



Human Rights and Protection Section

Quarterly Report

May - July 2006

October 2006

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Executive summary

1. This report covers the major human rights issues monitored by the UNMIL Human Rights and Protection Section (HRPS) during the months May, June and July 2006. The report gives particular attention to the protection of human rights by the judicial system; future reports will address other areas in depth.
2. Progress in the process of addressing past human rights violations and the culture of impunity continued to be made, with the launch of the Truth and Reconciliation Commission's operations on 22 June. Also, former President Charles Taylor was transferred to The Hague on 20 June, where he will stand trial in the Chambers of the Special Court for Sierra Leone.
3. The judicial system continued to fail to uphold Constitutional guarantees and international human rights standards binding on Liberia. Five Circuit Courts were not operational during the May Term of Court, while others tried only a fraction of the number of cases listed for trial.
4. Corruption undermines the rule of law and contributes to impunity for crime and human rights violations. HRPS monitored a number of cases where illegal or undocumented fees were allegedly demanded from parties by Court officials. As explained below, the use of summary proceedings failed to address institutional weaknesses that permit or encourage corruption.
5. The Courts frequently failed to handle appropriately cases involving alleged sexual assault of children. Six months after the entry into force of the Rape Amendment Act, the Act and the international human rights laws binding on Liberia are not effectively applied to prevent, investigate or punish rape of children.
6. A majority (91%) of prison inmates are held in pre-trial detention. Detention standards are well below minimum human rights standards. One particularly important component of those standards, the provision of adequate medical care, continued to be missing. Failure to separate pre-trial from convicted detainees and to register all detainees upon arrival leads to risk of abuse. Escape and illegal release from some facilities was noted as a particular problem during the reporting period.
7. In the area of law enforcement, violation of the 48 hour Constitutional limit to police custody is a recurring problem. A shortage of LNP officers in some areas encouraged vigilante action. Allegations of excessive use of force were made in several cases of arrests by private security firms.

8. Due to the absence of law enforcement agencies and outside and independent monitoring, communities living in isolated areas are particularly vulnerable to the risk of harmful traditional practices, especially trial by ordeal. In one case, a man died apparently as a result of injuries sustained during a trial by ordeal.
9. Basic state services stipulated in the Convention on the Rights of the Child ratified by Liberia are not yet provided in order to protect children at risk of abuse or neglect. Also, access to education remains a problem, while non-payment of child support by absent parents requires particular Government attention.
10. Some positive developments, such as the agreement leading to the removal of ex-combatants from the Guthrie Rubber Plantation and the deployment of LNP to the area, were noted. Additional measures would be required to fully ensure the enjoyment of human rights and the rule of law on Liberia's major rubber plantations.

Methodology

11. Information for this report has been collated from monitoring conducted by 25 Human Rights Officers (HROs) of the 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, the Ministry of Justice and the Ministry of Internal Affairs of the Government of Liberia for their comments prior to its public release. The report was also shared with the Office of the High Commissioner for Human Rights (OHCHR) prior to release. Responses received from all partners were examined and, where appropriate, incorporated in this report.

Mandate of the Human Rights and Protection Section (HRPS)

12. 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 HRPS is:
 - (1) 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 demobilised child soldiers, within UNMIL's capabilities and under acceptable security conditions, in close cooperation with other United Nations agencies, related organisations, governmental organisations, and non-governmental organisations;

(m) to ensure an adequate human rights presence, capacity and expertise within UNMIL to carry out human rights promotion, protection and monitoring activities.¹

Major Political and Human Rights Developments and Trends

Truth and Reconciliation Commission

13. The Truth and Reconciliation Commission (TRC) officially commenced its two year operational period on 22 June. The launching ceremony in Monrovia was attended by President Ellen Johnson Sirleaf, UNMIL leadership and international partners. Simultaneous ceremonies were held around Liberia. At the Monrovia event, the President, Chairman of the TRC and the keynote speaker, Dr. Amos Sawyer, former interim President of Liberia and currently Chairman of the Governance Reform Commission, spoke on the importance of linking national reconciliation and justice. Under the terms of the Act to establish the TRC, the Commission may make recommendations to the Head of State regarding the need to hold prosecutions in particular cases². The TRC may recommend amnesty only when the person in question has made a full disclosure of his or her “wrongs” and expressed remorse for any acts or omissions. The Act complies with international law by stipulating that no amnesty will be available for violations of international humanitarian law or crimes against humanity³. The establishment of the TRC was a key human rights goal of the Comprehensive Peace Agreement⁴.

International legal developments

14. On 20 June, former President Charles Taylor was transferred to The Hague, where he will be held in detention pending trial for crimes against humanity and war crimes in a chamber of the Special Court for Sierra Leone. The transfer, requested by the Special Court and supported by President Johnson Sirleaf, was authorised by Security Council Resolution 1688, adopted on 16 June, following the offer of the British Government to incarcerate Taylor in the event that he is convicted. On 21 July, Taylor appeared in Court for a procedural hearing. The next procedural hearing took place on 24 September.

¹ HRPS does not have a mandate 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.

² Act to Establish the Truth and Reconciliation Commission, Section 26 j.

³ Ibid section 26 g.

⁴ Comprehensive Peace Agreement, Article XIII

15. Dutch arms and timber trader Guus van Kouwenhoven was convicted under Dutch law on 7 June of violating Security Council sanctions on arms importation into Liberia. As Director of Operations of the Oriental Timber Company (OTC) and the Royal Timber Company (RTC), Van Kouwenhoven ran a major timber operation in Liberia and facilitated arms importation for former President Charles Taylor. He was sentenced to eight years imprisonment. It should be noted, however, that Mr. van Kouwenhoven was not charged for aiding or abetting the commission of gross human rights violations, war crimes or crimes against humanity in Liberia or Sierra Leone.
16. On 20 June, the Security Council adopted Resolution 1689, lifting timber sanctions on Liberia for an initial 90 day period. The Resolution also anticipates the possible lifting of diamond sanctions following a six-month period in which the Government should establish a Certificate of Origin regime ahead of joining the Kimberley Process. It is hoped that these measures would lead to an increase in the Government's revenue base thereby enabling to meet some of its obligations in the area of economic and social rights of its citizens.

Initiatives to Strengthen the Rule of Law and Protection of Human Rights

17. The joint UNMIL – Government of Liberia Rule of Law Task Force submitted its report to President Johnson Sirleaf on 3 May. The Task Force was chaired by UNMIL Deputy Special Representative of the Secretary General Mr. Luiz Carlos da Costa and included the Minister of Justice and the Chief Justice, as well as representatives of the International Contact Group on Liberia. The Task Force was established in November 2005 with the aim of developing a strategy to strengthen the rule of law and address impunity. The President has endorsed the report, which contains a comprehensive range of initiatives for implementation over the next three years. Impunity for crimes and human rights abuses is the single greatest challenge to human rights enjoyment and the development of the strategy marks a significant step forward in addressing the rule of law concerns in an integrated manner.
18. During an interview with the Integrated Regional Information Network (IRIN), on 29 June, President Johnson Sirleaf noted the need to establish a law reform commission, which would review Liberia's existing legislation and identify necessary amendments and fresh bills. Although Liberia has acceded to almost all major international human rights treaties, the national legal framework has not yet been reformed in order to reflect those international laws. The establishment of such a Commission would be of great assistance to the Government in identifying needed reforms.
19. During the reporting period, UNMIL and the Office of the High Commissioner for Human Rights (OHCHR) supported a three day workshop jointly organised with the Ministry of Justice for judicial, corrections and local government officials from around Liberia. 167 beneficiaries participated in the workshop, the aim of which was to consider how to implement best practices to strengthen the rule of law in Liberia.

The workshop was also supported by NGO Penal Reform International, which provided specialist speakers on measures taken in corrections services elsewhere in Africa.

20. OHCHR completed its country assessment of the human right situation in Liberia, which will inform the Country Engagement Strategy (CES). Liberia is one of five countries selected to pilot the new CES, intended facilitate the practical implementation of human rights standards.

Human Rights Monitoring

21. The case briefings and analysis contained in this quarterly report give particular focus to the human rights concerns in the judicial sector. Human rights violations in this area have a very serious impact on the lives of individuals and the community as a whole. In the context of access to justice, specific attention is given to national authorities' response to cases of sexual and gender-based violence. Six months after the President publicly stated her commitment to "enforce without fear or favour" the amended anti-rape law⁵, it is time to consider whether the police and Courts have made progress in the implementation of this vital legislation.

The Judiciary

Failure to uphold constitutional guarantees

22. Article 21 of the 1986 Constitution of the Republic of Liberia contains a number of due process guarantees, including a limit on police custody, the right to a prompt and impartial trial by jury, the right to be represented by counsel of the person's choice, the presumption of innocence, the right to confront witnesses and to call witnesses in the accused's favour and the right to silence. The writ of *habeas corpus*, a long-standing and internationally-applied legal mechanism that requires the authorities to produce any person held in detention before that persons' natural judge and the prohibitions against preventative detention and torture are also provided for in the Constitution. Article 21 thus reflects many international human rights standards⁶. However, in practice these human rights standards are frequently violated.
23. Major concerns regarding the failure of the judicial system to uphold constitutional guarantees include the following:
 - Trials did not take place at all in several Counties during the May Term of the Circuit Court, leading to prolonged pre-trial detention of some accused and release without further proceedings in other cases;
 - Corruption continued to frustrate the presumption of innocence and the rights of victims to due process;
 - Grand and petty juries were not empanelled in all Counties;

⁵ Presidential inauguration speech, 16 January 2006

⁶ As contained in the International Covenant on Civil and Political Rights

- Circuit Court Judges, County Attorneys and Defence Counsel were absent from several Counties;
- Suspects were frequently held beyond the 48 hour police custody limit;
- Indefinite detention was ordered in at least one case;
- A female detainee was allegedly subjected to sexual harassment, a form of cruel, inhuman and degrading treatment.

Corruption and human rights

24. The extremely serious problem of corruption in the Liberian judicial system, in particular, remains an enormous challenge to the rule of law and thus to long-term peace and stability⁷. Judges, Magistrates, lawyers and all Court personnel have a duty to uphold the law and human rights standards; this duty is objective and absolute. It is thus unlawful for any judicial officer to engage in rent-seeking practices such as is commonly observed across Liberia.
25. Cases monitored by UNMIL indicate the following:
- The independence of the judicial system has often been subverted; instead of consistently upholding the law, some judicial personnel reportedly sell their decisions for cash. The result is that the guarantees included in the Constitution and international laws acceded to by Liberia are not upheld.
 - Parties appearing before a court are not accorded their fundamental rights to express and defend themselves in accordance with universal due process standards.
 - While Magistrates and other personnel have frequently stressed their power to impose bond fees and other costs, to date no Court official working outside Monrovia has been able to provide HRPS upon request with a list of the Court fees, or to account for money paid by complainants and defendants. This suggests that money collected is not paid into State coffers.⁸ All revenue from Court fees is to be paid to the nearest office of the Minister of Finance (section 21.6). Under section 7.10 of the Judiciary Law, Magistrates are required to submit quarterly reports to the Circuit Court regarding all cases tried, fines imposed and collected and all other relevant matters. This has routinely been ignored.

⁷ “The Government of Liberia recognizes that corruption has contributed substantially to the poor living standards of the majority of the people of Liberia. It also recognizes that corruption is widespread and deeply entrenched in all aspects of the Liberian economy and society, particularly in the public sector where a *culture of impunity* has become pervasive, despite public outcry. This situation of corruption is retarding national development [emphasis added].” Introduction, National Anti-Corruption Strategy Policy Paper (draft)

⁸ A scale of fees in relation to civil matters filed in the Circuit Court is contained within the Judiciary law at section 3.14, but the highest charge is only L\$1. Section 21.5 provides that fees for the services of witnesses, interpreters, coroners and forensic specialists are to be listed in the Rules of Court. There is no reference to other levies regularly imposed in the Courts, including fees for summonses, messenger fees, transportation fees and withdrawal of case fees.

26. The vulnerable in the community are at most risk of human rights violations as a result of corruption. The most glaring example of this is the failure of the Courts to implement anti-rape legislation, with frequent reports that the courts are themselves involved in encouraging illegal settlement of these particularly serious cases (see below, paragraph 35). Children are vulnerable to sexual and other forms of exploitation where corruption flourishes.
27. Ultimately the impact of judicial corruption extends far beyond the immediate victim. The loss of confidence in the judicial system is in part responsible for the mob violence, trials by ordeal and other serious human rights abuses that continue to occur in Liberia. Corrupt in the judicial system fosters corruption in the Government and business practices, as Judges may be too easily bought off, thus failing to uphold the law in accordance with their duty. The most recent cases below illustrate the magnitude of the problem.
- A man arrested in July for alleged persistent non-payment of child support in Grand Gedeh County presented HROs with receipts indicating that he had paid L\$1,500 to the Associate Magistrate, for the benefit of the payor's estranged wife. The Magistrate was unable to explain to the HROs why he had not transferred the funds to the wife but agreed to do so immediately.
 - In June, HROs in Bomi County, received two complaints of corruption against the Tubmanburg Magistrate. It was reported that the Magistrate demanded L\$500 from a plaintiff who wished to withdraw his civil complaint. Following HRO's intervention, the complainant was permitted to withdraw the case free of charge. In the second case, a detainee suspected of theft claimed that the Magistrate requested him to pay L\$2,800 to secure his release.
 - Two suspects arrested for possession of counterfeit money were taken to the Tubmanburg Magistrates' Court, Bomi County, on 31 May. One suspect was remanded in detention by the Court Clerk, who has no authority to make such an order. The other suspect, who had boasted to police of personal connections to a high-ranking police officer in Monrovia, was immediately released on bail by the same Court Clerk. The Associate Magistrate denied knowledge of the Clerk's actions.
 - On 18 May, HRO received a complaint that officials of the Bomi County Circuit Court had demanded US\$275 from two men charged with rape in Gbarpolu County. One suspect was freed on 1 May, reportedly after having paid the money. The other has been in pre-trial detention since 13 March. He told HRO that the Circuit Court Judge had demanded this money in exchange for his release. A third suspect, charged with murder, complained that the Defence Counsel employed by the Government to act on behalf of accused people had illegally demanded US\$300 to arrange his release.

- On 9 May, the Garraway Magistrate, Grand Kru County, advised that he had released on bail nine men suspected of aggravated assault because the victim was unable to testify in Court due to the severity of his injuries. The Magistrate was unable to produce any documentation for two hours. The record, when finally produced, showed that the bond had been set for L\$2,000 but only L\$500 had been paid. The Magistrate was unable to produce the money or the LNP charge sheet. The County Attorney then ordered the arrest of one of the bond guarantors, who was held in custody for several hours before one of the nine defendants was arrested and detained in Barclayville. The arrest of a bond guarantor, although permitted under Liberian law, is a violation of fundamental rights, in that a person can be arrested and detained only where there is evidence to suggest that he or she participated in or aided a crime. In the case that a suspect on bail absconds, the forfeiture of the bond money is the only penalty that can be imposed upon the guarantor.

- A man in Nimba County reported that on 4 May he was involved in a fight with four men, as a result of which he filed a complaint against them at the Lugbe Magistrates' Court. The same day, he had another fight with them and the men reported the matter to the same Magistrates' Court. The Magistrate then allegedly instructed the four men and one other to arrest the man (original complainant). The five men allegedly abducted the complainant from his home, tied him with electrical wires and beat him while they dragged him along the road to the Magistrate's home, which doubles as the Court. The complainant, who was released on 8 May, presented a large number of bruises and wounds to various parts of his body. He alleged that the Magistrate tried, unsuccessfully, to demand payment of L\$750 in exchange for his release. Although the case was referred to the Circuit Court on 13 May, no arrests have been made.

- On 22 June, 17 of 22 people found in the LAC Magistrates' Court holding cell, Grand Bassa County, (see paragraph 48) had been charged with criminal mischief and theft of property. Apparently, the men had earlier been arrested, released on bond and then re-arrested after they failed to appear before the Court. Upon HROs intervention, they were informed that the guarantors of the men had already gathered US\$110 as a partial payment of the US\$410 estimated value of the property allegedly damaged and stolen. They had handed the money to the Stipendiary Magistrate, who subsequently declared that these funds were a fine. The Magistrate later advised that he had only accepted it as a partial payment of the money owed to the owners of the property, in view of a possible amicable settlement. The matter was later finalised outside Court but the Magistrate retained US\$60 as "withdrawal fees". The Magistrate asserted that court fees are calculated at the discretion of the Court.

- On 17 July, a man detained at the LAC Magistrates' Court, Grand Bassa County, since 12 July alleged to HROs that he had paid the Magistrate L\$900 for his release.

Failure to try cases during the May Term of Court

28. 91% of cases listed for trial in the County Circuit Courts for the May Term of Court were not heard for a variety of reasons, including the absence of key personnel, such as the Judge, County Attorney, Defence Counsel or jurors. Five Courts either did not open or opened but failed to hear any cases whatsoever. Other Courts were operational but only a small number of cases were indicted or tried, despite significant backlogs and consistently high numbers of people in long-term pre-trial detention (see table below).
29. Section 3.10 of the Judiciary Law provides that Circuit Courts “shall be considered always open for the adjudication of matters... and for the purpose of filing any pleading or other paper authorised by rule or statute”. This provision means that adherence to the Term of Court calendar should not be taken as an excuse for Judges to leave their duty stations or for inertia on the part of County Attorneys and Court personnel in the disposal of preliminary matters and the filing of indictments and other Court papers. Moreover, Section 3.11 provides that trials shall continue until complete, notwithstanding that the session of Court has expired. However, in practice, the Term of Court system operates without regard to these provisions. The examples below demonstrate this:
 - Although the River Cess County Circuit Judge was present in Cestos City at times during the May Term of Court, cases listed for hearing since last year were not be tried due to the failure to empanel a grand or petty jury and the absence of a County Attorney. The Grand Bassa County Attorney is also charged with River Cess jurisdiction but this arrangement has proven to be unworkable, due to the lack of transportation and the competing demands of cases in Grand Bassa County. Meanwhile, the only operational Magistrates' Court, located in Cestos City, is run by a Magistrate without the benefit of a City Solicitor or Defence Counsel.
 - Although 26 criminal cases were originally listed on the Margibi County Circuit Court docket for the May Term of Court, 16 of these were later dropped from the list, apparently without any proceedings taking place. The Criminal Procedure Law provides that the prosecuting attorney may file a motion to dismiss an indictment or complaint, and that the Court may dismiss a case that is not proceeded with by the prosecution within certain time limits⁹. Court records examined by HRO do not reflect any formal decision taken in relation to the dismissal of these cases by the Court, indicating that the appropriate procedures may not have been followed. If none of these 16

⁹ Criminal Procedure Law, Chapter 18 Dismissal of Prosecution (see Reference 9 below)

cases was ready to proceed, the question is raised as to why they were included in the first place. Although Kakata Central Prison has one of the highest rates of pre-trial detention in Liberia, only four were heard of the ten cases that remained on the list.

- In spite of regular reports to LNP of serious crimes in Bomi County and the consequent overcrowding of the Tubmanburg detention facility, only three cases were tried by the Circuit court during the May Term, and only one of these was heard in open Court. Four other cases were dismissed under Section 18.2 of the Criminal Procedure Law¹⁰. While it may be argued that no law was broken, justice delayed is justice denied.
- In Grand Cape Mount County, only one case was tried during the May Term. Five other cases remain on the docket.
- Although 33 cases were listed for trial in Bong County, only two were heard during the May Term.
- The Sinoe County Circuit Court had only four cases on its docket for the May Term, all of which involved theft or misapplication of property charges. None of these cases were concluded and all were re-listed for the August Term. The only case indicted during the May Term was for theft of property.
- None of the 32 cases listed for trial in Maryland County could proceed during the May Term, due to the absence of a County Attorney.
- Circuit Courts in Gbarpolu, Lofa, River Cess, Grand Kru and River Gee Counties were not operational at all.

Private settlement of criminal cases and interference by the Executive

30. The failure of the authorities to handle cases in accordance with the law and in a timely manner results in the perpetuation of impunity and violations of fundamental human rights. Monitoring indicates that many factors including corruption have subverted the role of the court as the decision-maker. The absence of a reliable, efficient and independent judicial system has encouraged parties to seek private settlement of criminal cases. Under human rights standards, crimes are offences committed against the State, not simply the individual victim. The State bears the

¹⁰ Criminal Procedure Law, Section 18.2: Unless good cause is shown, a court shall dismiss a complaint against a defendant who is not indicted by the end of the next succeeding term after his arrest for an indictable offense or his appearance in court in response to a summons or notice to appear charging him with such an offense. Unless good cause is shown, a court shall dismiss an indictment if the defendant is not tried during the next succeeding term after the finding of the indictment. A court shall dismiss a complaint charging a defendant with an offense triable by a magistrate or justice of the peace if trial is not commenced within fifteen days after the arrest of the defendant or his appearance in court in response to a summons or notice to appear.

duty to prosecute the suspect, on behalf of the broader community. Consequently, private mediation or settlement between the victim and the suspect cannot be used as a reason to end criminal legal proceedings against the suspect. Civil claims for compensation for wrongs committed against the individual are separate to the State's duty to see that those who have perpetrated crimes must be punished for those crimes.

- In Grand Bassa County, the Commissioner for District Two allegedly ordered the illegal detention and assault of a man. Criminal charges were subsequently laid against the Commissioner. However, on 29 May, it was reported that in the presence of the County Attorney, the District Commissioner agreed to pay the victim L\$25,000 to close the case.
- On 19 May, it was determined by the Grand Bassa County Circuit Court Judge that the District Superintendent of Wee District illegally detained someone in a debt matter, demanded L\$720 (and received L\$600) as "subpoena fees" from the detainee's relatives and that he further demanded L\$1,200 as "appeal fees". The Circuit Court Judge held that the allegations were proven and that the District Superintendent had exceeded his powers by handling judicial matters. The District Superintendent was ordered to refund the L\$600 charged as "subpoena fees" within 48 hours. He was further ordered to halt investigations into the matter and to transfer it to the Circuit Court.

Summary proceedings

31. Section 3.2 of the Judiciary Law provides that Circuit Court judges may issue "writs of injunction, and writs for summary proceedings in the nature of prohibition" concerning matters arising from the Magistrates' Courts and other inferior Courts. During the past three months, several "summary proceedings" took place in Grand Bassa, Bomi and Montserrado Counties. Where summary proceedings determine that malfeasance has taken place and order restorative action, they can be a useful remedy to reverse illegal activity by a Magistrate in individual cases. The proceedings monitored by HRPS covered complaints regarding the disposition of cases and payment of illegal fees. However, summary proceedings do not address systemic abuse by magistrates as they are not tied directly to disciplinary measures. In cases monitored by UNMIL in Grand Bassa County, the Magistrates were permitted to continue working, although they had been found guilty of misconduct amounting to corruption. A case against the Tubmanburg Associate Magistrate was heard in the Circuit Court Judge's chambers, rather than in open Court, despite the high number of reported complaints emanating from that Court. The results of the hearing were not available at the time of writing.
32. Relatives of four complainants held on charges of theft of property in the LAC detention facilities since Saturday, 13 May 2006, had filed a complaint against the Magistrate, alleging that he had demanded US\$150 and received from them US\$75 to list the case for trial and to acquit the defendants. Summary proceedings against the

LAC Stipendiary Magistrate began on 19 May in the Grand Bassa County Circuit Court. The Circuit Court Judge found the allegations proven and held that the conduct of the Stipendiary Magistrate had been irregular and illegal. The Magistrate was ordered to refund the complainants' money within 72 hours and to transfer the case to the Circuit Court within the same time frame. The Judge announced that he would forward the findings to the Chief Justice.

33. Section 7.5 provides that Magistrates can be removed from office "for cause or at the pleasure of the President". However, even when summary proceedings have concluded that the Magistrate is guilty of corruption, and in particular when that corrupt activity was repeated or of a very serious nature, no removal of a magistrate has thus far been initiated or effected.

Sexual and Gender-Based Violence

Failure to implement adequately the Rape Amendment Act

34. The Rape Amendment Act came into force in January this year. It should assist prosecutors and the Courts in the disposition of cases, as it provides a clearer definition of rape in line with international standards¹¹. The Act also stipulates heavier penalties for rape of children, gang-rape and rape involving a threat with a deadly weapon¹². Despite widespread publicity surrounding the legislation's contents and the personal commitment of the President to tackling this issue, the response of law enforcement and judicial authorities has been disappointing.
35. Rape and other forms of sexual assault and exploitation remain a serious risk for women and girls, including young children, yet far too little attention has been paid to investigating and trying suspects in accordance with the law. The Rape Amendment Act provides that for the purposes of bail, rape of a minor (first-degree rape) is to be treated as a capital offence¹³. This means that, prior to indictment, the suspect is only entitled to be released on bail if the prosecutor cannot show that "the proof is evident or the assumption great that he is guilty of the offences"¹⁴. However, monitoring indicates that rape suspects are regularly released on bail even where there is significant evidence indicating guilt. First-degree rape is not amongst those identified

¹¹ An Act to Amend the New Penal Code Chapter 14 Sections 14.70 and 14.71 and to Provide for Gang-Rape [hereafter, "Rape Amendment Act"]: Section 14.70.1. Offence: A person who has sexual intercourse with another person (male or female) has committed rape if:

(a) (i) He intentionally penetrates the vagina, anus, mouth or any other opening of another person (male or female) with his penis, without the victim's consent; or
(ii) He/She intentionally penetrates the vagina or anus of another person with a foreign object or with any other part of the body (other than the penis) without the victim's consent.
(b) The victim is less than eighteen years old, provided the actor is eighteen years of age or older.

¹² In these cases, rape is a first degree felony, carrying a maximum sentence of life imprisonment.

¹³ Rape Amendment Act: 14.70.4.(b)

¹⁴ After indictment, the burden of proof is on the accused to show that the proof is not evidence or the presumption not great: Criminal Procedure Law Section 13.1.1

by the Judiciary Law for priority listing on the Circuit Court docket¹⁵. At the time of writing, only one accused had been convicted of an offence under the Act since it came into force six months ago.

- A man was held in pre-trial detention in Bomi County since 16 February, on suspicion of raping a juvenile. The Tubmanburg Associate Magistrate claimed that the case could not proceed because the victim, who lives in a remote area of the Guthrie Rubber Plantation, did not return to testify after she was provided support by NGO International Rescue Committee (IRC). The Associate Magistrate claimed he had no means to communicate with the complainant or receive further details from IRC. However, the IRC office is only a few metres away from the Court building. The suspect was released on 11 July.
- In Grand Bassa County, the preliminary hearing in the case of a LAC Plant Protection Department (PPD) officer charged with the statutory rape of a 16 year old girl continued on 9 May in open Court. The Rape Amendment Act provides that all rape cases must be heard *in camera* i.e in private, away from public view. The Magistrate subsequently granted the City Solicitor's motion to exclude the public from the hearing. The defendant admitted to having sex with the victim. Although the Rape Amendment Act provides that sex with a person under eighteen years of age is a first-degree felony regardless of consent¹⁶, the Magistrate instructed the victim to bring additional witnesses to support her case. The following day, the County Attorney took over prosecution of the matter from the City Solicitor and filed a motion to have the case transferred to the Circuit Court. The Magistrate agreed to the transfer and ordered the accused to be remanded in pre-trial detention. However, the accused was released on 3 July, although a previous bail application had been dismissed after resistance by the County Attorney and the new application did not contain substantive reasons in support of the release. The Judge incorrectly argued that he was obliged to order release on bail due to the absence of the County Attorney from the bail hearing.
- On 17 May, the Lofa County Circuit Court Judge released a 17 year old charged with "attempted rape" on the basis that there is no such charge in the Liberian Penal Code. Section 10.1 of the Penal Law provides that that attempted criminal acts are an offence¹⁷, and therefore the ruling was

¹⁵ Judiciary Law, Section 3.11 provides that some of the so-called capital offences shall have priority over all cases, criminal and civil. Rape is not among this group.

¹⁶ Rape Amendment Act, Section 14.70.4. (a) Rape is a felony of the first degree where: (i) the victim was less than 18 years of age at the time the offence was committed...

¹⁷ Penal Law, Section 10.1.1: Offence: A person is guilty of criminal attempt if, acting with the kind of culpability otherwise required for commission of an offence, he purposely engages in conduct constituting a substantial step toward commission of the offence. A substantial step is any conduct, whether act, omission, or possession, which is strongly corroborative of the firmness of the actor's intent to complete the commission of the offence. Factual or legal impossibility of committing the offence is not a defence if

incorrect. The section is general, applying to all offences, and no stipulation in the Law of the specific offence of “attempted rape” is required. Moreover, common law principles hold that a criminal charge also includes any lesser consistent charge that may be proven where the primary charge cannot be proven. Thus a Court can find an accused person guilty of an attempted crime, even if not of a completed crime.

- On 17 May, the Lofa County Attorney advised the County Rule of Law Task Force that he had filed a motion of *nolle prosequi* in relation to a case involving alleged rape, on the basis that the witnesses were not available to testify. However, it was noted during the meeting that NGO Christian Children’s Fund had brought the witnesses to Voinjama but the County Attorney had not interviewed them. At the time of writing, no further action had been taken in the prosecution of this charge and the new County Attorney recently appointed to Lofa was not aware of the matter.
- A teacher in Montserrado County allegedly bound and raped a ten year old girl and threatened to kill her if she reported the case. The suspect was arrested on 6 May but released on bail. When the mother inquired at the Temple of Justice, she was allegedly told that she would have to pay L\$120 for his re-arrest. In what appears to be an attempt to intimidate the victim and her family, the suspect later declared his innocence during a church service and thanked divine intervention for his release. It was only through UNMIL’s intervention that the re-arrest of the accused was effected on 1 June.
- On 19 May, LNP arrested the Zorzor Stipendiary Magistrate, Lofa County, for the alleged sexual assault of a 13 year old girl. Although she is three years below the age of criminal responsibility under Liberian law, the victim had appeared before the Magistrate as a suspect in a theft case. The Magistrate allegedly demanded L\$1,500 from the girl’s mother and when she was unable to pay, took the victim with him to his house and slept on the same bed with her together with his wife. It is alleged that he sexually harassed the girl and attempted to have intercourse with her. The Magistrate admitted to LNP that he had slept with the victim on his bed but denied any other illegal behaviour. He was granted bail and ordered to report to LNP every morning. On 22 May, the girl was re-arrested and detained on the order of the Associate Magistrate, apparently in retaliation for the criminal allegations made against his colleague. The girl was detained in a cell with inadequate clothing and was only released following the intervention of NGO Christian Children’s Fund. The Magistrate is awaiting trial before the Circuit Court.
- Also, in Lofa County, the medical report concerning the alleged rape of a ten year old girl in January was lost at the Magistrates’ Court. HRO assisted the victim’s father to obtain another report but at the time of writing there were no

the offence could have been committed had the attendant circumstances been as the actor believed them to be.

records in either the Magistrates' or the Circuit Court indicating that any further action had been taken.

- On 1 June, HROs were informed by Morris Farm LNP officers, Montserrado County, that although they were aware of the location of a teacher who allegedly raped a 12 year old student on 18 February, they were unable to arrest him because he was outside the LNP station's area of operation.
- In the only rape case tried during the May Term of Court, the Monrovia Criminal Court A, Montserrado County, convicted a 42 year old man of raping a seven year old girl and sentenced him to seven years imprisonment. However, the Judge erred in law by finding the accused guilty only of second-degree rape, which carries a maximum sentence of ten years under the Rape Amendment Act¹⁸. In accordance with the law, rape of a child is a first-degree offence, with a maximum penalty of life imprisonment.
- In one of the worst cases of magisterial misconduct and dereliction of duty monitored during the reporting period, the Paynesville Magistrate, Montserrado County, ordered the pre-trial detention of a 14 year old girl presenting clear signs of assault, without making adequate inquiries as to her age or physical wellbeing. On 6 July, a 14 year old girl was allegedly sexually and physically assaulted by two men who had paid her aunt to have sex with her. The attack allegedly involved the use of a knife. When she attempted to defend herself, the aunt allegedly assaulted her by biting her severely. On 7 July, the aunt took the victim to the Paynesville Magistrates' Court. Although the Magistrate later admitted to HROs that he suspected the girl was a juvenile, he accepted the aunt's claim that she was in fact born in 1977 and ordered the girl child's detention in the Monrovia Central Prison on charges of aggravated assault. The girl did not receive any medical treatment until a routine monitoring visit by UNMIL five days later. Medical examination and treatment by UNMIL Medical Unit indicates that the child has been raped several times as well as physically assaulted. The following day, the Magistrate agreed to order her release into the custody of the LNP Women and Children Protection Section, from where she was brought to safe accommodation supported by an NGO.
- A 68 year old woman was reportedly gang-raped in Bong County on 10 July. Only one of the four alleged rapists (eight other men allegedly beat the woman with sticks) has been arrested. The case was forwarded to the Magistrates' Court and the suspect was remanded in prison but released on 13 July. Gang-rape and rape involving a threat (or real violence) with a deadly weapon are both first-degree offences and thus bail is restricted to cases where the evidence against the suspects is not great. Meanwhile, only one rape case was listed on the Bong Circuit Court docket for the May Term of Court. By

¹⁸ Rape Amendment Act, Section 14.70.4 (c)

the end of July, a further six rape cases were awaiting transfer to the Circuit Court.

Private settlement of rape cases

36. Due to many factors, especially the poor operation of the judicial system, private settlement of sexual assault cases continues to flourish. By allowing the perpetrator to buy his way out of trouble, private settlement encourages impunity for rape.
- A nine year old girl was allegedly raped on 13 May by a 50 year old relative in Maryland County. The victim's mother informed HRO that the case was settled privately.
 - In July, the Bomi County Attorney allegedly improperly involved himself in efforts to encourage the private resolution of a rape case involving a 14 year old girl. Inquiries indicate that the County Attorney prepared a letter for the victim's mother to sign, stating that the charge should be dropped. The suspect's girlfriend then tried to persuade the mother to agree to sign the letter.

Juvenile Justice

37. The Convention on the Rights of the Child (CRC) defines the child as anyone under the age of 18 years¹⁹, and accords the child special protections in light of his/her as yet incomplete physical, emotional and intellectual development. The particular aim of this aspect of the CRC is not to prevent children from taking responsibility for their illegal actions, but to ensure that the trial of children in conflict with the law and any ensuing sentence imposed will not impact on the child so negatively that the chance for rehabilitation is lost²⁰. Procedures in the Liberian Juvenile Procedure Law do meet these international standards relation to juvenile justice. However, the problems affecting the judicial system in its entirety also hinder the operation of the juvenile justice system. The most glaring omission is that, after three years of the restoration of peace to Liberia, there is no attempt underway to establish Juvenile Courts in each County capital, as required by Section 10.1 of the Judiciary Law. Magistrates have jurisdiction to try juvenile cases but lack adequate training and expertise to apply the relevant CRC, as well as national law. The lack of Defence Counsel is also a problem for juvenile defendants, who are in even greater need of legal protection when parents and other senior family members are absent. There is no State juvenile rehabilitation centre operational in Liberia, with the result that juveniles must either be held in adult detention facilities, where they are not always separated from adult inmates and thus

¹⁹ Convention on the Rights of the Child, Article 1

²⁰ United Nations Guidelines for the Prevention of Juvenile Delinquency ("The Riyadh Guidelines"), adopted and proclaimed by the General Assembly Resolution 45 / 112 of 14 December 1990, Article 2: The successful prevention of juvenile delinquency requires efforts on the part of the entire society to ensure the harmonious development of adolescents, with respect for and promotion of their personality from early childhood

may be at risk of harm, or they are released, leading to impunity for their actions and undermining the rehabilitative aim of juvenile justice procedures.

- A 16 year old Guinean juvenile held in detention in Voinjama, Lofa County since 18 January was released on 17 May after intervention by HRO and the Defence Counsel. Inquiries with LNP and the Voinjama Magistrate indicate that the boy was put in detention by the Magistrate without formal charging or any initial hearing. When asked why he detained the juvenile without legal process and any proof of involvement in the alleged crime, the Magistrate responded by saying “this boy is a criminal.”
- During the period under review, two juveniles, aged 15 and 16, were detained at the Tubmanburg holding cells, Bomi County. One has been detained since 27 May. Both were kept in the same cell as adult detainees, as the facility does not have a holding cell for juveniles, in violation of minimum detention standards. HRO met with the Associate Magistrate and advised that their trials should take place as soon as possible, since he had already declined to release them on bail. One of the boys was released on 23 June and the other on 12 July, following the intervention of NGO Forum for Human Rights and Democracy (FOHRD).
- During a routine visit to the Gbarnga Central Prison, Bong County, on 29 May, HRO found a 15 year old female detained since 23 May for allegedly leaving her baby unattended. This inappropriate response indicates the lack of social services to support young mothers. HRPS is concerned that the baby may suffer malnutrition as the mother is still breastfeeding. HRO informed the Stipendiary Magistrate in Gbarnga who assured HRO that he would release the juvenile mother on bail.

Human Rights in Prisons and Detention Facilities

38. Rehabilitation of offenders is the ultimate goal of imprisonment and that all pre-trial detainees are entitled to the presumption of innocence²¹. Overcrowding in detention facilities remains a very serious problem. Liberia’s prisons infrastructure was damaged during the war and the Government and UNMIL are working to rehabilitate several detention facilities. However, overcrowding is not only due to lack of available accommodation. As a result of weaknesses in the judicial system, the Courts are not processing pre-trial detainees efficiently. The vast majority of inmates are awaiting trial, many for lengthy periods exceeding statutory time-limits (see paragraph 41).
39. The maximum operational capacity of each of these facilities is determined at the time of construction. However, the maximum operational capacities of some prisons

²¹ According to Article 21 (h) of the Constitution

are regularly exceeded. The capacity and dates of peak inmate numbers in relation to each detention facility are given below:

Detention centre	Maximum operational capacity	Highest number of inmates during May, June and July	Date of inmate peak
Monrovia Central Prison	180	446	Week ending 3 June
Kakata Central Prison	60	68	Week ending 8 July
Gbarnga Central Prison	40 ²²	57	Week ending 8 July
Buchanan Central Prison	60	28	Week ending 3 June
Saniquillie Central Prison ²³	N/A	37	Week ending 3 June
Voinjama Central Prison	60	15	Week ending 6 May
Zwedru LNP holding cells ²⁴	N/A	19	Week ending 8 July
Harper Central Prison	114	21	Week ending 20 May
Tubmanburg holding cells	N/A	21	Week ending 20 May

These statistics are compiled from the CAU reports for the period of May – July 2006.

40. Overcrowding in detention centres leads to a variety of problems related to the health and safety of inmates and impedes the ability of corrections staff to manage the prison effectively. When inmate numbers dramatically exceed expected operational capacity, as they did in Monrovia Central Prison during the first week in June, the human dignity of the detainees and prisoners is diminished.
41. In many cases monitored by HROs, unnecessary delays are caused by the absence of case management procedures that would assist faster disposition of cases. All defendants are entitled to the presumption of innocence until such time as they have been lawfully found guilty of having committed a crime. Thus pre-trial detention is not meant to be a form of punishment and it should only be imposed where the circumstances of the particular case warrant it. Several cases monitored this month indicate that defendants who cannot afford to pay the fees requested by Magistrates are more likely to be sent to pre-trial detention, even where the circumstances of the case do not warrant detention.

²² The operational limit should be 60 but two cells are not available following incidents in the prison, thus the maximum capacity is reduced to 40 inmates.

²³ Saniquillie Central Prison is currently located in a former warehouse that was not intended for this purpose, thus there is no official maximum operational capacity.

²⁴ In Zwedru and Tubmanburg, detainees and convicted prisoners are held in the LNP station cells. The Zwedru Central Prison is under renovation.

Excessive reliance on jail delivery mechanisms

42. In the face of growing numbers of pre-trial detainees, the authorities have increasingly relied on jail delivery mechanisms and not on effective dispensation of justice to ease the overcrowding in jails and holding cells. In accordance with Chapter 18 of the Criminal Procedure Law, unless good cause is shown, the Circuit Court shall dismiss a complaint against a defendant who has not been indicted by the end of the next Court Term. Similarly, cases that are to be tried in the Magistrates' Court are to be dismissed if the trial has not begun within 15 days after the suspect was arrested (or appeared in Court in response to a summons)²⁵. Although such dismissal does not preclude a future prosecution²⁶, UNMIL is unaware of any case that has been dismissed on these grounds and later tried afresh.
43. The cycle of arrest, prolonged pre-trial detention and release without trial contributes to the perpetuation of impunity and violates the rights of both suspects and victims to a prompt trial in accordance with human rights standards.
- Of the four Circuit Courts assigned to try criminal cases in Montserrado County, Criminal Court C had 44 cases listed on its docket. However, it tried only five. Criminal Court D had eight cases on the docket but tried only one. Criminal Court B had 38 cases on its docket but was unable to provide information on how many had been tried and no information was available regarding the number of cases listed or tried in Criminal Court A (see paragraph 26).
 - In River Gee County, two men suspected of murder have been held in pre-trial detention at the LNP station since their first Court appearance 18 months ago. LNP advised that the men work the County Attorney's land in exchange for food. The absence of the County Attorney has prevented the Circuit Court from hearing cases after it opened for the May Term of Court. The Judge advised that he has been compelled to release suspects, including some accused of rape, due to the absence of detention facilities and the delays in hearing cases.
 - On 15 June, a man held in pre-trial detention in Grand Bassa County for more than 18 months attacked prison personnel in an attempt to escape. He was subsequently restrained by LNP officers. Although the detainee's case was tabled as the first on the May Term of Court docket, the trial is yet to commence and it appears unlikely that it will before the end of the Term.

²⁵ Criminal Procedure Law, Section 18.2

²⁶ Criminal Procedure Law, Section 18.3

Alleged sexual harassment in detention

43. In addition to being a crime, sexual harassment or assault of persons deprived of their liberty may amount to torture or cruel, degrading or inhuman treatment or punishment, in breach of the Convention against Torture²⁷ and Article 21 (e) of the Constitution of Liberia.
- Two corrections officers of Saniquillie Central Prison, Nimba County, allegedly sexually harassed a female detainee on 20 July. It is further alleged that after she refused to have sex with them, one of the officers handcuffed her and physically dragged her inside a cell. The two corrections officers deny the allegation, claiming that they acted in response to “disrespect” showed by the detainee. The sexual harassment allegation is supported by a witness statement. UNMIL Corrections Advisory Unit established an investigation team, which visited Saniquillie Central Prison on 26 July. However, two days prior to the team’s visit, the detainee alleged to have suffered the sexual harassment and excessive use of force was released from detention. Although the detainee had been remanded by the Ganta Magistrates’ Court, the release order was issued by the Saniquillie Magistrates’ Court. The reason for both the release order and the change of venue are not clear.

Indefinite detention

44. Two cases of indefinite detention were monitored during the reporting period. A detention order that does not specify the time limit violates international human rights standards.
- A man and a woman were received at the Tubmanburg detention facility, Bomi County, on 6 July after they were sentenced to indefinite imprisonment by the Manoah Clan Chief in Senjeh District. After HROs raised the matter with the County Attorney, they were released on 13 July.
 - A man was sentenced by the Tubmanburg Magistrates’ Court, Bomi County, to remain in prison until such time as he pays L\$1,250 outstanding

²⁷ The International Covenant on Civil and Political Rights (ICCPR) states at Article 7: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” The Convention against Torture and Other Cruel Inhuman or Degrading Treatment and Punishment, Article 1 defines torture as follows: “For the purposes of this Convention, the term “torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity...”

child/spouse support. Under international human rights law, people cannot be imprisoned for failing to meet a contractual obligation or a civil debt²⁸.

Failure to separate police and Court detainees

45. The presumption of innocence, to which all people not yet convicted of a crime are entitled, entails that persons who are in police custody or pre-trial detention should be kept separated from convicted prisoners²⁹.
- Because there is currently no operational prison in either Bomi or Grand Gedeh Counties, the Tubmanburg and Zwedru LNP holding cells are used to accommodate both police suspects and pre-trial or convicted prisoners.

Failure to register new detainees

46. International standards require all detainees to be admitted only with the complete and correct documentation and to be registered at the facility upon arrival³⁰.
- A man was accepted to the Tubmanburg detention cells, Bomi County, on 22 July without being officially registered, due to the lack of clear division of authority between police and prisons personnel as to who is responsible for the admission and management of the facility. These measures are designed to reduce the risk of prolonged detention and other possible abuses. In this case, the man was a detainee remanded in pre-trial detention by the Gbah Magistrates' Court, however the order was undated. The prison official agreed to accept the man despite this administrative problem. The detainee was later registered on the advice of UNMIL personnel.

Mental and physical health in detention

47. According to Liberia's international treaty obligations and human rights standards, all detainees are entitled to essential medical examination and

²⁸ ICCPR, Article 11 states that "No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation." Note also that the non-binding Standard Minimum Rules (SMR) for the Treatment of Prisoners, approved by the United Nations Economic and Social Council provide at Article 8 (c): Persons imprisoned for debt and other civil prisoners shall be kept separate from persons imprisoned by reason of a criminal offence.

²⁹ SMR for the Treatment of Prisoners, Article 8(b) Untried prisoners shall be kept separate from convicted prisoners.

³⁰ SMR for the Treatment of Prisoners, Article 7 (1) In every place where persons are imprisoned there shall be kept a bound registration book with numbered pages in which shall be entered in respect of each prisoner received:

- (a) Information concerning his identity;
- (b) The reasons for his commitment and the authority therefore;
- (c) The day and hour of his admission and release.

(2) No person shall be received in an institution without a valid commitment order of which the details shall have been previously entered in the register.

treatment upon arrival in detention³¹. However, Liberia's detention facilities are unable to provide even basic medical screening and treatment, while conditions are frequently so poor that there is a serious risk of infection and transmission of disease amongst detainees. Due to their special needs, mentally-ill detainees require particular attention, as they may be at risk of self-harm or harm to or by fellow detainees and facility personnel.

- On 29 May, the Defence Counsel of Bomi County visited for the first time a 60 year old woman charged with murder and detained in the Tubmanburg police station cells, which double as a detention centre. The suspect had been arrested in Gbarpolu County in late April and appears to suffer from a mental disorder. She was transferred to Tubmanburg because the Gbarpolu Circuit Court is not operational. By the end of July, no medical examination had yet taken place, despite the woman's apparent symptoms of mental illness, as the only available psychiatrist requested a fee for this service beyond the means of the Court. Gbarpolu Court officials have taken no further action in the woman's case since her arrest. On 20 June, UNPOL brought the woman to Monrovia in an unsuccessful attempt to seek treatment. They were unable to find a psychiatrist who would examine the woman free of charge. At the time of writing, the woman remains in detention without necessary medical treatment.
- On 22 June, HROs asked the Tubmanburg Associate Magistrate and a guard of the detention facility to send three ill and injured detainees to the hospital for treatment. One of the men had severe cuts and infections on his legs and arms and the very poor hygiene conditions in the cells posed additional risk. At the time of HROs' visit, the men had not been able to wash for several days and the prison lavatory was not working. Although the officials agreed to arrange medical treatment for the three men, it later transpired that no action was taken. When UNPOL later transported the men to the hospital, it was discovered that the prison officer had not sought the appropriate authorisation from the Court and thus the men could not obtain the necessary treatment.
- In Bong County, a man has been held in pre-trial detention at Gbarnga Central Prison since December 2004, on charges of murder. He appears to be mentally impaired.
- On 8 June, HRO monitored the visit of representatives of the County Health Team (CHT) to Gbarnga Central Prison, Bong County, following complaints from some inmates. HRO observed that although the team visits each week, it does not spend enough time to examine all inmates, thus some have to wait

³¹ SMR for the Treatment of Prisoners, Article 24: The medical officer shall see and examine every prisoner as soon as possible after his admission and thereafter as necessary, with a view particularly to the discovery of physical or mental illness and the taking of all necessary measures; the segregation of prisoners suspected of infectious or contagious conditions; the noting of physical or mental defects...

for the following week. It also appears that treatment is also inadequate and that the team does not refer all serious cases to Phoebe Hospital. Upon request from HRO, doctors from Phoebe Hospital agreed to provide free treatment for inmates with serious medical problems. However, despite the regular visits from the CHT, prison personnel failed to obtain medical treatment for a 21 year old detainee brought to Gbarnga Central Prison on 30 June presenting serious open wounds to his back, allegedly sustained during a mob violence attack. Treatment was not provided until UNMIL personnel intervened on 6 July.

Poor hygiene and failure to provide food

48. It is vital that all persons deprived of their liberty are afforded adequate opportunities to maintain their personal hygiene in accordance with the respect due to all human beings. International standards binding on Liberia require that “all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”³² In addition, the Standard Minimum Rules for the Treatment of Prisoners stipulate basic sanitation measures that should be taken to ensure the preservation of human dignity whilst in detention³³. Unfortunately, these provisions are not met in Liberia, where prison and police cells are generally in a very unhygienic condition, exacerbated by overcrowding. While the prolonged Liberian conflict and the resultant lack of resources are often cited as the reasons for this state of affairs, HRPS monitoring has not revealed any progress toward meeting the said international standards.

- On 15 June, all personnel of the LAC Magistrates’ Court, Grand Bassa County, left for Buchanan, abandoning five detainees locked in the cell without food or drinking water. When HROs and Catholic Justice and Peace Commission monitor visited the following day, there was also no bathing water in the cell and a small bucket was half-filled with urine. The cell door key was not available. Private security guards sub-contracted to the plantation were present but they are not responsible for overseeing the detention of people in State custody. There were two minors, aged 13 and 15, among the detainees. Although HRO spoke to the LAC Magistrate on 18 June and he promised to return to the Court that day to ensure that water and food was provided, UNPOL advised that detainees had been without food even up until Sunday 19 June. The Magisterial Officer in charge of the cell claimed he had

³² ICCPR Article 10

³³ SMR for the Treatment of Prisoners, Article 12: The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.
Art. 13. Adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate.

Art.14. All pans of an institution regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times.

left the key with the Plant Protection Department (PPD) at the main gate and that the key had not been taken to the PPD stationed at the Court.

- Six days later, on 22 June, 20 people were found detained in the two cells of the LAC Magistrates' Court. This high number of detainees was too much for the cells' capacity, resulting in poor ventilation and unhygienic conditions.

Escape and illegal release

49. Escape or illegal release of detainees and prisoners prevent justice from being served in accordance with the law and undermine public confidence in the judicial system. Victims may find themselves at risk of intimidation.

- In July, ten inmates of the Saniquillie Central Prison escaped from custody. Between 14 and 28 July, an astonishing 26 detainees were illegally released from custody by the Prison Superintendent or one of the prison staff, including two detainees who were illegally allowed to live at the Superintendent's house. Of these 26 inmates illegally released, eight had been charged with rape, six had been charged with murder and three had been charged with aggravated assault.
- A man arrested for the alleged rape of a 14 year old girl on 7 May was remanded in pre-trial detention by the Pleebo Magistrate, Maryland County. However, on 10 May the accused man's family and friends overwhelmed the Court Sheriff and he escaped.
- In June, the Gbarnga Magistrate, Bong County, failed to inform LNP that a man suspected of raping a 15 year old girl had escaped during the preliminary hearing.
- A man accused of raping a six year old girl in Gbarpolu County on 12 June was illegally released the same day by the Clerk of the Gbarma Magistrates' Court. Fortunately, the suspect was rearrested and returned to custody in Gbarma on 17 June, after spending two nights in the Tubmanburg detention cells. Due to the very poor detention conditions in Gbarma, the man is released during the day to find food.
- The conditions in police holding cells remain well below minimum human rights standards and cells are also frequently physically insecure. The cell of Gbarnga Central Police Station, Bong County, is ruined, with a large hole in the wall. Three suspects allegedly escaped via this route on 4 July.
- The lack of detention facilities in River Cess County is an additional impediment to the rule of law in that County. Five detainees, including four charged with rape of minors were housed in the Magistrate's home, as the only detention cell was unfit for habitation. Although a humanitarian gesture,

such an arrangement raises the likelihood of escape and thus places the victims at risk of intimidation.

Law enforcement

Violation of the 48 hours constitutional limit on police custody

50. People in police custody remain at risk of being held beyond the constitutional limit of 48 hours. The Constitutional guarantee is designed to protect suspects from abuses that may occur when people are held for lengthy periods in police custody. Since all people have the right to the presumption of innocence until a case is established against them in court. Also, certain fundamental rights are so essential that this guarantee is designed to prevent abuse of power by the police and reduce the risk of assault, unlawful interference with the individual's privacy, extortion, disappearances and extra-judicial killings. Such abuses were committed frequently during the civil war and it is vital that the new police force operate from the very beginning on the basis of respect for the law and human rights.
- On 8 May, LNP officers at Zone One Substation, Montserrado County, explained that they were holding a suspect since 5 May (i.e. one day beyond the 48 hour limit), because they were awaiting the conclusion of the investigation. LNP were unable to state what investigation was being undertaken and referred only to the medical report.
 - Between 25 and 29 June, LNP officers in Gbarnga LNP station, Bong County, held a man in custody for four days before releasing him.
 - Two men were arrested and detained in custody in the LNP / PPD cell on LAC rubber plantation, Grand Bassa County, on 22 July. It appears that although police charged the men promptly, they were unable to send them to Court for initial hearing, as the entire staff of the Magistrates' Court had left on 22 July and were yet to return. The initial appearance did not take place until 1 August, eight days after the expiration of the 48 hour custody limit.

Shortage of LNP officers

51. Although the deactivation of LNP officers who worked under past regimes is an essential step forward in the LNP restructuring process, there is some impact on law and order between the decommissioning of some personnel and the deployment of new LNP officers. The small numbers of police in the field, combined with very poor logistic and transport facilities risks undermining the rule of law. This situation can encourage some members of the population to engage in illegal vigilante action ("mob justice") or to seek settlement of private cases outside the law.

- Earlier this year (prior to the LNP deactivation exercise), seven of the eight LNP officers deployed to Cestos City, River Cess County, abandoned their posts, complaining of lack of accommodation and facilities. The full contingent of 30 officers scheduled for deployment to the County has not arrived. By the end of July there were only five LNP officers for the entire County but two of these are working for the County Superintendent and are thus unavailable for regular police duties.
- There are only 20 LNP officers for the five police stations in Maryland County, only four of which are operational. All five stations are located in privately-owned buildings, leading to a risk of reduced police independence. The Women and Children's Unit has not opened in Harper due to the lack of office space in the LNP Harper Headquarters.
- In April, a woman was tied and severely beaten by six men acting on the orders of the Dimpley Town Chief, near the Nimba County border with Cote d'Ivoire. In the absence of proper border patrols and an effective LNP or Bureau of Immigration and Naturalisation presence, it is reportedly common practice for villages near the border to conduct their own vigilante action against strangers. The victim reported the case to the Buutuo Justice of the Peace and the suspects were arrested but later released. On 13 July, the Clerk of the Saniquillie Magistrates' Court confirmed that the case had been received by the Court but that it had not been referred to the County Attorney for indictment in accordance with the law. Inquiries indicate that it will not be referred to the Circuit Court until the August Term commences. The victim is of diminished mental capacity and has thus been at a disadvantage in pressing for her complaint to be heard by the authorities.
- On 2 May, LNP officers in Grand Cape Mount County allegedly told a man to pay his wife L\$500 as compensation for stabbing her in the neck, rather than referring the case for prosecution. The case was not referred to the Magistrates' Court.

Possible excessive use of force

52. Several cases of possible excessive use of force were monitored during the reporting period, including a series of cases involving the Plant Protection Department (PPD) and other private security firms engaged on rubber plantations.³⁴ Police and others exercising quasi-police powers must ensure that

³⁴ See §7 of the Ministry of Justice, Republic of Liberia, 'Guidelines to Organize and Operate Private Security Agencies', 15 April 2005, which was issued by the Director of Public Safety, Insp. Varmuyan S. Sheriff. The Ministry of Justice 'Guidelines to Organize and Operate Private Security Agencies' provide that Private Security Guards may effect a temporary arrest within their areas of assignment, but must immediately inform the nearest LNP personnel and hand over the arrested suspect.

use of force in the arrest of suspects is proportionate and necessary in the circumstances³⁵. Retaliatory violence is never justified.

- On 23 May, two men suspected of theft were found in the PPD detention cell on the Firestone rubber plantation, Margibi County. The suspects had sustained injuries to their hands, backs, legs, eyes and heads. One suspect also had acid burns. The two men alleged that at the time of their detention on 20 May, they were tied and beaten with cutlasses by private security guards working on the plantation. They were then transferred to the PPD office later the same day. Although the PPD is required to transfer detainees to the LNP immediately, the men were only transferred to LNP on 23 May. After their transfer to LNP, two men were released, in order to receive medical treatment. No charges have been filed against them. An LNP request for an interview with the implicated private security guards was rejected and no further action has apparently been taken by the police to investigate the allegations of ill-treatment. However, the Police Commander of Lower Margibi did agree (during a Rule of Law taskforce meeting) to take action to bring those suspected of the assault to justice.
- A 30 year old man suspected of stealing rubber was allegedly assaulted and detained on 21 June by nine private security personnel at PJ Rubber Farm, Margibi County. HROs observed injuries to the man's hands, legs, back and stomach. On 29 June, Firestone PPD personnel retrieved him and brought him to the LNP. He is currently in pre-trial detention at Kakata Central Prison.
- On 8 May, HRO observed that seven of the 12 men held in custody at RIA LNP station, Margibi County, had injuries to the hands, back or head. The men reported that they had been tied and beaten during their arrest in connection with the killing of the PPD officer in Firestone the previous week. All 12 have been charged with murder and are in pre-trial detention.
- A man arrested and detained by PPD personnel on the LAC plantation, Grand Bassa County, on 11 July complained that he had been hit on the head with a baton by a PPD staff member. The wound required stitches at the LAC

³⁵ 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:

4. Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.

5. Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall:

- (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;
- (b) Minimize damage and injury, and respect and preserve human life;
- (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;
- (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.

Hospital. The PPD Chief indicated that he was aware of the incident but claimed that the man had sustained the injury in a fall while attempting to escape. However, given that the suspect only incurred an injury to the head and that there are no further bruises and scratches on his face or body, this explanation does not seem likely. Subsequently, two PPD officers were charged with assault, although not before the LAC legal counsel threatened to withdraw LNP rights to use office space in the PPD building.

Harmful traditional practices

Trial by ordeal

53. The continued reliance of communities on the harmful traditional practice of trial by ordeal to settle criminal disputes is partly due to the incapacity of the formal judicial system to perform its duties to hear and resolve disputes. The victims of this practice are at great risk of serious human rights abuses, including physical and sexual assault and extra-judicial killings. The trial by ordeal process, which does not reflect due process standards, can easily be subverted for political or other ends. Since in many areas, particularly the more isolated regions, formal judicial institutions are largely inaccessible and/or not fully trusted by the local populations, a vacuum is created in which harmful traditional practices flourish. Monitoring of trial by ordeal cases indicates that they are frequently used by local authorities as a means of consolidating power over the community and of extorting money from victims. Even where the intention is purely to identify the guilty party, it is impossible to rely on statements that are elicited under torture or other inhuman treatment, including the fear of death.
54. Although these activities are grave violations of Liberia's international human rights commitments, the Revised Rules and Regulations of the Hinterland provide legislative authority for trial by ordeal and other harmful practices³⁶. Despite the fact that the use of sassywood and other life-threatening ordeals are specifically prohibited by the Rules,³⁷ the trials by ordeal monitored by UNMIL constitute a grave threat to victims and do cause serious injuries and even death.
55. In May, a man died in Sinoe County following his subjection, with three others, to a particularly brutal trial by ordeal. Following suspicion that they had been involved in an alleged ritualistic killing, four adults (including two aged over 60) suffered aggravated assault in a trial by ordeal lasting from 3 to 6 May. One of the

³⁶ The Revised Rules and Regulations Governing the Hinterland of Liberia establish a discriminatory dispute system regarding "woman palaver cases" (Article 42), permit corporal punishment in some cases (Article 45), provides guidelines for the payment of dowries and damages to the husband in a case of adultery (Article 55) and forced labour, or "porterage" (Article 35).

³⁷ The Revised Rules and Regulations Governing the Hinterland of Liberia, Article 73: Trial by native ordeal shall not be allowed in cases where the bark sassywood which is generally made or concoction or preparation, with mineral or vegetables and administered internally *sic*;...ordeals however, of a minor nature and which do not endanger the life of the individual shall be allowed and is hereby authorized *sic*.

victims was also apparently shot in the face at very close range. No legal protections were provided at any time. The homes of some of the victims were looted. A ten year old child was also implicated in the allegations, although she was not forced to submit to the assault. All five were subsequently charged by the LNP with murder, solely on the basis of statements elicited under torture and notwithstanding that a child aged ten cannot be charged with a criminal offence under Liberian law. The Magistrates' Court transferred the case to the Circuit Court, refusing to hold a preliminary hearing. The reported close involvement in the trial by ordeal of the County authorities, including two Associate magistrates, a City Solicitor, a District Superintendent, and the clerk and messenger of the District Superintendent, as well as an LNP officer is particularly serious. There is no evidence implicating any of the five people in the alleged crime, or that a ritualistic killing had in fact taken place. One of the victims is the 60 year old Tribal Chairman; the Chairman's clerk assumed the authority of Acting Tribal Chairman and proceeded with the trial by ordeal. The man with serious facial injuries died approximately one week after being hospitalised. The three surviving adult victims are in pre-trial detention in the Greenville detention facility. The case against them was referred to the Circuit Court but no progress was made before the end of the May Term. The murder charge against the ten year old child has been dropped.

- A 52 year old man was reported missing in Morweh District, River Cess County. Apparently acting on suspicion that this was a ritualistic killing, the Paramount Chief, the Clan Chief and the Unification Town Chief then ordered citizens of Weah, Karhn and Karl Towns to gather in Weah Town and to provide funds for a lot-casting to determine the guilty party. The villagers had been effectively held under illegal detention in Karhn Town for approximately one week; only the women had been allowed to leave temporarily to search for food. LNP confirmed that two suspects were identified by the Witch Society, which is part of the Leopard Society, a 'secret' organisation that holds considerable influence over communities due to the members' alleged powers to transform themselves into leopards. The two men were held in the illegal custody of the Joe River District Commissioner, while three others were released by him on an illegally-imposed bond. County administrators have no authority to interfere in investigations into alleged criminal activity. None of these men has been implicated by the police in the disappearance. Rumours that the body of the disappeared male had been found on 8 June with body parts missing were not confirmed. The District authorities have expressed their intention to proceed with a lot-casting. Meanwhile, LNP did not appear to be undertaking further investigations. HRPS notes that the Joe River District Commissioner was also involved in the trial by ordeal performed in Morweh District in January, in which four elderly people sustained very serious injuries³⁸. Given the increasing isolation of this area due to the onset of the rainy season and the very poor roads, HRPS has serious concerns for the safety of the suspected community members.

³⁸ See UNMIL Human Rights and Protection Section Quarterly Report January – April 2006, page 26

56. Other cases of trial by ordeal and other harmful traditional practices monitored during the reporting period are listed below:

- In July, 16 people were arrested in River Gee County after allegedly killing four people suspected of committing witchcraft. Two men were later released on the basis of insufficient evidence while fourteen remain in custody at the Fishtown LNP station. On 20 July, the Solicitor-General of Liberia made an application before the Fishtown magistrates' Court for the transfer of the suspects to the Zwedru police station, which doubles as a detention facility. However, the detainees remain in Fishtown pending the commencement of the August Term of Court.
- The Bassa Governor of Marshall City, Margibi County, confirmed that he had ordered a 25 year old woman accused of stealing L\$1,000 from the Governor's mother to drink sassywood in a trial by ordeal on 15 June. The victim survived but was found guilty and detained at the Marshall City police holding cell on the Governor's orders, in a second abuse of power. In the absence of a Court and adequately-staffed police station, the City Mayor and tribal Governors are the primary source of authority in the community.
- The amount of L\$2,000 was allegedly extorted from a woman by fellow residents of Bailakpo Township, Grand Kru County, who assaulted her and threatened her with a trial by ordeal in relation to a death in the area.
- In August 2005, two elderly sisters in Zleh Town, Grand Gedeh County, were accused of practicing witchcraft, causing the illness of one member of the community. The case was brought before the Town Chief, the Paramount Chief and the District Commissioner. It was reported that the District Commissioner extorted L\$2,000 from the two women and demanded a further L\$8,000 to arrange a trial by ordeal (using sassywood) by a practitioner from the Ministry of Internal Affairs in Monrovia. On 5 July this year, the two women were allegedly sent by the District Commissioner to work for the Statutory Superintendent, due to their failure to pay the demanded amount. The Superintendent later confirmed that the women were released on 9 July due to the lack of evidence against them. The Superintendent undertook to investigate the alleged extortion against the women and ensure that the money is returned to them.

Alleged criminal activity by members of secret societies

- On 4 July, the Saniquillie Magistrate ordered the pre-trial detention of six men suspected of involvement in an alleged murder that took place in September 2005. The victim was allegedly murdered because he had refused to join the Poro Society in Nimba County. Arrests first took place in October last year but the suspects were released by the Ganta Magistrates' Court without further

proceedings. It should be noted that the Ganta Stipendiary Magistrate is a reputed member of the Poro Society and thus his handling of the matter is tainted by perceived, if not real, bias. HRO took up the case following a report from the victim's relatives. On 13 July, the six detainees were referred to Court by a trainee corrections officer. All six were released on a temporary release order issued illegally by the Court Clerk and later formalised by the Magistrate.

Alleged intent to commit ritualistic killing

- On 28 June, five men were arrested in Nimba County on suspicion of planning to gather and sell human body parts for use in witchcraft. The five men were brought to the Ganta Magistrates' Court but the hearing could not proceed as an angry mob of approximately 200 people surrounded the building. LNP consequently decided to forward the case to the Saniquillie Circuit Court and the men are currently in pre-trial detention at the Saniquillie Central Prison.

Child rights

57. By ratifying the Convention on the Rights of the Child, Liberia is obliged to work towards implementing certain fundamental standards essential for the emotional, physical and intellectual development of children. At present, social services for children are very limited. Although the Ministry of Health and Social Welfare released a list of orphanages for closure earlier in the year, some facilities continue to operate without meeting basic human rights requirements. In cases of children abandoned or neglected by their families, authorities, with UNMIL and NGO assistance, must rely on a case by case approach, due to the absence of essential social services. Lack of access to adequate education facilities in many areas, coupled with exploitative child labour, remains a major challenge to Liberia's development. Currently, 30% of school-age boys and 37% of school-age girls are not enrolled in school³⁹.
- On 5 May, HRO arranged emergency medical care in Monrovia for a newborn baby abandoned in Bomi County. Although, a foster mother was found to care for her, sadly the infant died in early June of malaria.
 - Also in Bomi County, five boys aged 12 and 13 were found walking from Monrovia to Guthrie Rubber Plantation. The boys were placed in an orphanage in Paynesville, while NGO Save the Children and the Ministry of Health and Social Welfare try to locate their parents.
 - On 17 May, HROs visited a quarry in Sina Hill, Montserrado County, and observed children as young as five working with no face or eye protection. A

³⁹ United Nations Common Country Assessment: Liberia, Consolidating Peace and National Recovery for Sustainable Development, June 2006

number of children and parents stated that they are working to survive and do not have the funds to pay school fees. Some children bore scars, apparently due to the stone chips.

- In Grand Bassa County, a 12 year old girl, who ran away from her aunt's house, complaining of physical abuse and neglect, could not be placed in temporary shelter due to the lack of any such services in the County. The family of an LNP officer cared for her for more than a week before she was reunited with her father by the LNP.
- On 4 July, the Saniquillie City Solicitor, Nimba County, finally requested the arrest of a man more than six months after his estranged wife first sought the assistance of the Magistrates' Court to enforce child support. Earlier this year the Magistrate had agreed to handle the claim informally, with the result that no order was made for the man to pay child support for his estranged wife and five children. The suspect was released on bail with no sentence yet imposed and no order made regarding his duties to provide financial support to his children.
- Due to the prolonged non-payment of teacher salaries by the Government, River Cess County is in danger of losing its only secondary school. Cestos City High School has suffered understaffing and repeated closures as teachers have protested the very poor conditions.

Human rights on rubber plantations

58. During the reporting period, there were some positive developments in improving the enjoyment of human rights on rubber plantations. In May, UNMI released a comprehensive report on the human rights situation in rubber plantations, with recommendations for action. The findings of this report were complemented by the establishment of a Government – UNMIL Rubber Plantations Task force, which conducted an assessment of the human rights, humanitarian and law enforcement issues facing Liberia's seven largest plantations and developed a strategic plan in response. Some specific advances are noted below.

- On 6 May, the President visited Firestone Plantation, Margibi County, accompanied by the Ministers of Labour, Information, Agriculture, and Internal Affairs, other Government officials and members of the Legislature. During a town hall meeting, the President announced that she had established a committee to study minimum wages for plantation workers and promised to ensure that pension contributions deducted from wages will be paid. The President requested Firestone to amend its education policy and allow all children living in the plantation access to education. The President announced that the Government had rejected the ten year plan proposed by Firestone to improve residents' and workers' enjoyment of fundamental economic social

and cultural rights and had instructed the company to present a five year action plan, whose implementation was to begin immediately.

- On 12 May, two ex-combatant leaders who effectively control the Sinoe rubber plantation, Sinoe County, were arrested on longstanding warrants and charged with assault and other offences. To avoid unrest in the area, the men were removed to Monrovia to await trial. However, at the time of writing, the County Attorney had not yet filed a motion for change of venue and thus the Montserrado Circuit Court cannot yet hear the case.
 - In exercise of their right to peaceful assembly and association⁴⁰, on 12 June, approximately 370 workers of the Weala rubber plantation, Margibi County, held a one day strike to demand a review of wages. Workers at this plantation earn around two thirds the wages paid to workers at nearby Firestone. In addition, workers complained to HROs that their contractual rights regarding housing, education and health services are not honoured by management. It was later agreed that a 50% salary increase would be provided for July as a special bonus.
59. Despite these positive developments, more needs to be done to address poor living and working conditions on all plantations and to restore the rule of law to Guthrie and Sinoe plantations.
- HROs observed that waste from the Weala rubber plantation processing factory in Margibi County, flows directly into a nearby waterway. This river is the only source of water used by local residents for cooking and washing, raising serious concerns as to the possible effects of pollution from the chemicals. In addition, HROs observed that employees in the processing factory lack adequate health and safety equipment.
 - Following more than six months of unrest related to delayed payment of wages on the Cavalla Rubber Plantation, Maryland County, on 27 June, the workers Union President advised that improvements have been made in salary payments and provision of food rations. However, conditions at the plantation health center are still very poor: without basic supplies, employees are given prescription slips to obtain drugs elsewhere.
 - HROs spoke to three men, who have been accused of theft of property while employed by the LAC rubber plantation, Grand Bassa County. The case is currently pending before the Circuit Court. However, LAC dismissed the men with a letter dated 1 June, despite the Constitutional guarantee of the presumption of innocence⁴¹. On 28 June, the Defence Counsel requested LAC to rescind the dismissal until the criminal case is successfully prosecuted.

⁴⁰ ICCPR Articles 21 and 22; these rights are also reflected in Article 17 of the Constitution.

⁴¹ Constitution of Liberia, Article 21 (h)

Both the Circuit Court Judge and the Office of the Labour Commissioner deny jurisdiction over this issue.

- Rubber-tappers working illegally for a former LURD leader in the Guthrie Rubber Plantation, Bomi County, demonstrated on 17 July demanding an increase in their salary; three people were allegedly assaulted in the ensuing attacks. Fourteen suspects were identified but the group's leader has reportedly declared that he will resolve the matter internally, illustrating his continued command of the plantation and the incapacity of the police to assert State authority.

Recommendations

60. During her inauguration speech in January, President Sirleaf committed the Government of Liberia to upholding “all international treaties to which our country has subscribed”⁴². Encouraged by this strong public commitment, UNMIL offers the following recommendations in support of national efforts to meet this challenge.
- The Government of Liberia should take concrete steps to complete the ratification process in relation to all human rights treaties which it has already signed and to fulfil its reporting obligations. Civil society organisations should provide input and develop parallel reports. Harmonisation of domestic legislation with international human rights commitments is essential. In this regard, HRPS is contributing a human rights analysis of key national legislation, to support the reform process.
 - The Government should take immediate steps to establish a Law Reform Commission, with responsibility to review national legislation and recommend necessary reforms.
 - The Government 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.
 - Courts, LNP stations and prisons should be equipped with adequate supplies of basic stationery and other equipment to allow proper management of files and record-keeping, to protect fair trial standards. Furthermore, case management systems for the prosecution and the Courts should be established to reduce delays and increase Court efficiency.

⁴² Presidential inauguration speech, 16 January 2006

- The Chief Justice may wish to investigate all allegations of abuse of authority by members of the judiciary and take disciplinary measures against anyone found to have abused their position. A permanent and independent judicial review mechanism should be created to receive and investigate allegations of judicial malfeasance and recommend disciplinary and preventative measures.
- The Ministry of Justice should consider approaching partner countries to seek the secondment of qualified lawyers to work as County Attorneys, in order to strengthen the prosecution service in the interim phase. Similarly, the Government may wish to review the possibility of seeking the secondment of foreign Judges in light of the many human rights violations caused by lack of trained personnel.
- The Government should ensure that the anti-rape legislation 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 fair trial standards. A concerted and ongoing effort towards community education and sensitisation to sexual assault issues should be undertaken in cooperation with nongovernmental organisations.
- To ensure prompt trials in accordance with international fair trial standards, the Ministry of Justice and Chief Justice should issue administrative instructions to the effect that rape cases, particularly those involving children, are to receive priority attention from prosecutors and the judiciary.
- 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.
- 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 involvement in human rights violations should be brought to justice in a trial which upholds international fair trial standards.
- The Government, judiciary and LNP should ensure that allegations of corruption are fully and impartially investigated and that measures are taken against any officials found to be involved in corrupt practices.

- While upholding positive cultural values and practices, the Ministry of Justice should take immediate steps to outlaw harmful traditional practices including trial by ordeal. Investigation and prosecution of such allegations should take place against the backdrop of a comprehensive campaign to inform the community about the dangers of these practices.
- The Ministry of Justice should conduct a study on possible models of alternative dispute resolution and other measures to divert minor cases away from the formal criminal justice system but still guarantee the law and human rights standards.
- Initiatives by the Ministry of Health and Social Welfare to improve social support for children at risk of harm should be continued, to ensure that substandard orphanages are closed and that abandoned or neglected children have access to safe accommodation and, where necessary, legal and psycho-social support. HRPS is contributing a comprehensive study on the human rights situation in orphanages.
- The Ministry of Education should conduct a review of the elementary and high school systems, with the aim of working towards implementation of Liberia's obligations under the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights.
- The Government of Liberia and international partners should continue to work towards the full implementation of the recommendations contained in the UNMIL rubber plantations report released in May 2006, which provided detailed recommendations for the restoration of law and order and the protection of fundamental human rights of workers and communities living on rubber plantations.
- The Government of Liberia and international partners should continue to work towards the full implementation of the recommendations contained in the UNMIL – Government of Liberia Rule of Law Task Force Report, also released in May 2006.