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Liberia

Submission to the UN Universal Periodic Review

**Ninth session of the UPR Working Group of the
Human Rights Council**

November 2010



Executive summary

In this submission, Amnesty International provides information under sections B, C and D, as stipulated in the *General Guidelines for the Preparation of Information under the Universal Periodic Review*.¹

- Under section B, Amnesty International notes rights protected in Liberia's Constitution and treaties to which Liberia is a party.
- Section C highlights Amnesty International's concerns in relation to inadequate disarmament, demobilization, rehabilitation and reintegration of former combatants; delays in establishing the Independent National Human Rights Commission; impunity for past human rights violations; impunity for current abuses by state actors; corruption; violence against women; children's human rights; failures in the justice system; land disputes; inter-ethnic and religious violence; restricted freedom of the press; discrimination against lesbian, gay, bisexual and transgender people; and the death penalty.
- In section D, Amnesty International makes a number of recommendations for action by the government to address the areas of concern.

¹ Contained in Human Rights Council Decision 6/102, Follow-up to Human Rights Council resolution 5/1, section I adopted 27 September 2007.

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B. Normative and institutional framework of the State

The Constitution in force in Liberia is that adopted in 1984, which contains some limited rights considered as inviolable and inalienable:

- The right to life and liberty (article 11)
- The prohibition of torture and inhumane treatment (article 21)
- The right to freedom of expression (article 15)
- The equality of all people under the law, irrespective of ethnic background, race, sex, creed, place of origin or political opinion (article 11)
- The guarantee against arbitrary arrest and for fair trial (article 21).

Moreover, the preamble of the Constitution specifically affirms a commitment to justice and human rights.

The Republic of Liberia is party to a number of international treaties, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), International Covenant on Civil and Political Rights (ICCPR), Convention on the Rights of the Child (CRC), Convention on the Elimination of All Forms of Discrimination against Women, African Charter on Human and Peoples Rights (ACHPR), and ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. Liberia is also a party to the Rome Statute of the International Criminal Court. In September 2005, Liberia also became a party to the Second Optional Protocol of the ICCPR aiming at the abolition of the death penalty.

Liberia has also signed, but not yet ratified a number of treaties, including the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Optional Protocol to the CRC on the involvement of children in armed conflicts, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, and the African Charter on the Rights and Welfare of the Child. Liberia has acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

C. Promotion and protection of human rights on the ground

Positive developments

Many milestones have been achieved towards the progressive realization of human rights in Liberia. These include efforts to establish the Independent National Human Rights Commission, the Constitutional Review Task Force, the Law Reform Commission mandated to review Liberia's outdated laws, and the Land Commission to address the growing number of land disputes. The government has made institutional progress to address rape and other forms of sexual violence against women and girls, and to improve the administration of justice. The Truth and Reconciliation Commission (TRC) concluded its mandate on 30 June 2009 and submitted its 'unedited' Final Consolidated Report and the Final Report thereafter, describing its analysis of

root causes of the Liberian conflict and making recommendations on reform, accountability, reparations and amnesty.

Human rights challenges – an overview

Violent crime is on the rise and sexual and domestic violence remain widespread. Child abuse, female genital mutilation, rape of children, and child labour are also prevalent. Mob and vigilante justice have increased, as have ritualistic killings, and lethal land disputes often resulting from the return of hundreds of thousands of displaced people. Faced with such challenges, the police, judiciary, and penal sector have proven to be inadequate, corrupt, and abusive. Law enforcement forces often abuse, harass, extort, and intimidate citizens. Many are arbitrarily arrested and detained. Prisons are overcrowded and conditions are grossly inadequate; lengthy illegal pre-trial detention is the norm, not the exception. The formal justice system is corrupt and inefficient and often does not deliver fair trials and due process. In parallel traditional justice systems, gender discrimination, lack of separation of powers, corruption, torture, and trial by ordeal are reported. The government has placed restrictions on freedom of the press. Dire poverty, the global economic depression, and unemployment undermine peace and security. Military and political crises in neighbouring Guinea and Côte d'Ivoire could spill over into Liberia, and arms and fighters flow across the porous borders, contributing to sub-regional instability.

Inadequate disarmament, demobilization, rehabilitation and reintegration

In July 2009, President Johnson-Sirleaf officially closed the disarmament, demobilization, rehabilitation and reintegration (DDRR) programme, which had disarmed and demobilized 101,000 former combatants and provided reintegration, education, or vocational training for over 90,000 former combatants since 2003. Former combatants staged riots after the programme closed.

Liberia's land borders are porous. Even official crossing points are inadequately staffed by immigration officers to prevent illegal border movements. Inadequately demobilized Liberian fighters have joined Ivorian militia and rebel groups and Guinean security forces thereby contributing to destabilizing the entire sub-region. These issues need to be further considered as the country moves beyond the DDRR process and into community based reintegration programs.

Despite UN and government intentions for a gender-based approach to DDRR in Liberia, there has not been enough high-level political support to ensure that DDRR staff followed the UN Integrated DDR Standards and involved women and former combatant groups in the planning and implementation. Thirty to forty percent (25,000-30,000) of all individuals associated with the fighting forces during Liberia's 14 years of conflict were women and girls, the majority of whom were forced to participate, particularly during the first conflict from 1989 to 1997. Women were often reluctant to identify themselves as fighters, or as being associated with the fighting forces out of fear of stigmatization. These factors and others, including fear of reprisals from former male commanders and a lack of childcare facilities or the option of evening classes, have discouraged women and girls from participating fully in the DDRR programs and have hampered their further reintegration into civilian life.

The Independent National Human Rights Commission

After substantial delays, progress has been made towards constituting the Independent National Human Rights Commission. On 21 May 2009, the Senate and the House of Representatives passed amendments to the 2005 Independent National Human Rights Commission Act establishing the Commission. In August 2009, President Johnson-Sirleaf nominated seven commissioners, including the Chairman – based on a short list submitted to her by the Independent Committee of Experts (ICEs). Those named included: Bedor Freeman (chairman), Attorney Esther Seton-Cee, Losene Bility, Clinton Layweh, George Dayrell, Joseph Cornomia, and Anthony Boakai. The legislature rejected the nominations in February 2010, which were then resubmitted, and re-rejected in March 2010. The legislature has yet to publish its reasons for rejecting any of the nominees. President Johnson-Sirleaf subsequently asked the Chief Justice to set up a new vetting committee to select a

new round of nominees. However, civil society has reported concerns at the new committee's lack of transparency and consultation. The Independent National Human Rights Commission is crucial to monitoring human rights in Liberia and implementing any Truth and Reconciliation Commission recommendations.

Impunity for past human rights violations

Little progress has been made in bringing to justice people responsible for serious human rights violations during the conflicts in Liberia between 1989-1996 and 1999-2003. However, a milestone has been the case against former Liberian President Charles Taylor at the Special Court for Sierra Leone in The Hague on war crimes charges, although only for his alleged involvement in the war in Sierra Leone. The Special Court for Sierra Leone will be closing down after the Taylor trial. It is hoped that the Special Court should devise an appropriate access regime for its archives, so that research conducted for the court could help future prosecutions of Liberians and international actors responsible for crimes against humanity and war crimes in Liberia.

The US trial of Charles "Chuckie" Taylor, Jr., the son of former President Charles Taylor, for torture committed in Liberia is a significant step. Chuckie Taylor was convicted of torture and conspiracy to commit torture between 1997 and 2003 while he headed Liberia's notorious Anti-Terrorist Unit (ATU) during his father's presidency.

In January 2009, Benjamin Yeaten, a former general of the National Patriotic Front of Liberia (NPFL) and a close associate of former President Charles Taylor, was indicted for several murders by the Special Grand Jury for Montserrado County; however, he is allegedly in hiding in Togo. Other individuals who bear the greatest responsibility for serious past crimes may also be concealed in other West African countries such as Burkina Faso and beyond, as can be seen in the arrest of George Boley in the United States.

In April, the Justice Minister publicly expressed interest in trying perpetrators of the worst crimes committed during the 1989-2003 civil war. A committee has been established that includes the Justice Minister and the head of the Law Reform Commission, to review a report by the Truth and Reconciliation Commission (TRC), and give advice on whether prosecutions should go ahead. Some former warlords named in the TRC report have seats in the Senate.

Impunity for current abuses by state actors

Impunity remains a serious concern in Liberia. Even high-level officials (Senators, Deputy Ministers, police officials, Special Security Service agents, Liberia National Police officers) have allegedly engaged in or ordered beatings, looting, arbitrary arrests, abductions, shootings, ritualistic killings, and other abuses. In most cases, no investigations have been carried out and no action taken against the alleged perpetrators. Police officers and security officials are reported to have employed torture and other ill-treatment against civilians, including during attempts to extort money on the streets. Liberia National Police officers are often poorly equipped, poorly paid, corrupt, and slow to respond to criminal activity.

Corruption and human rights

The president's fight against corruption is often undermined by weaknesses in the justice system. Several government ministers and scores of other high-level government officials have been dismissed for alleged corruption, and the president has referred others for investigation. The Liberian Anti-Corruption Commission (LACC), established early in 2009, has opened investigations into two cases, but remains underfunded, understaffed, ill-equipped, and in urgent need of additional resources to fulfil its mandate and live up to popular expectations and hopes.

Auditor General John Morlu is reported to have instituted actions against several persons, including Finance Minister Augustine Ngafuan, Presidential confidante Madina Wesseh, and her husband, ambassador to the EU, Commany B. Wesseh. Mr. and Mrs. Wesseh have been recommended to the Justice Ministry for criminal prosecution. The General Auditing Commission (GAC) has also released a number of hard-hitting reports.

Women's human rights

Vast numbers of women were raped, held in sexual slavery, or otherwise sexually tortured during the past wars. Rape and other forms of sexual violence against women and girls remain widespread, as do domestic violence and forced and underage marriage. The majority of reported cases of rape involved girls under the age of 16. Of the 807 reported cases of rape in Montserrado County in the first six months of 2009, 77 involved girls under the age of five; 232 involved girls aged between five and 12; and 284 involved girls and young women aged between 13 and 18. It remains difficult to estimate the total number of rapes, because of stigmatization and rejection by the families and communities of the survivors.

As mandated by the 2008 Gender and Sexually-Based Violence Bill, the government has created a special court, Criminal Court E, to deal with gender-based violent crimes, with exclusive original jurisdiction over cases of sexual assault. The Sexual and Gender Based Violent Crimes Unit was established in the Ministry of Justice in February 2009 to deal exclusively with issues relating to prosecutions of gender based crimes. By March 2010 it had conducted seven trials, four of which resulted in convictions.

President Johnson Sirleaf's push for increased participation by women in politics and public life has born fruit. Under her leadership, the government has pushed for gender parity in ministries, on the Supreme Court and within local government.

Maternal mortality remains high and appears to have increased in recent years from 578 deaths in 2000 to 994 deaths in 2007 per 100,000 live births.² This is primarily due to an acute shortage of skilled labour, inadequate emergency obstetric care, inefficient referral systems, poor nutritional status of pregnant women, and extremely high numbers of teenage pregnancies. The government has pledged to address the high maternal mortality rate; published the Roadmap for Accelerating the Reduction of Maternal and Newborn Morbidity and Mortality in Liberia; opened two centres to train midwives; pledged to suspend tuition and fees and revitalize health training institutions and the medical school, and train midwives. These and other commitments have yet to be implemented. Liberia's ratios of physicians, nurses and midwives are reported officially to be extremely low at 0.03, 0.18, and 0.12, respectively per 1,000 persons. The government has also pledged to maintain the suspension of fees for pregnant women until the socio-economic situation improves. An estimated 68 per cent of Liberians live on less than US\$1 a day and depreciation of the Liberian dollar has contributed to high food prices, widespread hunger and an alarming food security situation. Nonetheless, many pregnant women face extortion and fees when seeking access to care.

Children's human rights

Widespread child abuse continues, and reports of sexual violence against children have increased. Female genital mutilation (FGM) is traditionally performed on young girls, particularly in rural areas, as part of initiation rites. Domestic law does not specifically prohibit FGM.

Many children live on the streets in Liberia, especially in Monrovia, including former combatants and unaccompanied internally displaced people. Orphanages face difficulties in providing basic sanitation, adequate medical care, and appropriate diet. Many orphans lived outside these institutions.

The law prohibits the employment and apprenticeship of children under the age of 16 during school hours; however, child labour is widespread, including the worst forms of child labour, such as hazardous labour in the alluvial diamond industry and child prostitution. The Ministry of Labour's Child Labour Commission responsible for enforcing child labour laws and policies is largely ineffective.

² Liberia: Poverty Reduction Strategy Paper, IMF Country Report No. 08/219, available at http://planipolis.iiep.unesco.org/upload/Liberia/Liberia_PRSP.pdf

Cases of children in conflict with the law continue to be addressed inappropriately due to the absence of a functional juvenile justice system.

Weaknesses in the justice sector

Despite efforts to improve institutional protection of human rights in the criminal justice system and to address capacity and resource constraints across the legal, judicial and corrections sectors, serious challenges remain. The judiciary lacks the capacity to hear cases in a timely manner, contributing to a backlog in the criminal justice system, so that roughly 92 per cent of prisoners are pre-trial detainees.

Conditions in the country's 14 prison facilities are harsh. Prisons remain understaffed, overcrowded, without enough food, water, hygiene, or medical services. Prisons are also ill-equipped and have poor security, resulting in frequent prisoner escapes. Women and juveniles are often subject to abuse by guards and other inmates. Half the country's prisoners in 2009 were held at Monrovia Central Prison, which operates at four times its capacity due to the large number of pre-trial detainees. Men and women are held together, as are juveniles and adults, and pre-trial detainees with convicted prisoners.

Denial of fair trial and due process is widespread. Lengthy pre-trial and pre-arraignment detention remains a serious problem, mostly because of judicial inefficiency and corruption, as well as lack of transport, court facilities, attorneys, and qualified judges. The operation of customary courts often raises concerns, including about due process and separation of powers. Trial by ordeal continues, whereby the guilt or innocence of the accused is determined in an arbitrary manner involving torture and in some cases resulting in the death of the accused.

Resettlement and land disputes

A large number of internally displaced people and refugees are in need of resettlement, and international and local humanitarian agencies struggle to provide the services needed. Since 2004, a total of 168,792 Liberians have returned home out of a total registered refugee population of 233,264. Unofficial returns are uncounted. Many returnees face destitution, with scarce job opportunities, lack of access to land, shelter and water in addition to lack of basic services, such as health care and education. Some returnees have become internally displaced because their property has been appropriated by others. Violent or lethal land disputes often arise between returning land owners who fled the war and internally displaced people who took over their land; these conflicts are often exacerbated by unclear land titles.

Inter-ethnic and religious violence

Despite frequent interaction between the Christian majority and the Muslim minority, some tensions existed, occasionally leading to killings, burning, looting, and damaging of Catholic and Muslim religious edifices by mobs of rival ethnic and religious groups. Such instances of inter-ethnic, religious violence have occurred in Voinjama and Konia, in Lofa County in February 2010.

Freedom of the press

The Constitution provides for freedom of speech and freedom of the press. However, some journalists have been arrested for criticizing the President, and there are reports of security officials harassing journalists. In the course of 2009, the government closed two newspapers, ostensibly for failing to properly register. The president sued the *New Broom* and called for the closing of the newspaper; in December 2009 security forces arrested the publisher and printer of *The Plain Truth* newspaper and charged them with sedition and libel against the President, though charges were subsequently withdrawn.

Discrimination against lesbian, gay, bisexual and transgender people

National law criminalizes sodomy. Liberian culture is strongly opposed to homosexuality, and there are no lesbian, gay, bisexual, or transgender organizations in the country. Punishing individuals solely for their real or perceived sexual orientation amounts to discrimination and it is in violation of their rights to freedom of

conscience, freedom of expression and the right to privacy, without discrimination on the grounds of, inter alia, sexual orientation. Liberian laws criminalizing homosexuality and gender identity criminalize the legitimate exercise of human rights protected in treaties ratified by Liberia, including the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights.

The death penalty

No steps have been taken to abolish the death penalty. In fact, President Ellen Johnson-Sirleaf signed into law on 22 July 2008 an Act imposing the death penalty for anyone convicted of armed robbery, terrorism or hijacking offenses, if these crimes resulted in death. The law directly violates Liberia's obligations under the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty, which Liberia acceded to on 16 September 2005. Several people were sentenced to death in 2009-2010.

D. Identification of achievements, best practice, challenges and constraints

Amnesty International calls on the government:

Disarmament, demobilization, rehabilitation and reintegration

- To review the disarmament, demobilization, rehabilitation and reintegration (DDRR) programme and to consider extending and expanding services to former combatants, with a focus on improved monitoring, reintegration, education, and vocational training;
- To stop flows of Liberian arms and fighters to Ivorian militia and rebel groups and Guinean security forces, including by staffing official crossing points and enhancing patrolling and intelligence gathering in border areas;
- To ensure a gender-based approach to the implementation of the DDRR programme, including by:
 - involving Liberian women's interest groups and women leaders in the design, implementation and evaluation of national and county-level strategies for the reintegration of persons associated with fighting force;
 - ensuring that psycho-social counselling is widely known and available in local communities to all women, men and children,
 - making medical services accessible to women with particular health conditions from the conflict;
 - ensuring that education and vocational training programmes are well funded, accessible and specifically designed to meet the needs of Liberian women and girls.

Independent Human Rights Commission

- To ensure the establishment and independent, effective functioning of the Independent National Human Rights Commission;
- To ensure that the Commission is allocated sufficient funding and other resources.

Impunity for human rights violations

- To bring to justice anyone suspected of having committed extrajudicial executions, torture, ill-treatment, rape and other grave human rights violations, in accordance with international standards of fairness;
- To ensure that the victims of human rights violations and their families can obtain full reparation in the form of restitution, compensation, satisfaction, rehabilitation and guarantees of non-repetition.

Corruption and human rights

- To ensure that the Liberian Anti-Corruption Commission is adequately funded and staffed to enable it to properly investigate and prosecute corruption cases;
- To implement the law requiring all elected officials to publicly disclose their finances.

Women's human rights

- To ensure prompt, impartial and effective investigation of all reports of sexual and domestic violence against women and that those responsible are brought to justice in fair trials, including by strengthening and monitoring the work of the Criminal Court E as well as the Sexual and Gender Based Violent Crimes Unit;
- To strengthen programs to recruit women police officers and train other staff to enable women to access administrative and judicial assistance;
- To build and ensure expert staffing for more shelters for women fleeing domestic violence;
- To criminalize spousal rape;
- To pass and implement laws to prohibit sexual harassment in schools and places of work;
- To reduce maternal mortality and morbidity by implementing the Roadmap for Accelerating the Reduction of Maternal and Newborn Morbidity and Mortality in Liberia as a national priority; to ensure that costs are not a barrier to essential health services, including emergency obstetric care and other reproductive health services; to improve the availability and accessibility of essential health services, including emergency obstetric care; to improve referral networks; and to enhance monitoring and accountability mechanisms.

Children's human rights

- To improve quality of care in orphanages and to improve alternative care for orphans in Liberia;
- To criminalize female genital mutilation;
- To eradicate the worst forms of child labour, including by implementing the ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

Weaknesses in the justice sector

- To speed up reform of the justice sector, including by providing increased resources for the criminal justice system; by training judges, prosecutors, defence counsel and investigators; and by establishing Juvenile Courts throughout the country;
- To improve prison conditions, including in line with the UN Standard Minimum Rules for the Treatment of Prisoners;
- To enforce the law, which criminalizes trials by ordeal;
- To prosecute ritual killings;
- To improve law enforcement, including by
 - giving clear instructions to the security forces to always act in compliance with international human rights law, in particular, the right to life and the total prohibition of torture and other ill-treatment;
 - ensuring that the security forces act in accordance with international instruments, including the UN Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use

of Force and Firearms by Law Enforcement Officials, in order to uphold the right to life and physical integrity.

Resettlement and land disputes

- To ensure that internally displaced people and returnees have their land and property restituted and to intervene effectively where they are unable to recover them.

The death penalty

- To immediately establish a moratorium on executions with a view to abolishing the death penalty, as provided by UN General Assembly resolution 62/149, adopted on 18 December 2007, and resolution 63/168, adopted on 18 December 2008;
- To commute without delay all death sentences to terms of imprisonment, and to progressively reduce the number of crimes punishable by death with a view to the abolition of the death penalty;
- To ensure rigorous compliance in all death penalty cases with international standards for fair trial are respected.

Press freedom and free speech

- To review existing laws and repeal or amend those that are inconsistent with article 15 of the Constitution of Liberia guaranteeing freedom of expression – particularly those criminalizing anti-government statements such as the law on sedition, the Criminal Libel law; and the Criminal Malevolence law;
- To pass the Freedom of Information Act submitted by the Press Union of Liberia to the National Legislature more than a year ago.

Appendix: Amnesty International documents for further reference³

- Liberia: After the truth – Liberians need justice (AFR 34/001/2009)
- Lessons from Liberia – Reintegrating women in post-conflict Liberia (AFR 34/002/2009)
- Liberia: Will those investigated by the Truth and Reconciliation Commission ever be prosecuted? (AFR 34/010/2009)
- Chuckie Taylor convicted of torture (AFR 34/010/2008)
- Liberia: Towards the final phase of the Truth and Reconciliation Commission (AFR 34/002/2008)
- Liberia: Amnesty International calls for repeal of death penalty law signed by Liberian President (AFR 34/009/2008)

³ These documents are available on Amnesty International's website: <http://www.amnesty.org/en/region/liberia>