

## **UNHCR's POSITION ON THE TREATMENT OF LIBERIAN ASYLUM SEEKERS AND RETURN TO LIBERIA**

1. UNHCR's last memorandum on the treatment of Liberian asylum-seekers dates from 21 July 2003, and provided the following advice: *prima facie* refugee recognition within Africa, based on the OAU Convention; outside Africa, individual refugee status determination based on the 1951 Convention and its 1967 Protocol, with due attention to excludability; complementary forms of protection for the rejected asylum seekers; and a complete ban on forced returns to Liberia for an initial period of six months. This advice was based on the then highly volatile security situation in Liberia, with ongoing sporadic fighting throughout the country, reports of wide-spread human rights violations, with only three counties being held by the Government (out of 15 counties in total), as well as an extremely dire humanitarian situation.

2. Since July 2003, there have been many developments in Liberia, which are briefly summarised below:

i) Following the ceasefire agreement signed in Accra on 17 June 2003, between the Government of Liberia and the two rebel movements (the Liberians United for Reconciliation and Democracy – LURD -, and the Movement for Democracy in Liberia – MODEL -), the UN Security Council adopted Resolution 1497 (2003) on 1 August 2003, authorising the deployment of a multinational force to support the implementation of the ceasefire agreement.

ii) On 11 August 2003, as agreed with ECOWAS leaders in July 2003, President Charles Taylor stepped down and left the country, thereby opening a new possibility for peace in Liberia. On 18 August 2003, a Comprehensive Peace Agreement was signed in Accra between the Government of Liberia, LURD, MODEL and the political parties. As provided by the Comprehensive Peace Agreement, a National Transitional Government headed by Chairman Gyude Bryant was sworn in on 14 October 2003. A Transitional legislative body was put in place, and since then, the overall State apparatus is slowly being rebuilt.

iii) As of October 2003, the United Nations Mission in Liberia (UNMIL) troops started deploying throughout Liberia to take over from ECOMIL (ECOWAS troops). In June 2004, the deployment of the authorised 15,000 strong force of UNMIL was completed.

3. Due to the developing peace process and improving security situation, humanitarian agencies progressively regained access to the population in need of assistance, particularly the IDPs. In the same vein, UNHCR re-established its presence in six field locations, outside the city of Monrovia, to provide protection and assistance to Ivorian and Sierra Leonean refugees, and to facilitate the voluntary repatriation of Liberian refugees, as well as the return of the IDPs to their areas of origin.

4. As a result of these positive developments, UNHCR started in October 2004 to facilitate the voluntary repatriation of Liberian refugees to those counties which were declared "safe" by the National Security Assessment Committee for Resettlement, as

well as providing assistance to IDPs wishing to return to those counties. With the continuing improvement of the security situation, in January 2005, the last counties were declared “safe” for return. By 17 July 2005, roughly 28,000 Liberian refugees voluntarily repatriated with the assistance of UNHCR, mostly from Sierra Leone, Guinea, Ghana and Nigeria, while in addition, over 100,000 refugees returned spontaneously. Moreover, as of 9 July 2005, some 190,000 IDPs returned to their areas of origin, since November 2004. UNHCR is endeavouring to provide assistance to all returnees, despite many constraints, including the lack of basic infrastructure in most of the areas of return and insufficient resources, mostly financial.

5. Notwithstanding the positive developments described above, the overall security situation still remains a concern. Although UNMIL has deployed throughout the entire country, the position of the Transitional Government is very weak as it is slowly regaining control of the country. The Government still has no army, which needs to be re-established, as there are several groups of militias and paramilitaries. In addition, many State apparatus, notably law enforcement mechanisms, including the police, remain virtually non-existent. The judicial system is yet to be fully rehabilitated, and the overall rule of law remains to be entirely re-established. As a result, there remain areas in Liberia, such as in Nimba County where security incidents still occur intermittently.

6. In this connection, the report of the Chairperson of the Commission on the Situation in Liberia published at the 35<sup>th</sup> Meeting of the Peace and Security Council of the African Union on 25 July 2005 provides a good overview of the overall situation in this country, followed by some recommendations. While the Report acknowledges the positive steps taken towards the implementation of the Comprehensive Peace Agreement, notably through the establishment of the various transitional institutions, as well as the successful establishment of the National Elections Commission and the completion of the voter registration exercise, it also emphasises the challenges still lying ahead of the Liberian peace process and recovery. Amongst such challenges, it is worth mentioning that according to the Commission, “*the general assessment of the Government of Transition is that it is not able to perform the role assigned to it under the Comprehensive Peace Agreement*”. As regards the judicial system, the report of the Commission states that “*Liberia’s legal, judicial and corrective systems are rather limited. This has been further compounded by years of conflict and neglect, typified by rampant disregard for the rule of law by successive regimes including the present one*”. On the chapter on corruption, the Commission concludes to “*the inability of the NTGL – National Transitional Government of Liberia – to check systematic corruption at virtually all levels*” and that “*in the short term, judges from the sub-region must be brought in to support the return of the rule of law to Liberia, particularly in the area of documented cases of corruption*”<sup>1</sup>.

7. Following the 14 years of conflicts in Liberia, the rate of illegal occupancy of property belonging to the displaced population (both refugees and IDPs) is quite high. The Liberian authorities, with the assistance of UNHCR, UNMIL and other relevant agencies, are setting up Property Committees throughout Liberia to address the problems in this domain. However, the efficiency of such Committees is likely to be

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<sup>1</sup> See document PSC/PR/2(XXXV), 25 July 2005, Addis Ababa, Ethiopia, in particular pages 2, 3, 5 and 6.

challenged by a few factors. Among them is the fact that properties belonging to displaced persons are occupied by former combatants who, although disarmed and demobilised, are left with no meaningful alternative employment. Many former combatants are resisting requests to vacate the properties they occupy illegally. Unless there is a comprehensive action plan aimed at tackling the problem of the socio-economic reintegration of the former combatants, *inter alia*, it might remain difficult to address this situation.

8. The special situation of the members of the Mandingo ethnic group deserves some specific attention. The Mandingo ethnic group is one of the minority ethnic groups in Liberia. Members of this group have always been regarded as non-indigenous outsiders, even though they have lived in Liberia for many generations, and some of them are originally from Liberia. They are known to be middle-class business people who were associated with the regime of late President Samuel Doe, as a matter of economic opportunity. Due to such association with the regime of Doe, they became targets of persecutory acts during the Liberian conflict<sup>2</sup> which was waged by Charles Taylor (who is a Congo), as well as during his subsequent regime<sup>3</sup>. Members of the Mandingo ethnic group continue to have a difficult co-existence with other ethnic groups in Liberia, notably the Gio and Mano<sup>4</sup>, mainly in Monrovia city, Nimba and Lofa counties. The situation of the members of the Mandingo ethnic group is further compounded by the fact that, unlike the other ethnic groups, they do not identify themselves as belonging to any given territory within Liberia. They are settled in border counties (notably Nimba and Lofa) and in Monrovia. As they are not fully recognised by the autochthones as Liberian nationals, they might not be entitled to land property in Liberia, in line with the Liberian Constitution. Nevertheless, the Liberian Constitution and the Liberian nationality law recognise the *ius soli* as a mode of acquisition of the Liberian nationality. Legally, only the Mandingos who immigrated to Liberia (mostly from Guinea) may have a problem in acquiring the Liberian nationality; their descents born in Liberia should be recognised as Liberian nationals. In this respect, it is expected that requests from members of the Mandingo ethnic group will be met with hostility, and it remains to be seen if they will be able to have their property rights reinstated.

9. An extensive Disarmament, Demobilisation and Reintegration – DDR - process was conducted, mostly insofar as the “DD” element is concerned, with approximately 100,000 former combatants going through this process. However, the “reintegration” component of the process remains symbolic and lacks adequate funding. In line with the well-known phenomenon of mercenarism in the sub-region of West Africa, UNMIL has reported the recruitment of Liberian former combatants at the border between Côte d’Ivoire and Liberia.

10. Although the peace process is well underway in Liberia, and with elections scheduled to take place in October 2005, the overall situation in Liberia remains

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<sup>2</sup> When using the term “Liberian conflict”, for the sake of simplicity, we refer to the time when there was a general civil war in Liberia, before Charles Taylor came to power in 1997, following elections in July of that year (1990-1996).

<sup>3</sup> From July 1997, when he was elected as President of Liberia, Charles Taylor remained in power until 11 August 2003 when he was convinced by the ECOWAS leaders to step down from power.

<sup>4</sup> It should be noted that historically, the Gio and Mano are enemies to the Khran ethnic group to which Samuel Doe belonged.

fragile. Indeed, due to unsuccessful reintegration, Liberia has been subject to violent demonstrations of discontent against the authorities, on the part of elements of former combatants. While such incidents were not directly targeting the civilian population, the latter has suffered from collateral damages, and at times deliberate harmful acts, amidst property disputes, *inter alia*, as mentioned above. Additionally, considering the uncertainty surrounding the outcome of the planned elections, the possibility that Liberia could slide back to violence should not be ruled out. Furthermore, and assuming that the situation remains as it is, the magnitude of the issues facing the people and the authorities of Liberia is such that it will require time, political will on the part of all stakeholders, including the international community, and a significant amount of resources, before this process can consolidate.

11. Taking into consideration the developments in Liberia, and the decreasing number of Liberians seeking asylum for the time being, it is no longer warranted to advise that all Liberian asylum-seekers should be granted refugee status on a *prima facie* basis. However, in appreciation of the fragile security situation and ongoing human rights violations in Liberia, it is recommended that possible asylum requests of Liberian nationals should be treated as follows:

i) Liberian asylum-seekers in Africa should undergo individual refugee status determination in line with the relevant provisions of the 1951 Convention and its 1967 related Protocol, as well as Article I (2) of the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, as applicable.

ii) Liberian asylum-seekers outside Africa should undergo individual refugee status determination, in line with the relevant provisions of the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees. Given the possible continuing violations of international human rights and humanitarian law, particularly through the targeting of civilians by possible uncontrolled still armed elements (on ethnic and/or political grounds), some Liberians may qualify as refugees under the 1951 Convention/1967 Protocol relating to the Status of Refugees. Those not recognised as refugees should continue to be favourably considered for complementary forms of protection.

iii) In the process of refugee status determination, due attention should be paid to possible grounds for exclusion, in accordance with Article 1 F of the 1951 Convention, and/or Article I.5 of the 1969 OAU Convention, as the case might be.

iv) Considering that the situation remains precarious, a moratorium on forced returns of rejected asylum-seekers to Liberia is still warranted.

This position will be reviewed after successful elections in Liberia. Currently, elections are planned to take place on 11 October 2005.

Africa Bureau/DIP  
3 August 2005.