKS: *To?*

BLAIR: Remove those people earlier?

BANKS: *Some were political, others were connectional.*

BLAIR: What were the sort of higher-level political problems with this, just that there were so many connections?

BANKS: *Well, there were people who knew other people, but I thought that one of the major problems was that the way that they had it structured. The President (Ellen Johnson-Sirleaf) made the appointment of a lot of the key folks and therefore, the question of discipline became a major factor because, as a presidential appointee, and you yourself being a presidential appointee, you could not take the kind of action that ordinarily could or should be taken unless you obtained presidential approval. And many times, the President herself may not even have been aware of the problem that exists. The things might not have reached her, maybe some staff members might have considered it too trivial a thing to reach the President. But the problem remained because legally, that was the only course that you had to pursue. And so that was itself a problem.*

BLAIR: What about with regard to—you spoke a little bit about people who were in the force that were perhaps ex-combatants or had committed crimes against humanity. Do you have any advice for other people in other countries facing this problem from this experience you've had dealing with the police?

BANKS: *My recommendation to them, which I thought was a mistake made by UNMIL, was that they should get some of the local people to be a part of that process because they can more easily identify those persons who may have committed such criminal activities. I thought also that the way that the interviews were conducted just detracted from getting the truth out of people. They were going into a community that some individuals said that they were from, and they would*

ask a neighbor is this person a good person, has this person committed a crime. If they expected that the response would be oh yes he did, then I don't think that they knew pretty much how to proceed with it because, with the individual and/or his or her relations right there, no person would want to put themselves in that kind of danger. And there were a few instances where people were retaliated against for that, so the almost natural thing was that people would not give the truth. They would say yes, yes he is, he's a good person, yes. Because they feared that they would get injured or hurt, or some retaliation would be taken out against them. So they would have to develop a different kind of mechanism.

BLAIR: Which would be speaking to local officials or chiefs or?

BANKS: *You speak to the whole array of local folks. But also, I think, as they are doing currently, and they did for the military, we would take the photographs of these individuals and would publish them and post them at some strategic points where people could review and could report on whether any of these individuals had been involved in criminal activities. And they would not be in danger by reporting the information because the individuals against whom they were making the report would not even know of them. Since people were not going to their homes to ask them if these chaps had committed violations, they would be reporting mostly to—and if you saw a photograph in the newspaper of some individual that you recognize you're more likely either to write to or go to the place and say this individual is a criminal. And I thought that would increase the public participation in vetting these persons. So that would be part of what I would suggest for people who are coming out of—get the local community and go off and try to design it in such a way that it doesn't endanger people coming out and exposing individuals who have committed criminal acts or acts of violations of human rights. Individuals whom, I guess, one might even conclude would commit such violations now but under the authority of the government and that would not be good for the government.*

BLAIR: Right, right. We've sort of skirted around this issue a little bit a couple of times, the issue of patronage and dealing with personal ties, family ties, factional ties. After this experience with the police and with rebuilding the ministry in general, do you have advice for your counterparts in other places on taking out the dangerous influence of patronage?

BANKS: *I know in developing societies it's been difficult, I guess, to not be influenced by some level of patronage. And frankly, our society, if you go back—and I did some studies, Tubmans (former President William Vacanarat Shadrach Tubman) time, this was basically how the society lived. I mean, it was encouraged by the government, patronage, and it was a long time before there were attempts to try to disabuse the society of that. It was during Tolbert's (Former President William R Tolbert Jnr) time that attempts were made; they didn't succeed completely. Mr. Doe (Former President Samuel Doe) came in and sort of invited to the same old practice. We had the war after that, and although it is not as bad off as it was before and the government is making every attempt to correct that situation, part of the problem that the society has had has been an almost antagonistic evulsion, one might say, between Liberians who were left here in the course of the war and Liberians who sought their safety by going abroad. Now those Liberians—or some of them that used the opportunity and were able to obtain a good level of education and perhaps maybe even some financial improvement—their difficulty is that a good number of them have come back and have sort of*

looked down on folks who were here and who were not exposed to such opportunities.

Most of the schools were closed and so they couldn't go to school and enhance their own educational prospects, and a lot of them were in the middle of criminal activities and they themselves became criminals. A lot of them had no opportunity for survival except to rely on other folks, on other activities. So they are resentful of people who are coming in and wanting to look down on them, and I think that has had some negative impact because it has deprived the society of bringing in the level of expertise of Liberians that I think we need to be able to take the process forward tremendously.

But there are many others who, yes, on the basis of patronage—either they had allegiance to one warlord or another or some family members of a warlord and all of those and you know the various—these mechanisms that we've gone through where effectively they apportioned public positions. These people were able to supplant in the various government machineries people of their own kind, either of their own ethnic group, or their own families and all of these. And so, when a new government comes in you almost confronted with this difficulty how do you now replace people who don't have the qualifications because they never had it when they were appointed to the positions. The appointment being primarily because you knew the warlord, or his representative, or his relative, or his friend, and all of those things. They had acquired the position, and because they were there and they kept engaging people, the bureaucracy became overburdened. And you have a government that has come in and says I am committed to efficiency, but you may have a bureaucracy that is highly inefficient because most of the people are not qualified for it. And it's difficult to put those people out because if you did, some of them may revert to their criminal activities, others become highly resentful, or threatening even, to the more efficient people that you want to replace these people by.

So it's been a difficult process, but I think some progress is being made. Part of the government's own effort that I think has succeeded is that they have been able to bring in—because that has been the other problem, again, if you bring in Liberians primarily from overseas, you should be able to pay them at least at a comfortable level. And to be able to pay them at a comfortable level means that you're going to have some inequity in the system, and resentment. Someone who's earning as a Director \$300 isn't going to feel happy if you bring somebody in and pay him \$3000 or \$4000 whatever.

So one of the ways that the government has tried to get around that difficulty is to have partner governments and international organizations pull some resources together and use that to bring in primarily Liberians who have the qualifications. It's the SES (Senior Executive Service) program—I'm sure you've heard of, for the SES program, they have the top ten program but these are not paid for by the government. So I guess it makes it a little easier that someone else is paying and you are coming in, not necessarily to take the position of another person, but rather, to try to see how you can just help the system and help the improvement of that individual who you would be associating with.

And so I think that has helped to ease some of the tension. We're hoping people will take advantage of the fact that schools are now reopened again and that they will try to improve themselves. I think there are still problems that exist there, but over a period, I think the situation will gradually begin to change so that there will

be less reliance on patronage and really on qualification. I don't have a problem with anyone who has the qualification to hold a position, regardless of the relationship, as long as he or she is qualified.

So if I have a brother who's qualified, I don't have a problem of him occupying a high level position in a place if he has it, but if he's just going to get the position because he happens to be my brother, then I do have some serious concerns.

BLAIR: Right. Were there particular programs while you were the minister to deal with that problem, to deal with the people that were in positions that were unqualified?

BANKS: *Well I will not speak for other agencies, I know when I took over I just made a position—I just made my position clear to folks and to family members, that I wasn't going to engage anybody merely because I happen to be minister and you happen to be my brother.*

BLAIR: Right.

BANKS: *One of my brothers committed a criminal offense and they said, "what do you do?" I said, "lock him up", and so they did that. I said that he would go to trial the same as everybody else. And I tried not to dismiss people merely because of that. Instead, I told them my emphasis would be on trying to improve people who were there. Now there are some of them that just can't be improved, I have to admit, because, as a chap has said in the past, you want to build capacity, but in order to build capacity, the person has to have the capacity for you to build on.*

But I have to confess that was one of my own difficulties, streamlining the sector so that you have the kind of efficiency that you need to have. On a number of occasions, I made the attempt but it didn't succeed, again, because a lot of the positions are subject to approval and so when that happens then you have to work with what you have. And so that's part of what we had attempted to do, work with what we had.

Again, you know we weren't getting the kind of budgetary support that we thought we needed to even be able to improve the situation, as we would have loved to. And like I said, it's only recently that the government is really beginning to take some really serious look at it, and I think that is good for the system. And I'm optimistic that if that approach continues, we will see a huge improvement in our justice system.

BLAIR: As you were building up the staff, the ministry staff itself, your personal staff and the senior staff, how did you go about finding people that had the right talents to move your agenda forward? I know for many ministries that was a big challenge in the beginning.

BANKS: *I know, but like I said I—my first really was that — well, I had asked for the résumé of most of the current staff, all of the current staff. I mean I had made some changes there; for people who I believed would perform better in other roles, I made some shift.*

BLAIR: So these are people that you are inheriting from the transitional government?

BANKS: *Yes, they were people that I inherited. I said before it was difficult at the highest level, it was difficult to make changes because it was also subject to approval.*

But yes, the junior levels you were able to make some shift, people who were working there who I thought had the potential I engaged. My special assistant, for example, was a gentleman who was seconded to the ministry by the Carter Center and I had looked at his resume and so I had invited him in and asked him what are you doing, he said, "well every now and then I provide advice to the minister." I just felt that he was under-utilized for the kind of talent that I thought he had. So I said, "listen, would you like to move forward", and he said, "yes I don't mind, I would love the workload, I would certainly be able to gain more experience by it". And so that's how I brought him in as my own special assistant. And the lady who is currently Deputy Minister of Justice for Administration, I had brought in as one of the Scott Fellows but—

BLAIR: She's a Liberian?

BANKS: *Yes, a Liberian. But seeing that she was capable of the performance, I had recommended her to the President (Ellen Johnson-Sirleaf) to be Deputy Minister of Justice for Administration. So where there were those opportunities; we tried to make use of them.*

BLAIR: Many ministerial officials say that it's one of the big challenges when you come into an organization—perhaps that's been left over from the transitional government—is changing the attitudes of the people that are there. Were there particular special incentives used, management techniques to get people working toward your vision of the changes in the security sector?

BANKS: *That was difficult, and I think that was part of the problem I had. I would have preferred a situation, frankly, where I could have come in and started from a new slate, a new staff, but that was impossible, and it was hard to have a mind change by people. And I met a system where, in addition to the salaries—because all the salaries were paid in Liberian dollars—the government had an allowance scheme, and that was really designed to provide incentive to people who were performing so well. It was difficult to administer, I have to admit.*

BLAIR: Choosing who would get the allowances?

BANKS: *If you had two secretaries for example, if you took my secretary as an example—one of the first things I did was to see if I could encourage people to come to work much earlier than they had done before. So I had a series of meetings with them and then I had adopted a scheme where I arrived at my office between 6:30 and 7 in the morning, and I didn't leave until about 9, 10 o'clock in the night. It didn't work too well; some of the top people adopted it, but for the junior staff it didn't work too well. And people just couldn't appreciate that if my secretary arrived at 7, 7:30 in the morning and didn't leave office until 8, 9, 10 o'clock in the night, one could not expect that the salary scheme would be the same as someone who arrived at 10 o'clock in the morning and left at 3.*

So it's still something that we need some working on. When I think that adjustments were being made, one of the things that I learned is that in our society right now, you got to have a hands on situation but that is something that I wasn't used to. My preference was and still is that you should be able to delegate responsibilities and let them be accountable. But it didn't work too well because, again, people never thought or felt that they could also do something unless it came directly from you. Most ministries still suffer that problem. Again, as you get more competent people into the various ministries, it may work better.

BLAIR: I don't want to impose upon you too much, do you need to leave at some point, a couple more minutes?

BANKS: *I'll probably do that in another ten minutes or so.*

BLAIR: Great, great. As you were working in the ministry in the last couple of years, were there particular obstacles that came up that you haven't foreseen that were impeding the progress of the reforms?

BANKS: *Oh yes. Like I said, I had worked with the Government's Reform Commission before I joined the Ministry of Justice and I had done a paper, a concept paper, that took the Ministry of Justice into consideration. But I had done it from the point of an outsider looking in, and so I had underestimated the gravity of the problems that the ministry faced. I had said, for example, that the ministry had too many incompetent attorneys, that all the county attorneys were a bunch of incompetent individuals. I didn't take into consideration the fact that that obstacle was due primarily to problems of budgetary allocations, and so I had that problem there, and logistics were a problem. The lack of training facilities was a problem; the lack of basic equipment, and for the Ministry of Justice, research material, which I think is critical to the ministry, both to prosecute and also design the laws for the country—which basically were things that the ministry should have been doing.*

When I moved in there, the library was basically demolished. I mean, it was absolutely—no one could do any research in the building at all. It took a year and a half to rebuild the library, so an obstacle that I didn't anticipate was there. In order to do that, we had to sacrifice some other programs. But it was the question of determining what the priorities should be, and I thought that the ministry needed to have a good functioning library in order to be able to perform the kinds of functions that the statutes had delegated to the ministry.

So yes, I didn't take into consideration that, in the security sector for example, they just lacked the competence; they didn't have the forensic capacity, for example, to solve crimes. Personnel just didn't have the competence to follow-up on leads and to preserve crime scenes and all of these things that, really, when I took over, were troublesome. And unfortunately, of course, I took over in midstream so there were not budgetary appropriations to correct some of those ills. And so in my view, in some instances, there was just deterioration. In other instances, I just had to intervene and challenge some of the results. If you read some of the newspapers, they talk about—I don't know how long, how long have you been here?

BLAIR: A couple of weeks, not too long.

BANKS: *You may have read the stories in relation to this half a million dollars—508 thousand dollars—that the Minister was supposed to have siphoned away and all of that.*

BLAIR: Right.

BANKS: *And I say to folks again, it's the question of the incompetence and, I guess, in some instances, maybe even the corruption of the system. Because in that particular case, if we use that for as an example, the—our criminal investigation division of the Liberian National Police had come up with findings in which they*

said that there had been no violation of the law and so the funds of this individual should be returned to him. That report was issued even after my predecessor who was then Minister of Justice had applied to the court and the court had issued an order to confiscate the money and then they come up with this report that the funds should be released to the man. The man had clearly acted in violation of the law, how they reached the conclusion still baffles me. But again, because the records that they had presented to me were incomplete, I had acted on the records and had said go ahead and release the funds to the man. Only to find out that, firstly, there were no funds because my predecessor had gotten an order of court; the court had said confiscate the money and put it into the government treasury, and the government had put it into the treasury and had used it instead for security. But I had made the error in writing to the Governor of the Central Bank and saying release the money to the man based on the report of the CID (Criminal Investigation Division), when all of these other things had already occurred.

BLAIR: Right.

BANKS: *Which I was unaware of, and once I became aware of it and I wrote the governor again and just retracted it, and said listen, firstly, under our jurisdiction, yes if the court issues an order, as Minister of Justice I can't contravene the orders of the court but again this was due to our own—there was a clear violation of the law by this individual. So, how our criminal investigation division determined there was no violation is a problem. And we have a good number of cases where I just disagreed with the findings.*

There was another case where the CID had determined that a little girl had hanged herself, thirteen years old, and when I reviewed the records, it seemed clear to me that this wasn't the case. I felt convinced that this little girl had been murdered and so I had a disagreement with our investigation and so that, in and of itself, caused some serious problems because the public out there began to think that you don't know what you're doing when the Minister is disagreeing with his investigative arm. But I've maintained the position that I'm not going to agree with anyone because they just happen to be investigation. If you are wrong, with your conclusions—because I said to them, I am the one who is going to prosecute and I want to make sure that when I prosecute, I prosecute correctly.

There was another murder case that happened in Grand Bassa County on the LAC (Liberia Agriculture Company) plantation. Again, I had to go up there on a number of occasions in order to—I'm Minister of Justice, my role should basically be mostly administrative here, but many of those instances, I'm having to go down there to direct the investigation so that we can build up the case. Crime scene preservation; before the changes were made, I visited the police headquarters, and they were boasting about how they had now this fingerprint equipment. I said, oh how did it get here. They said, well, somebody donated it. And I said, you sit around—this government has been in existence for more than three years, you sit around for three years and you don't have fingerprint equipment. How have you been solving some of these crimes? I said, what is the cost of this equipment? They said \$4000. You sit around for three years and wait for somebody to donate that equipment. But I guess, again, it goes into what I said before, which is that the recruitment process was flawed and so you didn't have people there, I thought, who were highly perspective, who had vision for the environment for which they worked. We still have that difficulty, but I think there will be improvements you know in it.

BLAIR: If you had to give a couple of pieces of advice to someone coming into your position, coming in midstream into a ministry with such difficult problems to solve, what would the advice you give be?

BANKS: *I would first recommend that you should identify the most competent staff really, and make the best of them. If I had to do it all over again, I would probably get in there and do a re-examination of the structure of the ministry and see where there can be a greater effectiveness. I would advocate very strongly to try as best as possible to get the ministry to move from the political process. I would advocate for a more effective public outreach program; that was one of our biggest difficulties I think. That people out there really didn't understand the ministry. I mean, my successor is saying that already people are keeping her up a lot of the nights. I said yes, I went through the same problem. For a traffic violation, they call the Minister up, and I'm saying why do you think they have the Chief of Patrol.*

BLAIR: Right.

BANKS *You got a traffic section in the police, you call the Minister up, that's like 5, 6 layers way up there, but they do it. There were many nights when I used to have to get out of bed and go to the hospital either in regard to a murder case or in regard to a rape case just to try to make sure that the evidence was preserved. Otherwise, we'd have no basis for a prosecution. And if you don't have the level of competent staff to take care of some of those activities, you have a problem.*

Now I should add that we did cure some of those because, for example, in setting up the gender base violence unit, we now had them establish a hotline where to say that if anything happens call that number and people will be available 24 hours a day. So that once you call that number, they will enlighten the folks who should get on to that and then they can move on and take care of it immediately rather than calling the Minister up and saying, now you get out of bed and come and see what's happening.

The engagement of more lawyers also helped the situation, and given the role of the ministry that would be one of my prime recommendations again for prosecution; advocate with the government and engage more attorneys. There's a critical need for those. We'll see what else has helped but, like I said, those really don't come on stream until three years down the road but you need those attorneys now, not three years down the road.

BLAIR: Right. When you say removing the ministry from the political process, you mean depoliticizing the top-level staff, taking the Deputy Ministers not appointments? Or do you mean something else?

BANKS: *I'm talking more about having a ministry that has a primary focus on professionalism. The Minister is a member of the Cabinet, that is true, so you are involved in the political process. But I think at lower levels, you need people who are just highly professional, who can take action and make decisions, and not have to fear that as a result of it there could be political consequences, and all of those kinds of things.*

BLAIR: For their jobs? Political consequences for their jobs?

BANKS: *Yes, for action that you've taken. I have to confess, though, that unlike many past governments, this government is very tolerant in having people take the kind of decisions that one needs to take to move forward. It couldn't happen long ago. I know when I was at the ministry, we prosecuted a number of Senators for example, a couple of members of the House of Representatives, and a couple of people who were very big in the society. And the President (Ellen Johnson-Sirleaf) was very—she would say, 'I don't want to have anything to do with it, if you think that the government has a sufficient enough case to prosecute go ahead and prosecute.' I'm not going to go into the details of it but we even, and I'm sure you must have read or otherwise must have heard, we prosecuted the former Head of State, Mr. (Charles) Gyude Bryant. We didn't succeed in that case for a number of reasons, which we're not going to discuss here, but in many instances she's given that latitude. It's mostly some of our people who are down below who, I guess, given their own encounter with the political process in the past, are still reluctant in carrying out their function as efficiently as they should.*

BLAIR: Right. Well thank you very much I really appreciate you taking all this time with me, it has been a great conversation, so thank you very much.

BANKS: *You're welcome, you're welcome. Unfortunately, we didn't cover the Law Reform Commission but we can do that another time, maybe.*

BLAIR: Sounds good, yes.

BANKS: *Sometime in the future.*

BLAIR: Yes, yes. Thank you very much.