



Human Rights and Protection Section

**Quarterly Report**  
**February - April 2006**

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## Table of Contents

	Page
<u>Executive summary</u>	1
<u>Methodology</u>	2
<u>Mandate of the Human Rights and Protection Section</u>	2
<u>Major political and human rights developments</u>	3
Political developments	3
Apprehension of former President Charles Taylor	3
Truth and Reconciliation Commission	3
Independent National Commission on Human Rights	4
Visit of the Independent Expert	4
Ratification of international human rights treaties and reporting obligation	4
<u>Human rights monitoring</u>	5
The judiciary	5
Positive development	5
Failure of Circuit Courts to hear cases	6
Denial of due process	6
Corruption in the judiciary	8
Interference in the judicial system by government officials	9
Human rights in prisons and detention facilities	11
Positive developments	11
Conditions in prison and detention facilities	11
Record-keeping	12
Possible excessive use of force in prisons	13
Torture or ill-treatment	14
Law enforcement	14
Positive developments	15
Lack of resources	15
Shortage of LNP officers	16
Corruption in the police	16
Possible excessive use of force by police	17
Juvenile justice	18
Failure to separate juveniles from adult detainees	19
Other cases of detention of juveniles	20
Sexual and Gender Based Violence	21
Failure to prosecute cases	21
Pressure to settle rape cases out of court	23
Misapplication of the law	24
Corruption relating to rape cases	24
Harmful traditional practices	25
Female Genital Mutilation (FGM)	25
Trial by ordeal	26
Human rights in rubber plantations	27
Child rights	29
Orphanages	29
Child labour	29
<u>Recommendations</u>	31

## **Executive summary**

1. This United Nations Mission in Liberia (UNMIL) quarterly report on the human rights situation in Liberia focuses on issues that emerged as priority concerns from February to April 2006. The reporting format has been changed from bi-monthly to quarterly reporting in order to provide a more comprehensive overview of the main human rights trends in the country.
2. Progress was made in efforts to address past abuses of human rights. In March 2006, former President Charles Taylor was apprehended and transferred to stand trial for crimes against humanity and war crimes in the Special Court in Sierra Leone. The Truth and Reconciliation Committee (TRC) was inaugurated in February 2006.
3. Although Circuit Courts in all of Liberia's 16 circuits opened for the February 2006 term, at least six were not fully functional. The failure of a number of courts to hear cases remained an obstacle to ensuring access to justice. In many cases national and international standards for fair trial were not upheld.
4. Cases of corruption by judicial, law enforcement and government officials at the local level continued to be reported. This undermined equality under the law and the right to a fair trial. There was particular concern about the possible effects of corruption in undermining the prosecution of cases of rape and other serious crimes.
5. Detainees in Liberia's prisons and detention centres remained at risk of human rights violations, as conditions often fell below minimum standards for the treatment of prisoners. In at least one case, poor prison conditions was among the factors that led to a violent confrontation in a prison. There were allegations that police officers used excessive force when responding to the confrontation. Detained juveniles were frequently placed in cells with adult detainees, putting them at risk of abuse. In one case, a 15 year old girl was allegedly raped by a prison warden while in detention.
6. A high number of rape cases were reported. The high incidence of rape of minors was of particular concern. Although cases were filed under the new Rape Law, many cases were not dealt with in accordance with the law, leading to widespread impunity for the perpetrators of rape.
7. Harmful traditional practices remained an obstacle to the fulfilment of human rights. Girls were at risk of female genital mutilation (FGM), in violation of their right to physical and mental integrity, freedom from discrimination and to the highest standard of health. Cases of trial by ordeal, in which suspects were subjected to torture or ill-treatment, and which failed to uphold standards for fair trial were also reported.
8. As reported previously, the human rights situation on Liberia's rubber plantations remained poor. A report issued by UNMIL in early May 2006 provided a detailed description of human rights concerns on five plantations.

9. Conditions in orphanages continued to fall below minimum standards. In March 2006, the Ministry of Health and Social Welfare (MoHSW) announced that it would close 69 sub-standard orphanages following a review. Owners, some of who allegedly stood to gain financially from the orphanages, resisted closure.

### **Methodology**

10. Information in this report has been collated from monitoring conducted by 22 Human Rights Officers (HROs) of the Human Rights and Protection Section (HRPS), who cover all of Liberia's 15 counties. This information was then cross-checked with reports prepared by other UNMIL components, in particular the Legal and Judicial System Support Division (LJSSD) and the Corrections Advisory Unit (CAU). The draft report was sent to the Chief Justice of the Supreme Court and the Ministry of Justice for their comment prior to release.

### **Mandate of the Human Rights and Protection Section (HRPS)**

11. UNMIL was established by UN Security Council resolution 1509 (2003) of 19 September 2003. In accordance with paragraph three of the Security Council Resolution, the mandate of the HRPS is:
  - (l) to contribute towards international efforts to protect and promote human rights in Liberia, with particular attention to vulnerable groups including refugees, returning refugees and internally displaced persons, women, children, and demobilized child soldiers, within UNMIL's capabilities and under acceptable security conditions, in close cooperation with other United Nations agencies, related organizations, governmental organizations, and non-governmental organizations;
  - (m) to ensure an adequate human rights presence, capacity and expertise within UNMIL to carry out human rights promotion, protection, and monitoring activities.
12. HRPS is not mandated to investigate allegations of human rights abuses committed by UNMIL staff. All cases of serious misconduct by UN personnel, including all complaints involving sexual exploitation and abuse, are investigated by an independent mechanism, the Office of Internal Oversight Services (OIOS). OIOS has complete freedom of action and reports directly to UN Headquarters in New York. Therefore, cases involving alleged abuses by UN personnel are not covered in this report.

## **Major political and human rights developments**

### **Political developments**

13. Following the inauguration of President Ellen Johnson-Sirleaf on 16 January 2006, Senate confirmation hearings for presidential appointments neared completion by the end of April 2006. Among those confirmed for cabinet positions were a number of persons with a strong human rights background.<sup>1</sup> The appointment of women fulfilled the 30% figure which has been recognized as the so-called “critical mass”, considered to be necessary for women to make a visible impact on political style and the content of decision-making.<sup>2</sup> However, three members of Liberia’s parliament are subject to travel restrictions imposed by UN Security Council Resolution 1521 (2003) due to their alleged activities during Liberia’s civil war.<sup>3</sup>

### **Apprehension of former President Charles Taylor**

14. On 25 March 2006, Nigeria announced that it had agreed to a request by President Johnson-Sirleaf to transfer former President Charles Taylor (1997-2003) to Liberia. Immediately upon arrival in Liberia on 29 March 2006, Taylor was detained by UNMIL and transferred to the Special Court for Sierra Leone, in accordance with UN Security Council Resolution 1638 (2005). Taylor has been indicted for crimes against humanity, war crimes and other serious violations of international humanitarian law in Sierra Leone. These charges include acts of terrorism; murder; violence to life, health and physical or mental well being of persons; rape; sexual slavery and other forms of sexual violence; conscription of children; enslavement, and pillage.<sup>4</sup> During his initial hearing on 3 April 2006, Taylor pleaded not guilty to all charges. The transfer of Taylor to face justice before the Special Court was considered an important step in international efforts to bring to justice individuals suspected of war crimes, crimes against humanity and other grave human rights violations.

### **Truth and Reconciliation Commission**

15. The Truth and Reconciliation Commission (TRC) was inaugurated on 20 February 2006. Cllr. Jerome Verdier, a prominent human rights lawyer, was appointed Chairperson of the Commission. The nine TRC Commissioners began its preparatory work, in anticipation of the official opening of the TRC on 22 June 2006. During the

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<sup>1</sup> They included Minister of Labour, Atty. Samuel Kofi Woods, and Minister of Justice Frances Johnson-Morris. Cllr. Tiawon Gongloe, who was confirmed as Solicitor General, has a background as a human rights lawyer.

<sup>2</sup> Committee on the Elimination of all forms of Discrimination Against Women, General Recommendation No. 23, sixteenth session 1997, “Women in political and public life”, Art. 16. Beijing Platform for Action, Fourth World Conference on Women, 15 September 1995, A/CONF.177/20/Add.1 (1995), Para. 184.

<sup>3</sup> See: [http://www.un.org/Docs/sc/committees/Liberia3/1521\\_list.htm](http://www.un.org/Docs/sc/committees/Liberia3/1521_list.htm)

<sup>4</sup> The amended indictment and a summary of the charges, Special Court for Sierra Leone, <http://www.sc-sl.org/Taylorcasesummary.html>

preparatory period, Commissioners received training from the International Center for Transitional Justice, the United Nations Children’s Fund (UNICEF) and HRPS. HRPS also provided support to Commissioners as they prepared to recruit core personnel for the Secretariat.

16. Article V, Section (10) of the TRC Act provides that “an International Technical Advisory Committee (ITAC) of three persons shall be constituted to work directly with the Commission in the fulfilment of their mandate”. The three ITAC members have been appointed. However, by the end of April 2006, only one, appointed by the Office of the High Commissioner for Human Rights, had taken up his position. It remained unclear when the two remaining ITAC members would arrive in Liberia. It was considered essential that the two candidates joined the TRC before its opening.

### **Independent National Commission on Human Rights**

17. The deadline for submission of nominations of candidates for the Independent National Commission on Human Rights (INCHR) expired on 10 April 2006. The Independent Nomination Committee of Experts subsequently prepared a list of 63 candidates and started the process of soliciting community input regarding each candidate. Based on the information received and additional background checks, the Committee will prepare a shortlist of candidates with the requisite integrity, experience and skill to serve as Commissioners. The shortlist will be forwarded to the President who will make the final appointment of Commissioners with the consent of the Senate.

### **Visit of the Independent Expert on the situation of human rights in Liberia**

18. The Independent Expert on the situation of human rights in Liberia, Dr. Charlotte Abaka, visited Liberia between 19 and 26 February 2006. During her visit, Dr. Abaka met with members of the new government, including the President and Vice-president, Ministers, representatives of the Liberian National Police (LNP), UN agencies, members of the diplomatic community and representatives of civil society organizations.

### **Ratification of international human rights treaties and reporting obligations**

19. In the past, Liberia has ratified or acceded to, without reservation, six of the seven core UN human rights treaties, thereby making these treaties legally binding in the country.<sup>5</sup> In addition, Liberia has signed a number of human rights treaties. Signature of a treaty constitutes a first step towards ratification.

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<sup>5</sup> Core human rights treaties ratified or acceded to by Liberia are: the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) (1965); the International Covenant on Civil and Political Rights (ICCPR) (1966); the International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966); the Convention on the Elimination of All Forms of Discrimination Against Women

20. In ratifying core UN human rights treaties, States Parties assume obligations to provide periodic reports on their implementation. Liberia has consistently fallen behind in its reporting obligations. The only report ever submitted by Liberia was its initial report to the Committee on the Rights of the Child, which was considered in 2004. Reports that are currently outstanding include Liberia's initial through 14<sup>th</sup> reports to the Committee on the Elimination of Racial Discrimination, and its initial through sixth reports to the Committee on the Elimination of All Forms of Discrimination against Women. Liberia's initial reports to the Committee against Torture, and the Human Rights Committee which monitors the International Covenant on Civil and Political Rights (ICCPR), were due in October and December 2005 respectively.

### **Human rights monitoring**

21. Human Rights Officers (HROs) of the HRPS continued to monitor the human rights situation in all 15 counties of Liberia. The observations below provide a summary of the key issues reported by HROs during the reporting period.

### **The Judiciary**

22. The weakness of the judiciary continued to have a negative effect on the protection and fulfilment of human rights. The lack of personnel and infrastructure prevented courts from operating effectively, and meant that many cases were not heard in a timely manner. This led to suspects being held in pre-trial detention for lengthy periods. In spite of efforts to address problems, most judicial officers continued to fail to follow procedures. This led to trials not meeting national or international standards for fair trial. Corruption also remained a problem.

### *Positive developments*

23. On 4 March 2006, Cllr. Johnnie Lewis was sworn in as Chief Justice of the Supreme Court following confirmation by the Senate. Three Associate Justices of the Supreme Court were also sworn in during the reporting period.
24. The Chief Justice took initial steps towards improving the professionalism of the judiciary. In April 2006, meetings were held between the Chief Justice and Circuit Court Judges and Magistrates in order to ascertain their legal qualifications and commitments to their positions. The Chief Justice also presided over the disbursement of monthly allowances to judicial officers in various counties around the country including Sinoe, Grand Bassa, Gbarpolu, and Nimba. This initiative, which is to be

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(CEDAW) (1979); The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (1984); and the Convention on the Rights of the Child (CRC) (1989).

extended to all other counties, was introduced to address the problems caused by judicial officers abandoning their posts for lengthy periods of time to collect salaries in Monrovia.

#### *Failure of Circuit Courts to hear cases*

25. Circuit Courts in all of Liberia's 16 Circuits officially opened for the February 2006 term. However, at least six Circuit Courts were not fully functional due to the absence of key judicial personnel and lack of facilities. In some cases, the absence of judicial personnel appeared to be a result of poor communication between Monrovia and the counties, or administrative difficulties. However, negligence of judicial personnel in performing their duties also reportedly contributed to the failure of courts to hear cases. For example, the Circuit Court Judges of Grand Cape Mount, River Cess and Lofa Counties left their respective duty stations after the opening ceremony of the February 2006 term.<sup>6</sup> No criminal trials were heard in the Circuit Court of these counties during the February 2006 term. Meanwhile, the Maryland County Circuit Court lacked a county attorney and funds to pay for grand and petit juries.
26. The failure of courts to hear cases contributed to a number of violations. Suspects were often held in pre-trial detention for extended periods of time, in some cases exceeding a year. In some cases, this appears to have contravened constitutional guarantees for a "speedy trial"<sup>7</sup> and international standards related to the right to liberty.<sup>8</sup> The failure of courts to hear cases also undermined the ability of victims of crime to seek redress through the formal justice system. This appeared to be one reason for the widespread use of informal justice mechanisms such as trial by ordeal and settlements out of court, which frequently failed to uphold fair trial standards.

#### *Denial of due process*

27. The right to a fair trial has been recognized as a fundamental human right.<sup>9</sup> It ensures that individuals are not unjustly punished, and is indispensable for the protection of other fundamental rights, such as the right to liberty and security of person, freedom from torture, and freedom from arbitrary arrest. Fair trial guarantees are also enshrined in the Liberian Constitution. During the reporting period, numerous cases

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<sup>6</sup> The Courthouse in Robertsport, Grand Cape Mount County has been newly refurbished and appears ready for use, but not a single criminal trial has been heard in the Circuit Court since May 2005, due in part to the absence of the Circuit Court Judge. The Resident Circuit Court Judge has now returned to Robertsport to take up her duties.

<sup>7</sup> Constitution of Liberia (1986), Article 21(f).

<sup>8</sup> For example, International Covenant on Civil and Political Rights, Article 9(3); Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, (1988), Principle 39; and the Tokyo Rules, Principle 6. The Human Rights Committee in General Comment 3, para. 8 has stated that "[p]re-trial detention should be an exception and as short as possible". However, it has recognized that there are cases in which pre-trial detention may be necessary to prevent flight, avert interference with witnesses and other evidence, or prevent the commission of other offences.

<sup>9</sup> International Covenant on Civil and Political Rights, Article 14, African Charter on Human and Peoples' Rights, Article 7.



were reported in which individuals were denied the right to a fair trial. The cases below illustrate various ways in which the right to a fair trial was denied.

□ *Right to be brought promptly before a judge*

On 14 April 2006, a man was arrested by the Plant Protection Department (PPD), a private security firm operating on the Liberia Agriculture Company (LAC) plantation, Grand Bassa County. The man, who was suspected of theft, was handed over to the Liberian National Police (LNP) the following day. He was taken to the Magistrates' Court on 17 April 2006. However, as the Stipendiary Magistrate was unavailable he had not been brought to the court for a preliminary hearing as of 20 April 2006. Although an Associate Magistrate was available, he did not hear the case. The Constitution of Liberia stipulates that anyone detained must be formally charged and presented before a court of competent jurisdiction within 48 hours of detention.<sup>10</sup> This is in conformity with international standards for fair trial, which state that detainees must be brought before a judge promptly. The prompt presentation of a detainee before a judge helps uphold the right to liberty and freedom from arbitrary arrest. It is also considered a safeguard against other human rights violations such as torture or "disappearance".

□ *Right to be heard by a competent tribunal*

A man detained in Grand Kru County in March 2006, stated that following his arrest on charges of assault, he was taken to the Circuit Court for his initial hearing. In the absence of the Circuit Court Judge, the hearing was presided over by a Debt Court Judge, who had been left in charge of the Circuit Court. The Debt Court Judge allegedly ordered the defendant to pay a L\$3,500 (US\$70) bond. This amount was negotiated down to L\$500 (US\$10). However, despite payment, the defendant was remanded in pre-trial detention. The Debt Court Judge stated that the money was a bond for the release of an associate of the defendant. The defendant was subsequently found guilty and is currently imprisoned. Defendants have a right to have their cases heard by a competent tribunal, with jurisdiction over the offence with which they have been charged.<sup>11</sup> There are no provisions in Liberian law that would allow a Debt Court Judge to preside over a case which should have been heard by a Circuit Court.

□ *Keeping of records*

Two men in Grand Bassa County were detained on 12 April 2006 on suspicion of stealing two bags of rubber. Around one week later, they were found guilty by the LAC Magistrates' Court and sentenced to pay a fine of US \$30. Because the men were unable to pay they were sentenced to two months' imprisonment pending payment of the fine imposed on them. Upon request, the Stipendiary Magistrate was unable to produce

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<sup>10</sup> Constitution of the Republic of Liberia, (1986), Article 21(f).

<sup>11</sup> International Covenant on Civil and Political Rights, Article 14(1).

either the records of the proceedings or the judgment, and stated that his court was not a “court of records”. However, Article 7.8 of the Judiciary Law requires Magistrates’ Courts to maintain records of criminal actions and proceedings.<sup>12</sup> The keeping of records of the outcome of the trial is essential in order to guarantee the right to appeal.

□ *Right to be informed of charges and the right to adequate time and facilities to prepare a defence*

On 9 March 2006, the Magistrate in Robertsport, Grand Mount County conducted a trial for disorderly conduct. Two persons were initially charged. However, at the end of the hearing, the Magistrate ruled that one of the witnesses was also guilty of disorderly conduct and ordered her to pay L\$250 (US\$5). The witness was never formally charged and was never given the chance to defend herself at a trial. The Magistrate stated that the Criminal Procedure Law allows a Magistrate to treat a witness as a defendant if there is evidence that he or she was involved in the crime, without the need for a separate trial.<sup>13</sup> This is in violation of international standards which state that all people charged with a criminal offence have the right to be promptly informed of any charges against them. It also violates the right to adequate time to prepare a defence.<sup>14</sup>

### *Corruption in the judiciary*

28. Corruption in the judiciary remained a challenge to guaranteeing equal access to justice and equality under the law. Numerous cases were reported in which corrupt practices of judicial officials undermined the rule of law. In addition to leading to violations of fundamental rights, including the right to a fair trial, corruption has been recognized as having a disproportionate effect on the poor. Corruption was of particular concern in the prosecution of serious crimes, such as rape, as illustrated in the cases below.

- In March 2006, the Voinjama Magistrate, Lofa County, reportedly charged the father of a nine year old alleged rape victim L\$300 (US\$6) to detain the suspect pending trial. The Magistrate claimed that the fee was to cover the cost of transporting the suspect to the detention cell. After HRPS and LJSSD raised the case, the Circuit Court Judge clarified that there are no provisions requiring complainants to pay such fees.<sup>15</sup> However, the Circuit Court Judge did not address the issue of the L\$100 (US\$2) that had already been paid to the Magistrate as a first instalment. It was later

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<sup>12</sup> Para. 7.8 of the Judiciary Law (1972) states that all magisterial courts must “keep legible and suitable books, papers, records and dockets... of all criminal actions and proceedings. The rules of court may prescribe their form, care, custody and disposition”.

<sup>13</sup> It is not clear which provisions in the Criminal Procedure Law he was referring to.

<sup>14</sup> International Covenant on Civil and Political Rights, Article 14(3)(a) and 14(3)(b)

<sup>15</sup> In addition, it should also be noted that the prison compound, where the suspect was being held, is in walking distance from the courthouse.

learned that the Sheriff of the Circuit Court also asked for L\$350 (US\$7) to arrest the suspect.

- A man accused of raping a 13 year old girl in Maryland County in December 2005, and arrested on 5 January 2006, claimed that he was released by a court order on 30 January 2006, after he paid L\$3,000 (US\$60) to the alleged victim's uncle, a Justice of the Peace. He was subsequently rearrested on 12 April 2006 and is currently detained in Harper Prison, pending trial.
- In February 2006, nineteen men were detained on suspicion of arson, property damage and theft in Bomi County. Their detention followed an incident during which Boling Camp residents allegedly damaged and stole property belonging to Married Camp residents. Both Camps are located in the Guthrie Rubber Plantation. The men were later released in return for a surety note that they would pay the County Attorney US\$6,545. When the money was not paid on the due date of 7 April 2006, the guarantor was detained.

### **Interference in the judicial system by government officials**

29. The separation of power is firmly enshrined in the Liberian Constitution.<sup>16</sup> International human rights standards emphasize the fundamental importance of the independence of the judiciary to ensuring equality under the law.<sup>17</sup> However, HRPS reported numerous cases of interference with the judiciary by local government officials, undermining the independence of the judiciary and affecting victims' right to redress.

- In February 2006, the District Two Commissioner in Grand Bassa County allegedly ordered five men to beat a man, and tie him to a pole. The man was tied to the pole for approximately six hours, from 21.00 until 3.00, when he was freed by a friend who was passing by. The following morning, the man returned to the District Commissioners office. He was detained and held in the office for around one day before being released. As a result of being beaten and tied up, the man sustained serious injuries to his hands and at the time of writing remained unable to use his hands. The District Commissioner was subsequently suspended from office and charged with criminal solicitation and aggravated assault. However, during his preliminary hearing in Buchanan Magistrates' Court, the Associate Magistrate dismissed the case, ruling that there was insufficient evidence to refer the case for trial in the Circuit Court. The ruling was based on the fact that the witness who released the victim had not been called to give evidence and that no medical report had been submitted to

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<sup>16</sup> Constitution of the Republic of Liberia (1986), Article 3.

<sup>17</sup> International Covenant on Civil and Political Rights, Article 14(1).

the Court. However, a HRO who observed the hearing, expressed concern about indications that the position of the District Commissioner may have influenced the trial. Summary proceeding against the Magistrate were initiated in the Circuit Court. The Circuit Court Judge subsequently ordered the Associate Magistrate to have the District Commissioner re-arrested, although this has not yet happened. By the end of April the proceedings had been delayed three times, once due to the absence of the Associate Magistrate, and twice due to the absence of the Circuit Court Judge. No date has been set for a future hearing.

- In February 2006, the Superintendent of Grand Gedeh County, ordered the release from prison of the County Land Commissioner, who was serving a 30-day sentence for contempt of court, relating to his misappropriation of land. The Land Commissioner had been found guilty and sentenced by the Circuit Court. There are no provisions in Liberian law for the County Superintendent to order the release of prisoners. This undermines the rule of law and violates the right of victims to redress.
- In February 2006, the Acting County Superintendent for Lofa County ordered the detention of a woman for 48 hours in relation to a land dispute. The woman was released after HROs raised the case. However, she was allegedly later pressured by the Superintendent to pay a fine to be allowed to leave Voinjama town. The Superintendent claimed to have powers to investigate and order the detention of any person who defied his instructions. However, under Liberian law he has no such powers. As such, the right of the woman to a fair trial by a competent court was violated, and her detention was arbitrary.
- On 17 April 2006, a man was reportedly detained by a staff member (“messenger”) of the Ganta District Commissioner’s Office in Nimba County. The Secretary of the District Commissioner had reportedly issued an “arrest warrant”, although he had no jurisdiction to do so. The warrant did not specify a reason for arrest. The detainee was allegedly ordered to pay the Secretary L\$2,460 (US\$49) in various fees described as “messenger expenses”, “bond fees”, “plaintiff expenses” and “court expenses”. He was released several hours later after he paid the Secretary L\$200 (US\$4), as the initial instalment of a L\$800 (US\$16) bond. The remainder of the bond, as well as some other fees, were paid the following day. These actions violated the man’s right to liberty and to a fair trial. The District Commissioner, who had been absent for several weeks and was unaware of the situation, agreed to take corrective measures. It was not known whether any steps had been taken at the time of writing.

## **Human rights in prisons and detention facilities**

30. Individuals held in prisons and other detention facilities remained at risk of a range of human rights violations. In spite of ongoing efforts to improve some detention facilities, conditions in the majority of institutions fell below minimum standards for the treatment of prisoners.<sup>18</sup> Poor record keeping led to difficulties in determining the exact amount of time a person had spent in detention and left detainees vulnerable to a range of other violations. One allegation of torture was reported during the period covered by this report.

### *Positive developments*

31. On 23 March 2006, three additional cells in Gbarnga Central Prison, Bong County, were opened. The cells had been rehabilitated with the support of UNMIL and the UNHCR. The new cells increased the prison's capacity to 60 detainees and permitted the separation of pre-trial detainees, convicted prisoners, juveniles and females in compliance with international human rights standards. However, the prison still needs improvement in order to meet minimum standards, especially in terms of lighting, ventilation, bedding, food, sanitation and provision of medical care.<sup>19</sup>

### *Conditions in prison and detention facilities*

32. Across Liberia, conditions in prisons and detention facilities continued to fall below minimum human rights standards prescribed by the Standard Minimum Rules for the Treatment of Prisoners. The situation was compounded by overcrowding, caused in part by lengthy pre-trial detention periods.

- As of early May 2006, Monrovia Central Prison held 404 detainees, more than twice its operational capacity of 200. Of these, only 16 had been sentenced, while the rest were being held in pre-trial detention. Overcrowding in prisons may impact on a range of rights including the right to dignity, security of person, health, and participation in cultural or educational opportunities which will facilitate re-integration into the community.
- At the end of April 2006, 48 persons were held at Kakata Central Prison, Margibi County. Only one had been convicted. On 8 February 2006, four detainees held for more than three months in pre-trial detention were released. A number of detainees had reportedly been held in pre-trial detention for more than 18 months. A 16 year old juvenile was held with adults, although international standards state that juveniles must be held separately from adult detainees. Sanitation at the prison was poor, as the

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<sup>18</sup> Relevant standards include the Standard Minimum Rules for the Treatment of Prisoners (1977) and the Basic Principles for the Treatment of Prisoners, adopted and proclaimed by General Assembly Resolution 45/111 of 14 December 1990.

<sup>19</sup> Standard Minimum Rules for the Treatment of Prisoners (1977).

water pump was broken. Some inmates appeared to be suffering from scabies. Blankets and toiletries were not available. The Standard Minimum Rules for the Treatment of Prisoners state that each prisoner shall be provided with sufficient water and toiletries to keep him or herself clean, as well as sufficient bedding.<sup>20</sup>

- Bondiway Central Prison, Margibi County, has only one cell, which has a maximum capacity of 15 detainees. The prison has not been renovated since its inauguration in 1926. Prison conditions are poor, and the prison is not able to hold prisoners securely.<sup>21</sup> Different categories of prisoners were not separated. On 25 April 2006, a female detainee was observed sharing a cell with four men in contravention of international standards.<sup>22</sup> After the issue was raised, prison authorities transferred the female detainee to the Superintendent's office. The Superintendent of Bondiway Central Prison later stated that he no longer accepts female detainees, as there is no space to hold them separately from male detainees. Detaining women and men together violates the right of women to security of person and may put them at risk of sexual abuse. Bondiway Prison was closed in April 2006 because of its poor condition. Meanwhile, Firestone Company is carrying out renovation work on the facility.
  
- During April 2006, up to 28 people were held in the Tubmanburg Police Station, the majority in pre-trial detention. There was no detention centre in Bomi County and all court detainees were held in the Police Station. Conditions in the cells were deplorable, with poor sanitation leading to ill-health among the prisoners. Police officers reportedly relied on UNPOL to provide cleaning materials for the cells. The World Food Programme provided rations to the prison, and the prison wardens prepared daily meals for the prisoners. HROs and Corrections Advisory Unit (CAU) officers recommended that prison staff ensure that detainees are able to eat at least twice a day. There were unconfirmed allegations that prison staff sold food rations donated to the prisoners.

### *Record keeping*

33. In at least two detention centres, record keeping was poor, and did not uphold international standards, which state that registration books with information about the prisoner's identity, reason for arrest, and time of admission and release must be kept in each location where detainees are held.<sup>23</sup> Accurate record keeping is considered an essential safeguard for tracking of the time prisoners spend in detention, including

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<sup>20</sup>Ibid, Rule no. 15 and 19.

<sup>21</sup> There were several break-outs from Bondiway Central Prison during the reporting period. On 16 April 2006 a detainee broke out through a hole dug in a cell. Two men arrested on suspicion of rape escaped during the last week of April 2006.

<sup>22</sup> Standard Minimum Rules for the Treatment of Prisoners (1977), Rule no. 8(a).

<sup>23</sup>Ibid., Rule no. 7(1).

pre-trial detention, and has been internationally recognized as a measure which may help prevent serious human rights violations including torture or “disappearance”.<sup>24</sup> It is possible to have inaccurate record keeping system in a post conflict environment, considering that the criminal justice system collapsed during the prolonged strife. The Corrections Advisory Unit (CAU) of UNMIL co-located staff in re-established and operational facilities in the regions to streamline record keeping process and other administrative issues. Monitoring of these systems and structures continues.

- In Buchanan Central Prison, Grand Bassa County, records were incomplete and inaccurate. Detainees whose cases were transferred from the Magistrates’ Court to the Circuit Court were sometimes recorded as new arrivals, making it difficult to track the total length of time they had spent in detention.
- In the LNP cell in Tubmanburg, Bomi County, records of dates of arrests of detainees were found to be incorrect. The actual number of persons recorded did not correspond to the number of detainees. Some detainees were not included in the log. In addition, detainees often did not sign in relation to the handover of personal effects at the time of detention. The failure to record prisoners leaves them at risk of detention beyond statutory limits.

#### *Possible excessive use of force in prisons*

34. In at least one case, poor prison conditions was among the factors that led to a violent confrontation in a detention centre. During the course of responding to the confrontation, there are allegations that police officers used excessive force. The case highlighted the possible consequences of poor prison conditions, and the need for ongoing training for law enforcement officials in responding to such incidents in a way which upholds human rights.

- On the evening of 25 April 2006, a violent incident occurred in Buchanan Central Prison, Grand Bassa County, where 23 detainees were being held. The inmates broke the locks to all cells but one, and some mattresses and other items were burnt. Prison staff called LNP officers to quell the disturbance. During the operation, LNP officers reportedly injured three detainees with bamboo sticks and cutlasses. Two detainees required hospital treatment. There were allegations that police officers beat them again at the hospital. According to some detainees, the protest started after prison personnel refused to allow them to leave their cells to urinate. There are no toilet facilities in the cells. Detainees also said that they were protesting against lengthy pre-trial detention and insufficient food supplies. UNPOL has initiated an investigation into whether excessive force was used.

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<sup>24</sup> Although no “disappearances” were reported, and allegations of torture were extremely rare, it is essential to ensure implementation of such preventative mechanisms.

### *Torture or ill-treatment*

35. Torture is a serious human rights violation, and has been outlawed in the International Convention Against Torture and other Cruel, Inhuman and Degrading Punishment or Treatment (CAT). Liberia acceded to CAT in 2004. The Liberian Constitution also prohibits torture or inhumane treatment.<sup>25</sup> One case which may amount to torture or ill-treatment was reported in February 2006.

- On 16 February 2006, three detainees in Saniquellie Central Prison, Nimba County, were allegedly tied up with wire, beaten, and forced to drink muddy water by five other detainees acting on the orders of a corrections trainee. The following day, HROs observed that the men were naked, covered in mud, and had sustained injuries. Despite photo evidence and indications to the contrary when HRPS and Corrections Advisory Unit (CAU) staff visited the prison, a medical report from the G.W. Harley Hospital signed by the County Health Officer on 27 February 2006 found that the men were in good condition. The County Health Officer later stated that he signed the document, but that the examination was performed by his assistant. When shown photos of the men's injuries, the assistant acknowledged that scars on the men's bodies had been overlooked during the examination. An investigation carried out by the CAU of UNMIL and the National Prison Coordinator of the Ministry of Justice found the trainee at fault, and he was consequently dismissed. Saniquellie Prison is located in a former warehouse, where conditions fall below minimum international standards. It is overcrowded, partly as a result of the high number of pre-trial detainees being held. There are allegations that Nimba County Court officials order the detention of suspects based on whether they are able to pay a bond of around L\$1,500 (US\$30), rather than based on issues such as the risk posed to the community, or the risk of failure to appear for trial. Security is reportedly inadequate.

### **Law enforcement**

Efforts to strengthen the LNP continued. However, the lack of resources and shortage of LNP officers in many parts of the country impacted negatively on the ability of the LNP to carry out its policing functions. Cases of corruption continued to be reported. In a few cases, police officers responded to situations with what may have constituted excessive force.

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<sup>25</sup> Constitution of the Republic of Liberia (1986), Article 21(e).



### *Positive developments*

36. In April 2006, Colonel Beatrice Munah Sieh was confirmed as Liberia's first female Director of the LNP. At her inauguration, she reportedly stated that her administration will strive for transparency and accountability and will work towards minimizing police corruption.<sup>26</sup>
37. The LNP and UNMIL launched the second phase of recruitment for new LNP police officers on 21 April 2006. This phase in particular targets the recruitment of female officers in order to ensure gender balance in the police force.

### *Lack of resources*

38. Lack of basic resources and equipment, impacted negatively on law enforcement, and left police officers ill-equipped to carry out their duties in a way that upheld international standards, even when attempting to do so. The lack of resources sometimes had serious consequences, including the failure to protect the right of detainees to security, and the failure to provide medical assistance. This is illustrated in the cases below.

- On 3 March 2006, a criminal suspect was burnt with acid and gasoline when an angry mob forced their way into Karnplay Police Station, Nimba County. The suspect, who had been detained on 2 March 2006 after he was involved in a fatal motorbike accident, sustained serious burns as police failed to protect him. He was taken by police to Phoebe Hospital in Gbarnga, Bong County for treatment. However, he escaped from the hospital, allegedly because he learnt of a plot to kill him. He was re-arrested on 14 April 2006 and taken to Gbarnga Central Police Station. At the police station, his burns became infected, and he reportedly suffered hearing loss due to the burns. Police officers stated that they were unable to transport him to the hospital, or to provide protection for him there.<sup>27</sup> Instead, HRO and United Nations Police (UNPOL) facilitated medical aid from the Bangladeshi Battalion (BANBATT) hospital on 21 April 2006. In late April, the man was returned to Nimba County and was subsequently released in order to receive medical treatment. There are concerns that police at Karnplay Police Station were unable to protect the detainee's right to life and security of person. The Police Station lacks weapons, vehicles, communications equipment and administrative support. In addition, it appeared that a shortage of vehicles and police officers at Gbarnga Central Police Station was cited as the reason for

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<sup>26</sup> "Liberia: I'll Restore Public Confidence - Police Chief Assures", *The Analyst*, 13 April 2006.

<sup>27</sup> Article 6 of the Code of Conduct for Law Enforcement Officials states that "Law enforcement officials shall ensure the full protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention whenever required." Adopted by General Assembly resolution 34/169 of 17 December 1979.

failure to provide the detainee with adequate medical care. At the time of writing, no steps had been taken to bring to justice those responsible for the attack against Karnplay Police Station.

- A criminal suspect in Voinjama, Lofa County, was beaten by a mob, before being arrested by police on 26 April 2006. The suspect sustained serious injuries including open wounds all over his body. His hands were injured from being tied with a rope. He was unable to talk properly and had difficulty walking. In spite of this, he was not taken to a hospital or examined by a doctor upon arrival at Voinjama Police Station. Police officers stated that they were unable to transport the detainee to hospital because the only police vehicle was being used to investigate the case in which he was allegedly involved. HRPS arranged for treatment of the man at a hospital on 27 April 2006. At the end of April 2006, the man was detained at Voinjama Prison awaiting trial for murder.

#### *Shortage of LNP officers*

39. In many parts of Liberia, a shortage of LNP officers remained a major obstacle to carrying out basic policing activities including investigations and the apprehension of suspects. This meant that victims were denied the right to redress. In addition, the failure to apprehend and bring to justice suspected perpetrators of serious crimes contributed to the continuation of such crimes, and led to a failure of the authorities to ensure the protection and fulfillment of human rights of the population.

- The Stipendiary Magistrate of Garplay District, Nimba County, stated that between September 2005 and March 2006, he was assigned at least 30 criminal cases. However, the absence of LNP officers prevented the arrest of suspects. There are only nine LNP officers assigned to the District. This undermined the rule of law and denied victims right to redress.
- The only police station in River Cess County is located in Cestos City. The station is manned by seven police officers, two of whom are reportedly unfit for police duties due to advanced age. Thirty-five officers assigned to River Cess County at the end of 2005, remained in Monrovia due to a lack of accommodation and office space in the districts to which they were assigned. The absence of police officers in the rest of the County meant that cases occurring outside Cestos City were rarely reported or investigated.

#### *Corruption in the police*

40. Corruption in the police force continued to be reported. Article Seven of the UN Code of Conduct for Law Enforcement Officials explicitly prohibits corruption, with the requirement that law enforcement officials "rigorously oppose and combat all such

acts".<sup>28</sup> This is considered an essential requirement for guaranteeing impartial investigations and non-interference which are pre-requisites for the right to equality under the law and a fair trial.

- In March 2006, Police in Unification Town Depot, Margibi County, reportedly asked the parents of an 11 year old rape victim to pay L\$750 (US\$15) in order to facilitate the arrest of a suspect. The girl reportedly suffered severe medical problems as a result of the rape. The suspect had not been apprehended at the time of writing. The demand that victims or their families pay for the arrest of perpetrators of serious crimes undermines the victim's right to redress, which must never be dependent on their financial capabilities.
- In April 2006, a man detained in connection with a domestic violence case was reportedly made to pay L\$100 (US\$2) to an LNP officer in Barclayville, Grand Kru County, as an "arresting fee". After the detainee was taken to the LNP office, he was made to pay another L\$200 (US\$4) to the Police Commander. The payment of such fees undermined the right to presumption of innocence.
- In April 2006, a police commander in Harper, Maryland County allegedly demanded a payment of US\$10 and L\$400 (US\$8) from an Ivorian citizen arrested for passing counterfeit banknotes. The man claimed that although he paid, he was arrested on 10 April 2006 and charged with counterfeiting. He was released after HRPS raised the case. There were allegations that police officers were extorting money from foreign citizens in Harper. The levying of such fines denied the men the right to a fair trial and violated the right to presumption of innocence.

#### *Possible excessive use of force by police*

41. During the reporting period, cases were reported in which police officers allegedly used excessive force when responding to incidents. These cases highlighted the need for accountability mechanisms, as well as the need for ongoing training for police officers in how to carry out their duties in a way which ensures that human rights are upheld.

- In March 2006, LNP officers used pepper spray to control a woman and a 16 year old girl held in Mount Barclay Police Station, Montserrado County. The two had been detained for fighting in public. Upon arrival at the police station, they were placed in the same cell in an attempt to "discipline them". The fighting apparently resumed in the cell, and police used pepper spray to subdue them. The placing of the two in the same cell appears to be in violation of their right to security of person. As the girl

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<sup>28</sup> Code of Conduct for Law Enforcement Officials (1979), Article 7.

was below the age of 18, she should have been held separately from the woman.<sup>29</sup> International standards stipulate that the use of force by police officers must be undertaken as a last resort and must be in proportion to the seriousness of the offence and the legitimate objective to be achieved.<sup>30</sup>

- On 8 April 2006, an officer of the Bureau of Immigration and Naturalization (BIN) in Harper, Maryland, allegedly beat a Togolese asylum seeker who resisted arrest. The man, who sustained bruises all over his body as a result of the beating, was detained for between one and two hours before being taken to hospital. The incident occurred after a BIN officer was called to a dispute between the victim and a Harper businesswoman. The Togolese man stated that since he did not possess a passport, he offered to present his UNHCR papers. However, the BIN officer allegedly demanded money, and then beat and detained the man when he was unable to pay. International standards require that force only be used as a last resort. When the use of force is unavoidable, law enforcement officials are required to exercise restraint, and act in proportion to the alleged offence. In addition, any injured person must receive medical aid at the earliest possible moment. No investigation was known to have been carried out into whether excessive use of force had taken place.<sup>31</sup>

## Juvenile justice

42. The inadequacies in law enforcement and the poor conditions in detention facilities leave juveniles in detention vulnerable to human rights abuses. Juveniles in detention are considered a vulnerable group, and special provisions have been developed for their protection. International standards prescribe that juveniles should only be detained as a measure of last resort and should be held separately from adult detainees. Liberia's Juvenile Court Procedural Code (1972) prohibits the detention of children under the age of 16 in a prison, jail, lockup or police station except on order of a judge of a juvenile court. A juvenile over the age of 16 can only be detained in such a facility if there is no other safe place for his or her detention and it is necessary for his or her safety, or the safety of others.<sup>32</sup> Exactly how serious the consequences can be when these regulations are breached is illustrated by the case below.

- A 15 year old girl was allegedly raped by a corrections trainee on 10 March 2006, while in detention in Voinjama Prison, Lofa County. The

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<sup>29</sup> Convention on the Rights of the Child (1989), Article 37 (c). See also paragraph 34 below.

<sup>30</sup> Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990), Principle 5(a).

<sup>31</sup> Basic Principles on the use of Force and Firearms by Law Enforcement Officials. Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990. Principle 5(a-c)

<sup>32</sup> Judiciary Law (1972), paragraph 11.42.

girl had been detained on the previous day for theft of property worth L\$700 (US\$14). The trainee was detained on 14 March 2006, and charged with rape. He was released by the Magistrates' Court on 30 March 2006, on what court officials say is "parole". Although the detention order states that he was suspected of rape, the release order refers to the lesser crime of sexual assault. There was no preliminary hearing of the case, and the suspect, who has been dismissed from service, is believed to have left the community. The authorities failed to uphold a number of legal safeguards aimed at the protection of juveniles in detention. This facilitated the alleged rape, and violated the girl's right to security of person. The girl was placed in detention in spite of being below the age of 16. She was not brought before a juvenile court. In addition, international regulations specify that in institutions where both male and female prisoners are held, the women's part of the institution must be under the authority of a woman officer, and no male member of the staff shall enter that part of the institution unless accompanied by a woman officer.<sup>33</sup> There are no women officers at Voinjama Prison.

#### *Failure to separate juveniles from adult detainees*

43. The Judiciary Law (1972) provides that juvenile detainees must be segregated from adult detainees.<sup>34</sup> This is in conformity with international human rights standards. Article 37(c) of the Convention on the Rights of the Child (CRC) states that "every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so". Principle 8(d) of the Standard Minimum Rules for the treatment of prisoners provides for the separation of young prisoners from adults.<sup>35</sup> The Special Rapporteur on torture and other cruel inhuman or degrading treatment or punishment also criticized the detention of minors together with adults because juveniles are vulnerable to physical and sexual exploitation and may experience severe physical and mental suffering.<sup>36</sup> Nevertheless, HRPS continued to receive reports of juveniles being detained together with adults. The cases below illustrate the problem.

- Between 20 February and 8 March 2006, a 16 year old boy was detained in Bondiway Central Prison, Margibi County. The boy, who had been charged with theft, was held in a cell with up to 19 adult detainees. The boy's parents were not informed about his detention, in violation of the

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<sup>33</sup> Standard Minimum Rules for the Treatment of Prisoners (1977), paragraph 53(1) – 53(3).

<sup>34</sup> *ibid*

<sup>35</sup> The separation of juveniles from adults is also provided for in the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Adopted by General Assembly resolution 45/113 of 14 December 1990) and in the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), G.A. res. 40/33, annex, 40, U.N. Doc. A/40/53 (1985).  
Beijing Rules (Articles 13.4 and 26.3)

<sup>36</sup> Report of the UN Special Rapporteur on torture, 12 January 1988, UN Doc. E/CN.4/1988/17, paragraph 48.

new Judiciary Law and international standards.<sup>37</sup> The boy was released after HROs raised the case with the county judicial authorities.

- Between 17 and 22 March 2006, a 16 year old boy was detained on charges of burglary at Buchanan Central Prison, Grand Bassa County, in the same cell as adults, some of whom faced charges of murder and rape. Another 16 year old boy charged with theft was held in a cell with adults for four days in February 2006. Prison staff advised that due to overcrowding, it was not possible to hold the juvenile separately. The principle of the best interest of the child was violated, in contravention of the Convention of the Rights of the Child.<sup>38</sup>
- In Gbarnga Central Prison, Bong County, two juveniles were transferred from a separate cell, into a cell shared with adults following an incident on 25 April 2006, in which adult inmates in the prison destroyed a cell. The prison authorities are currently taking steps to restore the cell which was destroyed. The placement of the juveniles in a cell with adult detainees was not based on the best interest of the child, and violated their right to security of person.

#### *Other cases of detention of juveniles*

44. Although it has been recognised in international standards that children should be detained only as a last resort, several cases reported between February and April 2006 indicated that juveniles accused of minor offences were detained, sometimes as an apparent punishment.

- A 13 year old boy was held in police custody in a dirty and tiny cell in Lofa County, from 31 January until 2 February 2006, allegedly as a punishment for stealing his uncle's slippers. The boy stated that he was not given food during his detention. The boy was released without charge after the case was raised with police officers. The detention appears to have been arbitrary, in violation of the boy's right to liberty and security of the person in violation of the CRC and the ICCPR.<sup>39</sup> The failure to provide the boy with food contravenes minimum international standards for the treatment of prisoners.
- A 15 year old Guinean boy detained in Voinjama Prison, Lofa County since 27 January 2006, was released on 2 May 2006, after spending over three months in pre-trial detention. He had been detained for suspected theft of a cell-phone. Because there is no City Solicitor to prosecute cases

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<sup>37</sup> New Judiciary Law (1972) Paragraph 11.41(a) and United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), G.A. res. 40/33, annex, 40 U.N. Doc. A/40/53 (1985), Article 10(1)

<sup>38</sup> Convention on the Rights of the Child, Article 37(a)

<sup>39</sup> International Covenant on Civil and Political Rights (1966), Article 9.

in the Magistrates' Court, he was not brought to trial. The boy's mother lives in Guinea and his father died in 2000. As the boy was below the age of 16 he should only have been detained in a police cell on the order of a juvenile court. In addition, the length of his pre-trial detention appears to have been disproportionate to the alleged offence, and to have violated his right to liberty of person, presumption of innocence and a speedy trial.

## **Sexual and Gender Based Violence**

45. A high number of rape cases were reported between February and April 2006. The high incidence of rape of minors was of particular concern. In a number of cases, charges were filed under the new Rape Law which came into force on 17 January 2006. However, many cases were not dealt with in accordance with the law. A number of cases were reported in which charges were dismissed or suspects released by Magistrates, in spite of indications that sufficient evidence was available for prosecution. Lack of awareness of the provisions in the new Rape Law, as well as pressure to resolve cases informally also meant that perpetrators were not brought to justice. In addition, corrupt practices of some judicial officials who demanded payments in order to proceed with cases also presented an obstacle for victims seeking justice. Violence against women is not merely a criminal justice issue, but has been recognized as a human rights issue.<sup>40</sup> Therefore, states are obliged to practise due diligence to end various forms of violence against women.

### *Failure to prosecute cases*

46. In a number of cases, Magistrates released suspects in spite of the fact that there appeared to be sufficient evidence to bring cases before the Circuit Court, which had jurisdiction in rape cases. This meant that the right of victims to justice was denied. It also led to impunity for perpetrators of rape and lack of protection for the community.

- In March 2006, a 29 year old man accused of raping a woman was released by the Voinjama Magistrates' Court, Lofa County, despite the fact that the case is already before the Circuit Court. No reason was given for the release of the man.
- In March 2006, a man who allegedly raped a 14 year old girl in Ricks IDP Camp, Montserrado County, was released by the Brewerville Magistrate on the grounds that there were no funds to transfer him to Monrovia Central Prison. The suspect subsequently left the area and his whereabouts are unknown.
- A 16 year old girl was allegedly raped by a member of the LAC PPD, Grand Bassa County on 9 March 2006. During the police investigation the

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<sup>40</sup> UN Declaration on the Elimination of Violence Against Women (1993); Platform of Action of the Fourth World Conference on Women in Beijing (1995).

suspect admitted having sex with the girl, but claimed that it was consensual. However, according to the new Rape Law, sexual intercourse by an adult with a person under the age of 18 is rape. In spite this, the suspect was not detained.<sup>41</sup>

- An 11 year old girl was allegedly assaulted and raped in Pleebo, Maryland County on 29 January 2006. The girl's leg was reportedly broken during the assault, and a medical examination supported the rape claim. A suspect was detained, but was released on bail in early February 2006. The Harper Associate Magistrate who released the suspect argued that the victim's family did not press charges "quickly enough". The guardian of the victim died after the case was first reported to the LNP, leading to the delay. Upon release, the suspect reportedly fled to Guinea. The Maryland Circuit Court Judge expressed concern about the case, and pledged to re-arrest the suspect as soon as a County Attorney has been assigned to the county.
- A 9 year old girl in Lofa County was allegedly raped on 27 February 2006. The alleged victim's parents filed a case with the police. The clinic where the girl was examined and treated, initially did not release the medical report to the police. However, after HRO raised the case the doctor released the medical report, which confirmed that penetration took place. Following this, the suspect was detained on 7 March 2006. However, he was released the following day by the Magistrate. No reason was given for the release of the suspect.
- In April 2006, a two year old girl in Bomi County was allegedly raped by a family member. The suspect was detained on 16 April 2006. On 21 April 2006, the Magistrate ruled that the case was inadmissible because there was no medical report, and because the charge "suspicion of rape" does not exist in the Penal Law. The suspect was released. A medical examination which reportedly supported the claims of the victim was not brought before the court. The Court reportedly made no efforts to obtain the medical records. There were allegations that the person usually in charge of fetching such records for the court is the brother of the defendant. The City Solicitor stated that there was no evidence to support the rape charge, but that evidence was available for sexual assault. He stated that he would take steps to effect the re-arrest of the suspect if the parents returned to the police station and re-filed the case under this title. The parents of the girl were under pressure to settle the matter out of court by the girl's grandfather, who is a police officer.

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<sup>41</sup> After HROs raised the case, it was transferred to Grand Bassa Circuit Court. The suspect was detained on 10 May 2006. The County Attorney was instrumental in securing the detention of the suspect.



*Pressure to settle rape cases out of court*

47. Many victims of sexual and gender based violence and their families faced pressure to resolve cases informally. Such pressure sometimes came from the family of the alleged perpetrator. In other cases, pressure from the community in which the victim lived, including ostracism, deterred victims from reporting cases. The failure of courts to deliver justice in an effective and fair manner prompted out of court settlements and the withdrawal of cases by victims. There was concern that in such circumstances, prosecutors and police regularly failed to protect the interests of the victim, tending to drop the charges.

- In February 2006, the case against a 17 year old juvenile accused of raping a 14 year old girl in Grand Cape Mount County was dismissed by the Robertsport Magistrate Court. In dismissing the case, the Magistrate considered that the victim's mother submitted a letter requesting that the case be withdrawn, and that his court does not have jurisdiction over juvenile cases. The rape allegedly occurred in December 2005, before the entry into force of the new Rape Law. It appears that the victim and her mother had been pressured by community leaders to resolve the matter informally.
- On 7 March 2006, a third grade girl was stripped and beaten with an electric cable by her teacher in Toe Town, Grand Gedeh County. Three school-boys were also involved in the incident. Instead of referring the offence to the police and courts, the girl's father and the school principal resolved the matter under the aegis of the Town Chief. It was reported that the teacher will pay L\$500 (US\$10) for medical treatment. The teacher was also suspended for one month, but this was not reported to education officials.
- On 5 April 2006, a preliminary hearing took place in Grand Bassa County in a case of statutory gang rape, in which four men were accused of raping a 12 year old girl on four different occasions. The case was dismissed in accordance with Section 18.1 of the Penal Procedure Law, because the alleged victim stated that she did not know the defendants and that she had never had sexual intercourse with any of them. In fact, the girl had previously identified the defendants as the perpetrators at the police station. The girl was reportedly under family pressure not to proceed with the case. The case was heard in public, contrary to Section 5(a) of the new Rape Law which stipulates that rape cases should be heard *in camera*. The Associate Magistrate hearing the case said that he did not have chambers and argued that the public should know about the case. It was also observed that the girl was seated with the defendants during the hearing.

### *Misapplication of the law*

48. In some cases, lack of awareness about the coming into force of the new Rape Law, and the provisions in the law apparently led to the misapplication of law, and the release of suspects.

- On 26 January 2006, a 17 year old girl was allegedly gang-raped by seven men in Margibi County. Three suspects were detained on 28 January 2006. Two of them were released on bail by the Margibi County Circuit Court one week later. The Circuit Court Judge claimed that the new Rape Law was not in force at the time of the rape. In fact, the new Rape Law came into force on 17 January 2006, nine days prior to the alleged rape. After HROs raised the case with the Judge, the two suspects were re-arrested and indicted on 20 February 2006. On 27 February 2006, they were released on bail by the Circuit Court Judge. According to LNP Officers, the two suspects have since left the country.

### *Corruption related to rape cases*

49. In some cases rape victims or their families were asked to pay for investigation or prosecution of their case. This practice was not exclusive to rape cases. However, it was particularly disturbing in these cases where the victims were often vulnerable and the consequences of failure to provide justice meant that perpetrators of serious crime went free.

- In Tubmanburg, Bomi County, the County Attorney reportedly sought L\$1,500 (US\$30) from a complainant in a rape case. The Circuit Court Judge later acquitted the defendant citing lack of evidence. In doing so, the Circuit Court Judge stated that he followed the advice of the Grand Jury. However, the Grand Jury claimed that they never discussed the case. In a second case, also in Tubmanburg, the County Attorney reportedly demanded that the family of a minor who had allegedly been raped pay L\$1,500 for him to prepare the indictment. The family refused to pay and the indictment has not been prepared by the end of April 2006. The suspect was detained on 27 January 2006. He was scheduled to go on trial in the Circuit Court during the May 2006 term, for a separate case of rape which occurred in 2005. Although he is detained, he runs errands for prison staff and police, fetches water, and cooks food in and out of the prison compound.
- In March 2006, the County Attorney in Lofa County reportedly asked the family of a 15 year old alleged rape victim for a payment of L\$2,640 (US\$53) in fees, when they went to inquire about the progress of the case. When questioned about the fee, the County Attorney denied asking for the payment, but told HRO that a sum is usually paid to prepare an indictment. The girl was allegedly raped in September 2005. While attempting to bring this case to trial, the family has repeatedly been asked

for payments. They were previously requested to pay L\$500 (US\$10) by both the Magistrate and the Circuit Court Judge. The Magistrate released the accused man from the Voinjama Prison on 12 November 2005. The victim's family was not informed about the release at the time.

### **Harmful traditional practices**

50. The Universal Declaration of Human Rights (UDHR) and other international standards underscore the obligation of states to respect basic human rights such as the right to security of person, freedom from discrimination on the basis of gender and the right to health. The Convention on the Rights of the Child (CRC) explicitly addresses harmful traditional practises as a human rights violation, and requires governments to “take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children”.<sup>42</sup> The Vienna Declaration and Programme of Action (1993) called for the elimination of all forms of violence against women, including the “harmful effects of certain traditional or customary practices”, to be seen as a human rights obligation.

#### *Female Genital Mutilation*

51. Girls in Liberia remain at risk of Female Genital Mutilation (FGM). Government failure to take decisive action to bring an end to this practice violates the right of women to physical and mental integrity, to freedom from discrimination and to the highest standard of health.<sup>43</sup>

- In late February 2006, 24 girls and young women aged between 9 and 24 years old were taken to a camp run by members of the Sande Society in Grand Cape Mount County, where they stayed for one month until 24 March 2006. Sande Society camps are intended to prepare girls for adulthood. The Society practises FGM. During a meeting between the County Superintendent, traditional leaders and the parents of the girls, traditional leaders agreed to respect the parents' wishes regarding whether girls should or should not join the Sande Society. However, following the meeting, the Grand Cape Mount County Inspector stated that all the girls and their families agreed to join. County officials stated that the Sande Society has strong local support and that they were unable to bring an end to harmful practices by the Society. Intervention was complicated by the fact that some local government officials were also traditional community

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<sup>42</sup> CRC, Article 24(3)

<sup>43</sup> CRC and CEDAW. The UN Declaration on the Elimination of Violence against Women (2003) is also of relevance. The Committee on the Elimination of Discrimination against Women, which monitors CEDAW, has issued several general recommendations relating to FGM. General Recommendation 14 (1990) calls on states parties to take appropriate measures with a view to eradicating the practice. General Recommendation 19 draws a connection between traditional attitudes which subordinate women and violent practices including FGM and other practices.

leaders. However, the Deputy Superintendent of Grand Cape Mount County stated that if he received clear guidance from the national government that the practice of FGM is illegal, he would enforce the decision.

### *Trial by ordeal*

52. Liberia's customary justice system is provided for under the Rules and Regulations Governing the Hinterland of Liberia (2000) (the Hinterland Regulations). In compliance with these regulations, customary courts continue to operate at the state sponsored level, under the auspices of the Ministry of Internal Affairs. The Hinterland Regulations are outdated, and do not provide fair trial guarantees. HRPS continued to receive reports of cases in which traditional justice was practised in ways that violated fundamental principles of fair trial, including the presumption of innocence. Trial by ordeal also included practices which amounted to torture or other cruel, inhuman or degrading punishment or treatment. Such practices contravene Liberia's international human rights obligations as a States Party to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the International Covenant on Civil and Political Rights. The cases below illustrate the problem.

- There was ongoing concern about a trial by ordeal that took place in Zoeya Town, River Cess County, in January 2006.<sup>44</sup> Three elderly men and one elderly woman sustained serious injuries, when they were thrown onto logs as part of the trial proceedings. However, on 9 February 2006, police acting on the orders of the Acting Paramount Chief, detained a villager who had acted as a guarantor, in order to allow the victims to leave the area to seek medical treatment. The villager was released the following day, after paying L\$2,750 (US\$55) towards the L\$5,000 (US\$100) demanded as a fee by the zoeyba (witch-doctor) who conducted the trial. Other villagers have stated that they were forced by the Superintendent to pay L\$65,000 (US\$1,300) to the zoeyba. The District Commissioner and District Superintendent both requested that one of the victims, be returned to undergo another trial by ordeal. However, after the case was brought to the attention of county and national authorities, the River Cess County Attorney filed a complaint on behalf of the four victims in the Circuit Court. The case was ongoing at the time of writing.
- At the time of writing, a 31 year old man in Maryland County remained at risk of being subjected to a trial by ordeal in which he would be forced to drink sassywood, a poison which can cause death. The man is suspected of murdering a 22 year old woman who died in March 2006, following a brief illness. Her family has accused the man, citing a dispute between him and the husband of the deceased woman. The man reportedly underwent a

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<sup>44</sup> See UNMIL Bi-monthly Human Rights Report, December 2005 – January 2006, April 2006.

trial by ordeal in Grand Kru County. However, the community in which the suspect and victim were living demanded that his innocence be confirmed by two other zoebyas.

- HRPS also urges the authorities in River Cess County to review a case of trial by ordeal which took place in November 2004, but which has only recently been brought to the attention of HROs. According to reports, a 50 year old woman was stripped, beaten and raped during a trial by ordeal, in order to force her to confess to killing her son. District officials were allegedly involved in the trial by ordeal. Eight men were arrested on suspicion of involvement in the rape. They were later released due to the non-operation of the Circuit Court and the absence of detention facilities.

### **Human rights in rubber plantations**

53. The human rights situation in Liberia's rubber plantation remained poor, in spite of increasing attention to the situation. On 4 May 2006, UNMIL issued a report providing comprehensive information on the human rights situation in five of Liberia's rubber plantations.<sup>45</sup> In March 2006, the National Taskforce on Rubber Plantations, including UNMIL and Government officials, conducted visits to the seven largest rubber plantations in Liberia. The visits assessed conditions on the plantations, with a view to recommending possible solutions to the various problems on the plantations.<sup>46</sup> The following are developments on plantations from February to April 2006.
54. During February 2006, strikes took place on the Liberian Agriculture Company (LAC) plantation in Grand Bassa County, as subcontracted workers voiced grievances related to poor working conditions. No effective mechanism existed for dialogue between workers and management. At the end of April 2006, the situation remained unresolved.
55. In a written communication dated 7 March 2006, LAC management attempted to place restrictions on human rights monitoring on LAC. The communication stated that all UNMIL civilian personnel must inform LAC management of their reason for visiting the plantation. The LAC Legal Counsellor later conceded that UNMIL Human Rights and Legal Officers would not need permission to conduct regular monitoring of the Court and detention facilities, but for all other matters, they would have to consult management before entering the plantation. The new procedures set in place follow efforts undertaken by the UNMIL civilian component of Grand Bassa County to monitor strikes by contracted workers and to facilitate dialogue between management and the workers.

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<sup>45</sup> "Human Rights in Liberia's Rubber Plantations: Tapping into the Future", UNMIL, May 2006.

<sup>46</sup> The findings of the National Taskforce on Rubber Plantations were published and submitted to the President of Liberia in May 2006. The findings and their implications on human rights will be covered in the next quarterly report.

56. Several court cases involving LAC indicated that the company may be exerting undue influence over the county judicial system.

- In early March 2006, a hearing was held before the Labour Commissioner concerning the dismissal of the former president of the LAC Employee's Union following a strike last year. The former president had filed a complaint for wrongful dismissal. The defence counsel representing LAC filed a motion to defer the matter, arguing that two material witnesses were absent. Although the reason for absence of the witnesses was not satisfactorily explained and the case has been pending for months, the motion was granted. The hearing continued on 23 March 2006, when two LAC witnesses were heard. The Labour Commissioner did not call the defence counsel to order when he received around 20 telephone calls interrupting the proceedings. He also took no action when the defence counsel objected to virtually every question that the complainant's counsel posed to the witnesses. No date has been set for the next hearing. There is concern that the drawn-out process may constitute a way of intimidating labour rights activists and as such may constitute a limitation on the right to freedom of expression and association, and to organize trade unions.
- On 10 April 2006, seven men who had spent over three months in pre-trial detention on murder charges were released after the case against them was dropped due to lack of evidence. The men were accused of causing the death of a LAC worker who drowned while attempting to cross a river, after local residents drove away workers from the LAC plantation expansion area on 21 December 2005. The release of the seven men followed an instruction from the Solicitor General of Liberia that the County Attorney should "either release the men or charge them with terroristic threat, on the basis that there was no evidence to support the murder charge". There are indications that the trial of the men did not conform to national or international standards for fair trial.

57. On 12 April 2006, workers at Cavalla Rubber Plantation, Maryland County initiated a "go-slow" action to protest the failure of management to pay salaries since December 2005. LNP officers stated that an employee of the plantation died on 11 April 2006 following a brief illness. The man was among those who had not been paid their salaries and thus had no money to purchase medicine. Meanwhile the plantation hospital does not have drug supplies and is unable to operate effectively.

58. On 3 February 2006, employees of Firestone Rubber Plantation, Margibi County, went on strike. Among the issues raised were a salary deduction, resettlement grants and a loan of cash and food for Christmas 2005. On 9 February 2006, more than 2,000 employees gathered at the entrance of the plantation factory. The situation was complicated by the presence of ex-combatants, and by the workers' rejection of Firestone Agriculture Workers Union of Liberia (FAWUL) as their representative. High-level intervention, including by the Minister of Labour, led to a series of

meetings with management and workers' representatives and a peaceful return to production pending final resolution of the conflict.

59. Two juveniles were detained by the Liberian Mining Company (LAMCO) Plantation Protection Department (PPD) in Yekepa, Nimba County, between 28 February and 2 March 2006. The two were held in the PPD cell for three days before being turned over to the LNP on 2 March 2006. The PPD is required by law to hand over detainees to LNP immediately upon arrest.

## **Child Rights**

### *Orphanages*

60. In March 2006, the Ministry of Health and Social Welfare (MoHSW) announced that it would close 69 of the 108 orphanages that have so far been reviewed across Liberia. This followed joint efforts of UNMIL, UNICEF, the MoHSW and NGO partners to investigate the human rights situation in orphanages nationwide. A group known as the "Union of Orphanages", including owners of institutions that were found to be sub-standard, resisted closure. In some cases, such resistance occurred because owners of orphanages allegedly stood to gain financially from the orphanages.
61. In Nimba County, it was reported that ten out of the 11 orphanages in the county will be closed by the end of July due to their failure to meet minimum operating standards. This follows the findings of the MoHSW taskforce, which undertook a survey of the orphanages.
62. The Mount Zion Orphanage in Tahn, Grand Cape Mount County was founded in January 2006. The director of the orphanage advised that many of the 27 children, who are reportedly all orphans or abandoned, are returnees from Sierra Leone. The orphanage is in very poor condition. The children sleep on the floor on blankets and the rooms are small. The director stated that he has applied for registration with the Ministry of Health and Social Welfare but has not yet received an answer.
63. Bendu Vah Orphanage Home in Margibi County houses 42 boys and 30 girls. The children live in very poor conditions without toilet facilities. There is no water pump. There is only one dormitory for all the children. The children appear to be malnourished.

### *Child labour*

64. The CRC has been almost universally ratified.<sup>47</sup> Liberia ratified the CRC in 1993, making it legally binding in the country. One of the key principles in the CRC is that all decisions taken on behalf of a child must be in the child's best interest. The CRC also provides specific protection "from economic exploitation and from performing

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<sup>47</sup> The United States and Somalia are the only countries that have not ratified the CRC.

work that is likely to be hazardous or to interfere with the child's education...", and States Parties are required to "take legislative, administrative, social and educational measures" in this regard.<sup>48</sup> In addition, there are two key International Labour Organization (ILO) standards pertaining to child labour. Convention 182 prohibits the most dangerous forms of child labour, while Convention 138 sets standards relating to the minimum age for employment. According to these standards, children may not work in hazardous jobs below 18 years of age, and may perform only "light work", which does not interfere with their education, below the age of 15. Liberia ratified Convention 182 in 2003, and is therefore required to take steps to prohibit and eliminate the worst forms of child labour. Liberia has not ratified ILO Convention 138.

- In Montserrado County, hundreds of children worked in quarries, in conditions that violated their fundamental rights. The quarries were run by individuals, and entire families were observed working in the quarries. At one site, over 100 children, aged approximately between five and ten years old, were crushing large rocks using hammers and carrying tubs filled with rocks on their heads. Ownership of the quarry was unclear. However, one man who described himself as an "owner" of part of the quarry confirmed that there were hundreds of children working in different locations. According to the "owner", children sometimes suffered injuries as a result of rocks falling on their feet. Children at the quarry at the Zinnah Hill community stated that they were paid to carry tubs of rocks. They explained that they needed to work to be able to purchase textbooks in order to return to school.
- Children in Demeh Town, Bomi County have also been involved in rock-crushing activities. Children as young as eight have reportedly left school to work. The Town Chief admitted that children were involved in transporting rocks from the crushing sites to the trucks in the village.
- In Kokyah District, Bong County, a number of children worked alongside adults in the gold mine at Gold Camp. Work carried out by the children included digging, sifting water and ferrying sand in wheel-barrows. Because mothers were unable to carry out the panning work with children on their back, several babies or small children were left unattended close to water, mud and crater holes. The area has two schools that are up to sixth grade. The lack of education opportunities after sixth grade is believed to be a main factor contributing to children working in the mine after finishing grade six.

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<sup>48</sup> Convention on the Rights of the Child, Article 32 (1)



## **Recommendations**

65. Cases documented in this report indicate that Liberia continues to face serious challenges in upholding, protecting and respecting human rights of its citizens. The recommendations below, though not exhaustive, are important in overcoming some of these challenges.

- The Government of Liberia should take concrete steps to fulfil its reporting obligations as a States Party to international human rights treaties. Civil Society Organizations should provide input, and develop parallel reports.
- The Government of Liberia must ensure that judges, magistrates and other personnel assigned to courts outside Monrovia are *in situ* as a matter of principle and priority, and that they receive the necessary training to ensure that they uphold Liberian as well as international human rights law.
- The Chief Justice should immediately investigate all allegations of abuse of authority by members of the judiciary, and take disciplinary measures against any one found to have abused their position.
- Allegations of interference in the judiciary by Government officials should be fully and impartially investigated, and that appropriate measures taken against anyone found to have interfered in the judiciary.
- The Government should develop and implement a comprehensive programme to improve conditions in detention centres and prisons. This would include developing a budget which ensures adequate compensation to newly trained corrections officers and provisions for the care and feeding of detainees.
- The Government should take immediate steps to ensure that allegations of excessive use of force and torture or ill-treatment by law enforcement officials are fully and impartially investigated. Anyone suspected of involved in human rights violations should be brought to justice in a trial which upholds international standards for fair trial.
- The Government, judiciary and LNP should ensure that allegations of corruptions are fully and impartially investigated, and that measures are taken against any officials found to be involved in corrupt practises.
- The juvenile justice system must be reviewed in order to ensure that it conforms, in law and in practice, to international standards including the Convention on the Rights of the Child and the United Nations Guidelines for the Prevention of Juvenile Delinquency.<sup>49</sup>
- The Government should ensure that the Rape Law is fully implemented. This would include taking steps to ensure that all allegations of rape are fully and independently investigated and that the suspected perpetrators are brought to justice in trials that meet international standards for fair trial. A concerted and ongoing effort towards community education and sensitization to sexual assault issues should be undertaken in cooperation with nongovernmental organizations.

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<sup>49</sup> United Nations Guidelines for the Prevention of Juvenile Delinquency (“The Riyadh Guidelines”), adopted and proclaimed by General Assembly resolution 45/112 of 14 December 1990

- The Ministry of the Interior should take immediate steps to end the practice of Female Genital Mutilation (FGM). This could include issuing a statement to all county level officials clarifying that FGM is a harmful traditional practise which violates international human rights law and may amount to aggravated assault under the Liberian Penal Code. The Government should also implement sensitization programs regarding the harmful effects of FGM.
- The Hinterland Regulations (2000) should be revised to ensure that they conform with international human rights laws and standards.
- Initiatives by the MOHSW to investigate orphanages and relocate children living in orphanages that fail to meet basic standards must be continued, and, if necessary, be supported by legal action against owners of orphanages and others who obstruct such initiatives.
- The Government should ratify ILO Convention 138 (Minimum Age Convention, 1973) and ensure the full implementation of ILO Convention 182 (Worst Forms of Child Labour, 1999).