

LIBERIA

State of emergency signifies a greater need for international involvement in human rights protection

1. Introduction

On 8 February 2002, President Taylor declared a state of emergency in Liberia. He has justified this action publicly and to the legislature by claiming that the armed opposition Liberians United for Reconciliation and Democracy (LURD) are moving close to Monrovia, the capital. The LURD have declared their intention to overthrow President Taylor's government. President Taylor has pledged not to use the state of emergency to curtail civil liberties.

Liberia is a party to African Charter on Human and Peoples' Rights, which does not permit derogation of any of the rights specified in that treaty even during a period of emergency. Human rights violations were very grave under President Taylor's government before the state of emergency was declared. Amnesty International has received reports that indicate that President Taylor is taking advantage of the state of emergency to derogate increasingly from certain rights, ranging from the right to life to the right of freedom of expression. In this report, Amnesty International highlights the increased lack of protection for civilians since 8 February 2002 and the need for the international community to take concrete steps to provide greater protection for civilians. It is now, more than ever, that the United Nations Peace-building Support Office in Liberia (UNOL) should make the protection and promotion of human rights their greatest priority and reflected in the review of the mandate that is taking place in the coming weeks.

Frequent raids taking place in crowded markets and camps for internally displaced people (IDPs) in Monrovia, have affected hundreds of young men and boys, many of Krahn and Mandingo ethnic origin, whom have been subject to arbitrary arrest, detention without charge or trial, and torture and cruel, inhuman and degrading treatment, at the hands of Liberian security forces, who claim to be searching for "dissidents". The overall effect on the population has been further internal displacement within Liberia and people fleeing over borders and becoming refugees. Torture, including rape of women and girls, continues to be reported by all parties to the conflict. Additionally, there are reports of a substantial increase in the harassment and intimidation of independent journalists and human rights activists in the period since the state of emergency was declared. This has led to the arbitrary arrest and detention of several members of these groups.

2. Suspension of fundamental human rights during a state of emergency

The Constitution contains human rights provisions which prohibit arbitrary arrest, detention without charge or trial and torture or inhumane treatment of any person, including suspected “dissidents”. Article 86 of the 1986 Liberian Constitution gives the President, with the approval of the Legislature, the power to declare a state of emergency and to “suspend or affect certain rights, freedoms and guarantees” contained in the Constitution. However, Article 87 states that this does not include the power “to suspend or abrogate the constitution, dissolve the Legislature, or suspend or dismiss the Judiciary” or to amend the constitution. Furthermore, “the Writ of Habeas Corpus [...] shall not be suspended on account of any state of emergency”.

In ratifying the state of emergency, the Legislature stated: that the rights of the citizens as contained in the Constitution must be protected during this period; that the Executive branch must ensure that all military and para-military personnel in combat against the dissidents respect the rights of citizens both in safety and war zones; and that the state of emergency will be reviewed in three months, and if need be, other ratifications would be effected.

The African Charter on Human and Peoples’ Rights which the Liberian government has ratified prohibits human rights violations including political killings, torture, ill-treatment, arbitrary arrests and detention, repression of freedom of expression and association. It guarantees stability and security and does not allow for any derogation from these obligations, even during emergency situations. Therefore, any suspension of the human rights provisions of the Liberian Constitution under the state of emergency would constitute a violation of Liberia’s obligations under international human rights law.

Although some derogation from certain provisions guaranteeing civil and political rights is not absolutely prohibited by other international standards in times of public emergency, these standards recognize that there are some rights which are so fundamental that they should never be derogated from in any circumstances, including a state of emergency. These non-derogable rights, enumerated in Article 4 (2) of the International Covenant on Civil and Political Rights (ICCPR) which Liberia has signed, include: the right to life; the right not to be tortured or subjected to cruel, inhuman, or degrading treatment or punishment; the right to freedom of thought, conscience and religion. Even international standards which permit the derogation of certain rights during a state of emergency strictly limit such restrictions. For example, Article 4 of the ICCPR states that certain civil and political rights may not be derogated from except to the extent “strictly required by the exigencies of the situation, provided that such measures are not inconsistent with [states’] other obligations under international law and do not involve discrimination solely on the ground of race, color, sex, language, religion or social origin”.

The Geneva Conventions of 1949 and their Additional Protocols 11 of 1977 cannot be derogated from in any circumstances. Among other things, they protect civilians and persons detained in a conflict by forbidding murder, torture, hostage-taking, humiliating and degrading treatment and the passing of sentences without judgments pronounced by properly constituted courts and other judicial guarantees. Common Article 3 to the four Geneva Conventions provides for the protection of persons taking no active part in the hostilities, including members of armed forces who have laid down their arms or who are otherwise *hors de combat*, and requires such persons to be treated humanely. Common Article 3 explicitly prohibits mutilation or any form of corporal punishment, rape, any form of indecent assault or pillage. Additional Protocol II adds provisions regarding the protection of civilians from the dangers arising from military operations, and particularly, the protection of children during armed conflict.

The international community has affirmed that individuals can be held criminally responsible under international law for war crimes committed in violation of Common Article 3 and Additional Protocol II. For example, the Rome Statute of the International Criminal Court includes a list of war crimes (when committed in internal armed conflict) in its jurisdiction. These war crimes include, *inter alia*: Murder of all kinds, mutilation, cruel treatment, torture and hostage taking, committed against those who taking no active part in the conflict; intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities; committing rape, sexual slavery, enforced prostitution, forced pregnancy; recruiting children under the age of 15 years into armed forces or groups; ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand.

3. Amnesty International's current concerns

Amnesty International's concerns about the protection of civilians in the context of the fighting in Liberia are reflected in its public reports and are based upon information gathered on various research missions to the region over the last year.¹ However, Amnesty International feels that the state of emergency may be being used

¹ *Guinea and Sierra Leone: No place of refuge* (AI Index: AFR 05/006/2001), *Liberia: War in Lofa County does not justify killing, torture, and abduction* (AI Index AFR 34/003/2001), *Liberia: Killings, torture, and rape continue in Lofa County* (AI Index: AFR 34/009/2001), *Liberia: Lack of justice for students, victims of torture, including rape* (AI Index; AFR 34/010/2001)

as a justification by government security forces to increase human rights violations against the civilian population.

The **ill-treatment, torture and arbitrary arrests of suspected members of the LURD or other “dissidents”** have been reported widely. Anyone accused of being, or perceived to be a “dissident” is vulnerable to human rights violations by government forces. The state of emergency has led to an increase in this pattern of violations and appears to have given government forces even more freedom to act with total impunity. In the two weeks following the declaration of the state of emergency, forces of the Special Operation Division (SOD) and Anti-Terrorist Unit (ATU) undertook raids into crowded communities, markets, and IDP camps in and around Monrovia. During these daily raids, men and boys were arrested and beaten with gun butts, slapped and kicked. Many of those arrested were former combatants now engaged in other businesses. Some were released immediately, while others were released once family members paid for their freedom. There were other reports that during raids members of the ATU and SOD forcibly entered houses and looted personal belongings. There were also reports that many were taken to the Executive Mansion, the office of the presidency in Monrovia, for questioning by President Taylor. Witnesses reported that those suspected of being “dissident collaborators” were beaten and flogged in the hot sun.

Despite the fact that the Liberian Refugee, Repatriation, Resettlement Commission (LRRRC) is the *ad hoc* governmental agency responsible for IDPs, members of staff have reportedly facilitated Liberian security forces access to IDP camps which resulted in arbitrary mass arrests of suspected “dissidents”. There were reports that high ranking members of the LRRRC actually pointed out individuals who were “supposed dissident collaborators” to the Liberian security forces resulting in their arrest and harassment. On 23 and 24 February 2002, ATU and SOD forces reportedly entered several IDP camps near Monrovia and arrested men for “dissident activity”. On 23 February the ATU were facilitated access to both the VOA and Zuana Town IDP camps where five people were reportedly arrested and taken away. The next evening, on 24 February, three pick-up trucks filled with ATU and SOD officers entered the VOA IDP Camp at midnight and arrested 45 young men. When family members protested the following day, all were released after payment of 200 and 1500 Liberian dollars (\$4-\$30) for each person to the ATU.

The **abduction and forced recruitment of young men and boys** by Liberian security forces is widespread and has forced many into hiding. As an immediate measure, Don Bosco, a home for unaccompanied and homeless boys, has created a

“safe house” for young men and boys to flee to in order to escape forcible recruitment.

On Sunday 10 February 2002, 39 young men and boys were reportedly rounded up from various churches around Monrovia and forcibly taken to a field near Duala market. They were told they had to fight with the army and forced to sit with their shirts tied together for several hours. Many others fled the normally busy market in panic, fearful that they too would be rounded up and forced to fight with the government army.

On 15 February, a fleeing woman, MS, witnessed nine men being seized in Clara Town, Bushrod Island, and was later told that they were taken to the “front line” by Liberian security forces. The woman knew three of the nine men who were seized. They were Mohamed Fofana, Thomas Dukuly, and Jerry Weefor. Their relatives reported being concerned for their safety as they have not heard from them since.

On 19 February in Tubmanburg, Bomi County, four men were reportedly tortured by members of the ATU under suspicion of being “dissidents”. One man died as a result of the torture and was seen lying near the other three men. According to a witness who spoke to the three men, one of the men denied he was a dissident and described how his scrotum had been hammered flat by a member of the ATU. The two other men were too fearful to say anything but, according to the witness, they were clearly in pain. A member of the ATU who was nearby warned that this information should not be made public.

Cases of **sexual violence, including rape and gang raping of women and girls**, continue to be reported. On 20 February, around 7.15pm, a fleeing displaced woman aged 23 was arrested by government security forces at Sherman Farm, located between Bong Mines and Kakata, Margibi County. The woman was gang-raped and then severely flogged by members of the security forces. Severe bruising on her body is now clearly visible.

A girl aged 14, KF, was allegedly gang raped by seven members of the ATU at Sawmill in Bomi County. She was fleeing from Sawmill during a supposed attack on the area. Under the guise of coming to rescue her, ATU members took her to a tent and held her there for six days, during which time all seven repeatedly gang raped her.

Governmental restrictions on freedom of expression and the harassment, ill-treatment and arbitrary arrests of government critics, including members of the political opposition, journalists and human rights activists, have increased substantially under the state of emergency. There is general confusion about the current situation and about the exact nature of the perceived threat posed by the LURD due the fact that there are few independent and impartial sources of information.

Questioning or mentioning the state of emergency by the local independent media and human rights organizations has led to several arrests by the Liberian government. Twice since the state of emergency was imposed, members of *The Analyst* newspaper have been harassed by the government. On 12 February the Liberian government closed the offices of *The Analyst*, and arrested three staff members: Stanley Seekor, J. James and Ellis Togba. The government released the three staff members on 13 February when the Press Union of Liberia intervened. They were never charged. Earlier that week they had published an article about the advantages and disadvantages of the state of emergency. On 18 March members of staff were again threatened by members of the police and arbitrarily detained for several hours before they were released.

On 22 February the former Chief Justice and current National Director of the non-governmental Catholic Justice and Peace Commission, Counsellor Frances Johnson Morris, was arrested by Police Director Paul Mulbah and detained at the police central prison among male inmates for several hours. The Ministry of Justice later ordered her release without charge and apologized for what it termed “mistaken identity”. Earlier that week she had presented a paper at a public forum questioning the validity of the state of emergency.

On 20 March, Henry Cooper, the Bong county chairman for the political opposition Unity party was reportedly taken into police custody and then later reportedly found dead in Totota, fifty miles north of Monrovia. Witnesses saw him lying dead. He lay dead with bullet holes as though he had been shot numerous times.

On 27 March, Nipla Wiaplah, chairman of the New Deal Movement party, was arrested and held in police custody without being charged. On 25 March he had published an article on the state of the country in *The News* newspaper along with a partial list of party members. On 26 March, two relatives of Nipla Wiaplah were harassed, arrested and held without charge by police. They were released the same night. After Nipla Wiaplah’s arrest, a police spokesman stated publicly that he was

being held until it was determined that the terminology used in the article did not have national security implications. He then went on to say that "under the state of emergency in the country, police have the power to arrest and question anyone when necessary under law". This statement was followed by the arrest of *The News* editor Bill Jarkloh for publishing the article, who was released later that evening without charge. Nipla Wiaplah was held for several days, and released without charge on bail after protests from civil society organizations.

In response to the series of arrests, the National Human Rights Center of Liberia, an umbrella organization of nine non-governmental human rights organizations, published a series of press releases informing the public about the arrests and harassment and questioning the government's motivations for the arrests. On 28 March five members of the National Human Rights Center were arbitrarily arrested after police stormed their offices and took them into police custody. The five people arrested were Aloysius Toe, Tunny Zeogar, Peter Nickoson, John Okai, and Sam Nimely. Their lawyer filed a writ of habeas corpus. On 1 April the five members of staff were released after a civil court ruled that they were held for longer than 48 hours without being charged in violation of Article 21 of the Liberian constitution. Upon their release from the civil court, all five members were arrested again, let out on bail and asked to appear in court on 3 April. They were charged with criminal malevolence and preventing arrest and discharge of other duties.

On 28 March Augustine Toe of the Justice and Peace Commission was arrested and held without charge for several hours. The motivation behind this arrest is unclear.

The arbitrary nature of the arrests and public statements made by the police spokesperson about what freedom the government has under the state of emergency is a worrying sign. It is another strong indication that the state of emergency was imposed as a means to carry out human rights violations and to intimidate government critics into silence.

In the last year and half, Amnesty International has documented human rights abuses such as **unlawful killings, torture, including rape, of unarmed civilians and use of children as combatants by the LURD and other armed political groups**. Given the pattern of abuses, Amnesty International believes that human rights abuses carried out by armed political groups in Liberia continue. However, due to the total lack of independent information available, the organization has been unable to confirm recent cases.

The greatest concern is that as civilians flee to avoid becoming victims of human rights violations they increasingly become even more vulnerable as they are likely to become targets of human rights abuses by both government forces and LURD combatants. Additionally, the government has shown no resolve to protect civilians, especially where international agencies are not present due to both security concerns and due to the lack of sufficient donor funding to carry out their work. Greater action by the international community needs to take place now.

4. Regional context

The current armed conflict in Liberia is a continuation of the prolonged armed conflicts which have affected Liberia and Sierra Leone for over ten years and which spread into Guinea from September 2000 until mid-2001. It has arisen due to the failure of governments and the international community to address effectively the massive human rights abuses committed in Liberia and Sierra Leone over the past decade and the continuing abuses in Liberia. It is a dramatic illustration of the consequences of allowing impunity for human rights abuses to flourish unchecked. The situations in these three countries are intimately related and cannot be seen in isolation from each other. If the situation in Liberia is not contained, the conflict will continue to have a destabilizing effect on the other neighbouring countries in the region: Côte d'Ivoire, Guinea and Sierra Leone.

The Liberian government's involvement in the Sierra Leone conflict involved providing military assistance to the armed opposition Revolutionary United Front (RUF) in Sierra Leone and trading in diamonds from RUF-held areas of Sierra Leone. In January 2002, the armed conflict between the RUF and government forces in Sierra Leone was officially declared over. However, RUF combatants are now fighting in Liberia alongside Liberian government forces against the LURD. Furthermore, there are reports that *kamajors*, combatants with the Civil Defence Forces (CDF) allied to the Sierra Leone government, are currently fighting in Liberia alongside the LURD. The Sierra Leone government has reportedly condemned the LURD's attacks in Liberia and denied the involvement of the CDF. Both the Sierra Leone government and the UN peace-keeping force in Sierra Leone have expressed concern about the potentially destabilizing effect of Liberian and Sierra Leonean refugees crossing the border from Liberia into Sierra Leone, fearing that there may be armed combatants amongst them.

There are longstanding tensions between the governments of Guinea and Liberia. The Guinean government has supported the Sierra Leonean government in its war against the RUF and has opposed the support given to the RUF by the Liberian government. Liberia has accused Guinea of hosting Liberian armed political groups including the

LURD and providing them with bases and military assistance. The armed conflict in Guinea from September 2000 until mid-2001 was a clear manifestation of these tensions.

There are several recent reports that the LURD is partly composed of combatants from former warring factions in the 1989-1996 Liberian civil war. Sources in southern Guinea have confirmed to Amnesty International the presence in Guinean territory of English speaking combatants, presumably from Liberia and Sierra Leone, and of armed opposition bases. Their presence is reportedly tolerated and, in many cases, facilitated by Guinean government security forces. For example, in early 2002 LURD combatants wounded in combat in Liberia were reportedly being treated in hospitals in Guinea.

The widespread and easy availability of small arms and light weapons in Guinea, Liberia and Sierra Leone is a factor in the current armed conflict in Liberia. The lack of effective controls on the transfer and circulation of arms in these countries, and in West Africa as a whole, has significantly contributed to mass human rights abuses against civilians and widespread use of children as combatants. Those providing weapons and other military assistance in these countries must ensure that these do not contribute to serious human rights abuses and to the proliferation of arms in the region.

5. Response of the international community to the current situation

In 2001 and 2002, the international community has increasingly focussed attention on Liberia in terms of addressing the regional implications of the conflict. In particular, the UN Security Council renewed sanctions on arms transfers to Liberia, and imposed new sanctions on rough diamond exports from Liberia and international travel by senior government officials in 2001. A UN Panel of Experts report published in October 2001 provided evidence of the continuing relationship between the RUF and the Liberian government and documented recent arms transfers into Liberia in violation of UN sanctions. The panel is continuing its investigations and is expected to report to the UN Security Council again in early April 2002.

While Amnesty International welcomes the increased attention, much more concrete and urgent action is needed to address the deteriorating human rights situation. The lack of constant international presence in Liberia raises serious and urgent concerns for the protection of civilians. For example, the UN Peace-building Support Office in Liberia (UNOL) lacks key staff members in place at this critical time. Amnesty International is calling for human rights monitors to be deployed and to have access throughout the country to monitor and publicly report on the human rights situation in Liberia.

6. Recommendations

Recommendations to the Liberian government:

- ensure that all human rights guaranteed under the African Charter on Human and Peoples' Rights including the right to life, the right not to be tortured or subjected to cruel, inhuman or degrading treatment or punishment and the right to freedom of thought, conscience and religion may never be derogated from in any circumstances;
- demonstrate through a clear and unequivocal message to the security forces that the state of emergency is not to be used as a justification for committing human rights violations and that those suspected of being responsible for violations will be brought to justice;
- give immediate and public instructions to the security forces to end immediately all harassment, arbitrary arrests, ill-treatment, torture, including rape, and other human rights violations;
- end the recruitment and use of children under the age of 18 in the armed forces, and ratify and implement the Optional Protocol to the UN Convention on the Rights of the Child on the involvement of children in armed conflict;
- instruct the security forces to comply with national law at all times, including court orders. They should also comply with international humanitarian law and human rights and criminal justice standards. These include the four Geneva Conventions and the Protocols Additional to the Geneva Conventions and the UN Standard Minimum Rules for the Treatment of Prisoners;
- ensure that all detainees are held in official detention centres and have access to relatives, lawyers and adequate medical care. All political detainees should be promptly charged with a recognizably criminal offence or released;
- allow prompt and periodic review of cases of administrative detention by a court with powers to bind the executive and enforce its judgements;
- ensure that additional safeguards are provided for prisoners, in line with those contained in the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by the UN General Assembly on 9 December 1988;
- bring to justice those responsible for human rights violations in accordance with international standards for fair trials and without recourse to the death penalty;
- allow the deployment of staff members of the UN Peace-building Support Office in Liberia (UNOL) to enable them to carry out their work;

- allow human rights defenders and journalists to carry out their legitimate activities without fear of harassment, arbitrary arrest or ill-treatment.

Recommendations to the international community:

In the short term:

- incorporate human rights into the mandate of the United Nations Peace building office in Liberia (UNOL) by deploying independent and impartial human rights monitors in Liberia, with clear authority to monitor respect for the human rights of the civilian populations, including refugees, internally displaced people and returning refugees, and to report regularly and publicly;
- call for those suspected of being responsible for human rights abuses to be brought to justice in accordance with international standards for fair trials;
- engage with the Liberian government and leaders of the LURD and other armed political groups fighting in Liberia in dialogue on human rights and use their influence to ensure the immediate protection of civilians from human rights abuses;
- put pressure on the Guinean government to use its influence over the LURD and other armed political groups to prevent human rights abuses by these groups.

In the medium term:

- take effective measures to prevent arms transfers and other military assistance to the region where this could contribute to serious human rights abuses. Such measures should include: strict controls and monitoring of international arms brokerage and arms transportation by states' own nationals and residents, even when such activities are conducted through "third countries"; rigorous procedures to be followed when considering applications for arms transfers to countries known to have links to Liberia so that such applications are refused where no concrete guarantees can be given that the arms deliveries will be verified by officials of the sending government.