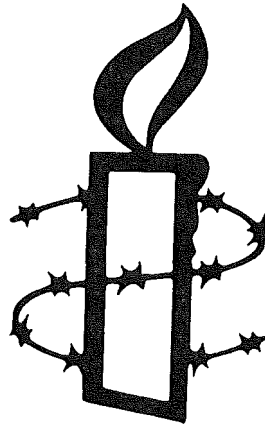

amnesty international

LIBERIA

**No chance for a lasting peace
without effective human rights
guarantees**



13 December 1993
AI Index: 34/01/93
Distr: SC/CO/GR

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 8DJ, UNITED KINGDOM

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13 DECEMBER 1993

SUMMARY

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Amnesty International believes that there is no chance for a lasting peace in Liberia unless effective guarantees on human rights are included in the peace process. While welcoming and recognizing the significance of the recent peace agreement, signed for the first time in the Liberian conflict under the aegis of the **United Nations (UN)**, Amnesty International feels that it is seriously flawed by the omission of conditions obliging the warring factions or any future government to respect human rights or to bring to justice those responsible for killings and torture.

On 25 July 1993 the armed groups which have been contesting control of Liberia in recent years signed a peace accord in Cotonou, Benin, which provided for a UN-supervised cease-fire and for the establishment of a transitional government. It was also signed by the **Economic Community of West African States (ECOWAS)** and the UN, which are responsible for ensuring its implementation, and the **Organisation for African Unity (OAU)**. However, by December 1993 the armed groups had not begun to place their combatants into camps or to disarm them, and the formation of the transitional government was plagued by disagreements.

Amnesty International is concerned that the peace accord makes no recommendations about the investigation and reporting of the gross human rights violations which have been committed by all sides since the start of the civil war in December 1989, and that no effective steps have been taken to investigate even the most serious of atrocities committed in 1993. Although a UN inquiry into the massacre of nearly 600 civilians at Harbel in June 1993 called for criminal investigations with a view to prosecution of those responsible for these and other major atrocities, no investigation is known to have been conducted since by any of the warring parties or by ECOWAS.

Amnesty International is also concerned that the agreement contains no guarantees for the safety of released prisoners or specific human rights guarantees, and that no mechanisms have been established to ensure continuing monitoring of the human rights situation nor the investigation and remedy of any violations which may occur. The agreement provides for an amnesty which could include those responsible for human rights violations, war crimes or crimes against humanity, and the mechanisms for ensuring implementation of the agreement appear likely to be ineffective.

Amnesty International is therefore calling upon all parties to the conflict and the future transitional government of which they are part:

- to end human rights abuses and provide adequate safeguards for detainees, including ensuring full access to them by the International Committee of the Red Cross;
- to exclude from any amnesty, or from any position of authority over prisoners or over armed personnel, those suspected of being responsible for human rights abuses, and to bring them to justice;
- to report all human rights abuses to the appropriate authorities and to encourage the general public in Liberia also to do so;
- to ratify international human rights treaties and to amend and implement the Liberian Constitution and laws consistently with internationally-recognized human rights standards;
- to undertake steps towards long-term institution-building and reforms for the promotion of human rights, including establishing - in cooperation with the UN, ECOWAS and the OAU - an independent judicial system and properly trained security forces.

Amnesty International is calling on the UN, ECOWAS and OAU:

- to ensure that a human rights monitoring mechanism is established with a mandate to investigate and report human rights abuses and that it issues frequent reports and distributes them widely;
- to establish an international group of civilian advisers to assist in human rights training and amendment of the Liberian Constitution and laws, and to support local human rights initiatives;
- to maintain an international presence in Liberia for as long as may be necessary after any future elections to ensure human rights are respected.

KEYWORDS: IMPUNITY / AMNESTIES FOR VIOLATORS / EXTRAJUDICIAL EXECUTION / UN / OAU / ARMED CONFLICT /

This report summarizes a 10-page document (3739 words), *Liberia: No chance for a lasting peace without effective human rights guarantees* (AI Index: AFR 34/01/93), issued by Amnesty International on 13 December 1993. Anyone wanting further details or to take action on this issue should consult the full document.

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LIBERIA

No chance for a lasting peace without effective human rights guarantees

1. Introduction and recommendations

Amnesty International believes that there is no chance for a lasting peace in Liberia unless effective guarantees on human rights are included in the peace process. While welcoming and recognizing the significance of the recent peace agreement, signed for the first time in the Liberian conflict under the aegis of the **United Nations** (UN), Amnesty International feels that it is seriously flawed by the omission of conditions obliging the warring factions or any future government to respect human rights or to bring to justice those responsible for killings and torture.

On 25 July 1993 the armed groups which have been contesting control of Liberia in recent years signed a peace accord in Cotonou, Benin, which provided for a UN-supervised cease-fire and for the establishment of a transitional government. It was also signed by the **Economic Community of West African States** (ECOWAS)¹ and the UN, which are responsible for ensuring its implementation, and the **Organisation for African Unity** (OAU). However, by December 1993 the armed groups had not begun to place their combatants into camps or to disarm them, and the formation of the transitional government was plagued by disagreements.

Amnesty International is concerned that the peace accord makes no recommendations about the investigation and reporting of the gross human rights violations which have been committed by all sides since the start of the civil war in December 1989, and that no effective steps have been taken to investigate even the most serious of atrocities committed in 1993. Although a UN inquiry into the massacre of nearly 600 civilians at Harbel in June 1993 called for criminal investigations with a view

¹ ECOWAS is an intergovernmental organization of 16 states (Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, Togo) with its headquarters in Nigeria. The aim of ECOWAS is to promote co-operation and development and to improve the relations among member states.

to prosecution of those responsible for these and other major atrocities, no investigation is known to have been conducted since by any of the warring parties or by ECOWAS.

Amnesty International is also concerned that the agreement contains no guarantees for the safety of released prisoners or specific human rights guarantees, and that no mechanisms have been established to ensure continuing monitoring of the human rights situation nor the investigation and remedy of any violations which may occur. The agreement provides for an amnesty which could include those responsible for human rights violations, war crimes or crimes against humanity, and the mechanisms for ensuring implementation of the agreement appear likely to be ineffective.

Amnesty International is therefore calling upon all parties to the conflict and the future transitional government of which they are part:

- to end human rights abuses and provide adequate safeguards for detainees, including ensuring full access to them by the International Committee of the Red Cross;
- to exclude from any amnesty, or from any position of authority over prisoners or over armed personnel, those suspected of being responsible for human rights abuses, and to bring them to justice;
- to report all human rights abuses to the appropriate authorities and to encourage the general public in Liberia also to do so;
- to ratify international human rights treaties and to amend and implement the Liberian Constitution and laws consistently with internationally-recognized human rights standards;
- to undertake steps towards long-term institution-building and reforms for the promotion of human rights, including establishing - in cooperation with the UN, ECOWAS and the OAU - an independent judicial system and properly trained security forces.

Amnesty International is calling on the UN, ECOWAS and OAU:

- to ensure that a human rights monitoring mechanism is established with a mandate to investigate and report human rights abuses and that it issues frequent reports and distributes them widely;
- to establish an international group of civilian advisers to assist in human rights training and amendment of the Liberian Constitution and laws, and to support local human rights initiatives;
- to maintain an international presence in Liberia for as long as may be necessary after any future elections to ensure human rights are respected.

2. Background to the Cotonou peace agreement

The Cotonou peace agreement was the latest in a series of peace accords negotiated since 1990. Previous ones have failed to bring peace to Liberia in recent years.

As many as 20,000 people are estimated to have been killed following the invasion of Liberia in December 1989 by the **National Patriotic Front of Liberia** (NPFL), a rebel force headed by Charles Taylor. Both the government army, the **Armed Forces of Liberia** (AFL), and the NPFL carried out ethnic killings on a large scale against those perceived as supporting their opponents. After failing to get the opposing sides to agree a cease-fire, ECOWAS sent a joint military force, the **ECOWAS Cease-fire Monitoring Group** - known as ECOMOG - into Monrovia in August 1990. ECOMOG negotiated a cease-fire in November 1990 which was maintained for the most part until mid-1992. In Monrovia, an **Interim Government of National Unity** was established with ECOWAS support and the NPFL was prevented from seizing Monrovia, which its forces had surrounded.

After more than a year of unsuccessful attempts to persuade the warring factions to reach lasting peace agreements, ECOWAS brokered a peace accord in Yamoussoukro, Côte d'Ivoire, in October 1991 which was confirmed in Geneva in April 1992. It provided for the encampment and disarmament of all armed groups under the supervision of ECOMOG, to be followed by elections. However, Charles Taylor's administration, the **National Patriotic Reconstruction Assembly Government** (NPRAG), which was based in Gbarnga, Bong County, and which controlled most of the country, failed to abide by successive peace accords, accusing ECOMOG of not being neutral in the conflict. In July and August 1992 fighters of an armed group set up in 1991 by former AFL members, the **United Liberation Movement for Democracy in Liberia** (ULIMO), seized control of NPFL-held territory in western Liberia; according to Charles Taylor this was with the assistance of ECOMOG forces.

In October 1992 the NPFL launched an attack on Monrovia. The capital was defended by ECOMOG with the support of ULIMO and the AFL, the latter reinstated as the national army in November 1992. ECOWAS imposed an arms embargo and economic sanctions on the NPFL and sought the backing of the UN Security Council. On 19 November 1992 the UN Security Council adopted Resolution 788, which endorsed the Yamoussoukro agreement, condemned violations of the cease-fire and attacks on ECOMOG forces, and requested the UN Secretary-General to dispatch urgently a Special Representative to Liberia. It imposed an arms embargo on Liberia which exempted the ECOMOG forces. Subsequently the UN Secretary-General appointed Trevor Gordon-Somers of Jamaica as his Special Envoy to Liberia and the OAU appointed the Reverend Professor Canaan Banana, former President of Zimbabwe,

as an Eminent Person to deal with the Liberian conflict. Both began intensive efforts to persuade the parties to negotiate. Amnesty International urged the UN Special Envoy to explore and recommend urgent measures to ensure the protection of human rights.

After several weeks of fighting around Monrovia, the ECOMOG forces took the offensive and by May 1993 had control of key installations in NPFL-held territory: Robertsfield international airport, 50 kilometres from Monrovia, the Firestone rubber plantation at Harbel and Kakata, and the port of Buchanan. Hundreds of civilians died when ECOMOG forces bombed and strafed towns and villages in NPFL areas, and thousands fled the fighting and bombing. ECOMOG made a number of air attacks on border posts in Côte d'Ivoire and on international aid vehicles. In May 1993 ECOWAS stopped all international aid organizations from entering NPFL territory from Côte d'Ivoire, accusing them of smuggling arms and fuel to the NPFL. Hundreds of civilians in NPFL territory were reported to have died from malnutrition and disease, but aid was not resumed until August.

In June 1993, nearly 600 unarmed civilians - mostly women, children and elderly people - were brutally killed at displaced people's camps near Harbel 50 kilometres east of Monrovia. They were refugees who had fled the ECOMOG bombardment and capture of Buchanan in April 1993. Immediately after the massacre occurred the Interim Government, the AFL and ECOMOG claimed that the NPFL was responsible, despite strong NPFL denials. The UN Security Council called for an investigation into the killings and the UN Secretary-General established a panel of inquiry which visited Liberia in August.

3. The Cotonou peace agreement

In July 1993 a conference of the warring factions was convened in Geneva by the UN and on 25 July a peace agreement was signed in Cotonou, Benin, by the Interim Government, the NPRAG and ULIMO, as well as by the UN, OAU and ECOWAS. The Cotonou agreement provides for:

- a cease-fire;
- the encampment, disarmament and demobilization of combatants of the warring parties;
- the release of prisoners;
- access for humanitarian assistance;
- the return of refugees;
- the establishment of a six-month transitional government to conduct free and fair elections;
- an amnesty for acts during military engagements.

ECOWAS and the UN are responsible for ensuring that the agreement is implemented, but it contains no guarantees for the safety of released prisoners or specific human rights guarantees, and no mechanisms have been established to ensure continuing monitoring of the human rights situation nor to investigate and remedy any violations which may occur. The agreement provides for an amnesty which could include those responsible for human rights violations, war crimes or crimes against humanity, and the mechanisms for ensuring implementation of the agreement appear likely to be ineffective.

a) *The lack of safeguards for prisoners*

The agreement specifies that prisoners-of-war and detainees - but excluding "common criminals" - should be immediately released to the Red Cross for onward transmission to encampment sites.

This provision is dangerously flawed for several reasons. The agreement does not appear to extend to detainees who are being detained as dissidents by their own side. Detainees who do not wish to be returned to the control of their own side are not protected. There is no requirement that all prisoners be identified by name, place of detention and dates of detention, or that deaths in custody be reported. Such a requirement is an essential safeguard against political killings and "disappearance" or against any failure to account for the fate of prisoners. There is no screening of prisoners to determine whether they are political or not.

b) *The absence of human rights provisions*

The agreement contains no human rights guarantees, despite the importance of human rights to the success of peace-keeping operations, as emphasized by the UN Secretary-General in September 1993:

"The importance of human rights to United Nations activities in the fields of peacemaking, peace-keeping and preventive diplomacy, and in social and economic development, was also amply demonstrated by the Vienna Conference [on Human Rights]. The inclusion of the human rights dimension in the planning, implementation and evaluation of programmes and projects in those areas will be important to their success and to the promotion of human rights."²

Under the peace agreement, the transitional government is to operate under the Constitution and laws of Liberia. However, although the 1985 Constitution contains

² Report on the Work of the Organization from the 47th to the 48th Session of the General Assembly (A/48/1, para. 262), September 1993

an extensive list of human rights guarantees, most are subject to restriction at any time and, in case of emergency, all of them may be completely suspended. In addition, these provisions do not apply directly to the warring factions pending the installation of the transitional government, and Liberia has not ratified key human rights treaties which would provide additional safeguards.³

The agreement also contains no provisions for reconstructing the institutions of civil society which will ensure the rule of law and lasting respect for human rights. There is no requirement that the Constitution and other laws be amended to bring them into line with international standards. There are no provisions for rebuilding the judicial system to ensure that courts are competent, independent and impartial; for establishing independent prosecutors' offices; for guaranteeing the independence of the legal profession or for establishing prisons which conform to international minimum standards. There are no provisions for human rights - or any other - training of the judiciary, prosecutors, security and law enforcement officials or prison officials. The agreement also fails to provide for the establishment or training of neutral armed forces or police forces under either the transitional government or after the elections.⁴

The absence of human rights provisions in the agreement gravely impedes the process of establishing a lasting peace. As the UN Secretary-General stressed in May 1993 with regard to Angola, "respect for human rights constitutes a vital, indeed a critical component, among measures to resolve, on a long-term basis, conflicts of this nature, including efforts to promote enduring conditions of peace, national reconciliation and democracy."⁵

³ Liberia has signed the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights, but has not ratified them, the (First) and Second Optional Protocols to the ICCPR of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

⁴ Among the international standards which are relevant in the rebuilding of these institutions in a manner which is consistent with Liberia's international human rights obligations are: the UN Basic Principles on the Independence of the Judiciary, the UN Guidelines on the Role of Prosecutors, the UN Basic Principles on the Role of Lawyers, the UN Code of Conduct for Law Enforcement Officials, the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the UN Standard Minimum Rules for the Treatment of Prisoners, the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.

⁵ UN Security Council, S/25840, 25 May 1993

c) Impunity for gross human rights violations and abuses

There are no provisions in the peace agreement for investigation of human rights abuses or breaches of humanitarian law obligations, for bringing those responsible for them to justice or for compensating the victims or their families. Indeed, the agreement provides for a general amnesty for acts "in the course of actual military engagements" or "in actual combat". There is a danger that this could be extended to those responsible for human rights violations, war crimes and crimes against humanity during military engagements. This amnesty would not be extended to those responsible for the Harbel killings since, according to the UN panel of inquiry, they did not take place "in the course of actual military engagements" or during "actual combat".

Amnesty International believes that bringing people to justice is an essential component of healing the wounds in the society after internal conflicts and large-scale violations of human rights, but that pre-conviction amnesties undermine this goal. The interests of national reconciliation after a period of violence and confusion may be served by pardons after conviction: Amnesty International takes no position on this. But it does insist that the truth is revealed and the judicial process completed.

d) Enforcement and monitoring mechanisms

An expanded ECOMOG Peace-keeping Force, including contingents from southern and eastern Africa recruited with the assistance of the OAU, and a **UN Observer Mission in Liberia** (UNOMIL) are to supervise and monitor the implementation of the peace agreement. Cease-fire violations are to be monitored by a committee representing all the factions and chaired by UNOMIL and ECOMOG.

However, ECOMOG and UNOMIL do not have an express mandate to monitor, investigate or report on breaches of human rights and humanitarian law obligations. In Amnesty International's experience, ignoring human rights violations gives a sense of impunity to armed groups which can then lead to further abuses. The UN has recognized that its personnel involved in observer missions have an obligation under the UN Charter to report violations of human rights even if the mandate of the observer mission does not expressly state this. As the UN Secretary-General stated in his report on the role of the UN Mission for the Referendum in Western Sahara (MINURSO), "while MINURSO's current military mandate is strictly limited to the monitoring and verification of the cease-fire, MINURSO, as a United Nations mission, could not be a silent witness to conduct that might infringe the human rights of the civilian

population."⁶ Another weakness of the monitoring mechanisms is that the peace agreement does not specify whether the cease-fire monitoring committee is to decide questions by consensus or by majority vote. If by consensus, this might allow any armed group to veto any investigation into human rights abuses by its members.

In addition, although UNOMIL will accompany ECOMOG patrols, it will withdraw if ECOMOG troops have to use force to maintain the peace. There would therefore be no independent monitoring of combat operations by ECOMOG, which in the past has been accused of human rights violations or failing to take effective action when parties to the conflict have committed human rights abuses. Amnesty International has repeatedly emphasized the necessity for international peace-keeping forces to observe human rights and humanitarian law standards and for independent monitoring of their conduct.

In view of all the flaws in the monitoring mechanisms in the agreement, it is essential that UNOMIL and ECOMOG establish appropriate human rights monitoring mechanisms which can investigate any reports of human rights violations and take all necessary steps to address these. Regular public reports on the human rights situation and the actions taken to address violations should be widely distributed.

Also, since the agreement fails to provide for any international human rights assistance, it would be advisable to establish an international group of civilian human rights advisers to work closely with ECOMOG, UNOMIL and the transitional government and military or security forces which are set up. Some of these experts would have specific responsibilities to advise and train all of these forces on implementation of human rights and humanitarian law standards. Others would assist in drafting amendments to the constitution and laws to bring them into line with international human rights standards. Others would assist in rebuilding civic institutions such as the judicial system.

In light of the lengthy conflict and the high degree of distrust among the parties, it will be essential to ensure that international human rights monitoring and assistance are not abruptly withdrawn after any future elections but continue as long as may be necessary until it is clear that the new government is in a position itself to ensure respect for human rights and there is a strong legislative and institutional framework to support this. Although the agreement does not specify when the cease-fire monitoring committee will be dissolved, the UN Secretary-General has stated that UN observers will be withdrawn after the elections take place. This contrasts with the approach in

⁶ UN Security Council, S/25170, 26 January 1993

Cambodia, where the UN established follow-up mechanisms to replace the UN transitional authority after recent elections.

4. After the Cotonou agreement

In August 1993 the Interim Government released 150 captured NPFL fighters and the 600-member UNOMIL started to arrive.

The UN inquiry into the June 1993 Harbel massacre concluded in September 1993 that it was the AFL, not the NPFL, which had planned and carried out the killings, and that there had been a deliberate attempt to implicate the NPFL and to cover up the AFL's responsibility. The panel called for a criminal investigation and prosecution of those responsible. Three AFL soldiers named in the panel of inquiry's report were subsequently detained. However, the Interim Government requested further evidence from the panel of inquiry before proceeding with any possible charges and no-one had been brought to justice by December 1993. This appears to be evidence both of a lack of will by the authorities in Monrovia to prosecute the killers and also of a lack of capacity in Liberia for independent investigations.

In August and September 1993 there were reports of NPFL attacks on refugees in camps close to the border in Côte d'Ivoire or as they returned to tend their crops in southeastern Liberia. Several were reportedly killed. Some of these attacks appear to have been carried out by NPFL fighters looting for food. In October a new armed group led by supporters of former President Samuel Doe, the Liberian Peace Council, took control of parts of southeastern Liberia from the NPFL. Also in October the NPFL was accused of killing civilians in the course of conflict with ULIMO for control of Lofa and Bong Counties. ULIMO, which had carried out mass killings as it moved into Lofa County earlier in the year, lost control of several towns to another new armed group, the Lorma Defence Force, in November and December 1993.

By early December 1993 none of the warring factions had begun to disarm and cease-fire violations had occurred, including the movement of troops and obstruction of humanitarian assistance. Members of a joint transitional government had been named but it had not been installed; there have been allegations that the future transitional government includes people who are unqualified or reportedly responsible for human rights abuses. ECOMOG forces had not been expanded, as planned, to include troops from southern and eastern Africa.

The full numbers of ECOMOG and UNOMIL personnel have not yet been deployed, apparently because of logistical and financial difficulties. The UN Secretary-General said on 9 September 1993 that "[t]he peace process in Liberia poses a special

opportunity to the United Nations in that UNOMIL would be the first peace-keeping mission undertaken by the United Nations in cooperation with a peace-keeping mission already set up by another organization", which would require close cooperation between the two organizations and pose some challenges, but he was confident that "this relationship will be successful and may even set a precedent for future peace-keeping missions".⁷ If the joint mission is to be successful in laying the foundation for a lasting peace in Liberia and set a solid precedent for the future, Amnesty International believes that the two organizations will have to ensure that they make the promotion and protection of human rights an essential component of their mission.

⁷ UN Security Council, S/26422, 9 September 1993