



## **UNHCR's POSITION ON INTERNATIONAL PROTECTION NEEDS OF ASYLUM- SEEKERS FROM LIBERIA\***

1. UNHCR's last Position on the Treatment of Liberian Asylum-Seekers and Return to Liberia dates from 3 August 2005. This position recommended individual refugee status determination for Liberian asylum-seekers under the 1951 Convention and the 1969 OAU Convention, Article I.2, as applicable; complementary forms of protection for those who may not be recognised as refugees; and a continued moratorium on forced returns of rejected asylum-seekers. As indicated in the document, this position would be reviewed after the presidential elections in Liberia had taken place, and the current position paper supersedes previous recommendations made on the treatment of Liberian asylum-seekers and return to Liberia.

2. Presidential elections took place in Liberia with the first round held in October and the second round in November 2005, and resulting in Ms. Ellen Johnson-Sirleaf elected as President. The successful electoral process was conducted in a peaceful and calm atmosphere, and considered by many as an important consolidation of the progress made in re-establishing peace and democracy in Liberia. Ms. Johnson-Sirleaf, the first ever elected female president in Africa, was sworn into office on 16 January 2006. She took over from the National Transitional Government headed by Mr. Gyude Bryant, which was established as provided by the Comprehensive Peace Agreement of 18 August 2003, ending a period of 14 years of civil conflicts in Liberia.

3. The overall security situation remains relatively safe and stable, with the 15,000 strong force of the United Nations Mission in Liberia (UNMIL) deployed throughout the country<sup>1</sup>, along with some 1,000 UN Civilian Police. In order to ensure sustainable security, the national police and national armed forces are being restructured. More than 1,800 national police officers have been trained with the objective of having 3,500 personnel in total. Furthermore, recruitment and training for a new 2,000-strong national army has begun. Of concern, however, remains the situation of former members of the Armed Forces of Liberia, who were demobilised and/or retired<sup>2</sup>. The latter are dissatisfied with the payment of their retirement pension,

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\* This Position supersedes *UNHCR's Position on the Treatment of Liberian Asylum-Seekers and Return to Liberia* dated 3 August 2005, in Refworld 2005, issue 14, CD 3, also on UNHCR's website <http://www.unhcr.org/cgi-bin/texis/vtx/home/opendoc.pdf?tbl=RSDLEGAL&id=42f762554>.

<sup>1</sup> UNMIL current mandate runs until 30 September 2006, following an extension by the Security Council Resolution 1667 (2006) of 31 March 2006.

<sup>2</sup> The former members of the Armed Forces of Liberia (AFL) who were demobilised are those who were recruited irregularly after the outbreak of the civil war in 1989. They were numbering some 9,400 individuals and were paid a severance grant of USD 540 each. In addition to these irregular members of the AFL, there were 4,273 regular members of the AFL due for retirement under the programme of restructuring of the AFL implemented by UNMIL as of September 2005. In December 2005, this

which for some of them remains pending due to funding shortfall. The reintegration of demobilised former combatants has been hampered by funding shortfalls and a slower than anticipated re-emergence of communities in which to reintegrate former combatants. This combined with the prevailing volatile political and security situation in neighbouring Côte d'Ivoire, raises concern in view of the well-known phenomenon of mercenarism in the sub-region of West Africa. It is believed that the continued presence of UNMIL in Liberia will suffice to avert a negative impact of these two factors on the fragile peace and recovery processes of Liberia. Furthermore, it is assumed that by the time UNMIL pulls out, these two factors would have been resolved and/or the national security forces would be adequately equipped to ensure safety and security.

4. Generally, the human rights situation has improved and continues to improve<sup>3</sup>, thanks to the significant efforts made by the transitional authorities towards addressing the main human rights concerns, such as a weak institutional base for the rule of law, poor detention conditions, the protection of the right to life, physical integrity including sexual and gender-based violence, as well as economic, social and cultural rights, including the right to land and property. Various measures have been taken to address the problems, such as

i) The Truth and Reconciliation Commission is currently being set up and will base its work on OHCHR and UNDP mapping of the major human rights violations that took place during the period of civil conflicts in Liberia;

ii) Assistance is being given to the Government for the assignment of circuit-court judges and magistrates throughout the country;

iii) Correctional institutions are being refurbished;

iv) A large number of projects are being implemented to address sexual and gender-based violence;

v) Property committees have been set up throughout the country, in particular in counties where land and property issues frequently arise;

vi) The respect of social, economic and cultural rights for the entire Liberian population is very much linked to the rehabilitation of social services, which the international community has pledged to support after the installation of the newly elected Government.

5. The specific situation of members of the Mandingo ethnic group may still warrant some special attention. They are perceived by some segments of the Liberian society as non-indigenous migrants. In addition, members of the Mandingo ethnic

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programme was put on hold due to funding shortfall. It remains unclear whether this problem has so far been solved. Source: Ninth Progress Report of the SG on UNMIL to the Security Council no S/2005/764, dated 7 December 2005, paragraph 35.

<sup>3</sup> In this sense, see the Fact Sheet of BPRM dated 8 March 2006, on <http://www.state.gov/g/drl/rls/hrrpt/2005/61577.htm>, which acknowledges improvement of situation in Liberia.

group were considered supporters of the regime of Samuel Doe, ULIMO and more recently LURD. It cannot be excluded that upon return, their citizenship might be contested, which would also lead to them having difficulties in regaining their property rights, as in accordance with Liberian legislation<sup>4</sup>, foreigners cannot own land in Liberia. As a result, individual members of the Mandingo ethnic group might be faced with harassment and discriminatory treatment, due to perception that as “outsiders” and former supporters of Samuel Doe, ULIMO and more recently LURD, they should not be entitled to benefit from advantages acquired in the past. The situation of the Mandingos is further compounded by the fact that unlike the other ethnic groups, their attachment to a specific region within Liberia is more tenuous. The Liberian authorities have established Property Committees throughout Liberia, whose task is to address property-related issues and disputes. The non-discriminatory treatment of Mandingos in such procedures might be a challenge.

6. The socio-economic situation remains very difficult, and will require further support given the level of devastation during the long period of conflicts. According to reliable sources<sup>5</sup>, life expectancy in Liberia is below 40 years. Unemployment rate in the formal sector is above 80%. Roughly 80% of Liberians live on less than \$ 1 per day. The inflation rate rose from 2% in 1999 to 20% in 2002. Infant and maternal mortality rates are currently amongst the worst in the world. Based on the Inter-Agency Gap Analysis Data<sup>6</sup>, only 35% of the necessary medical structures are currently operational in Liberia; 14% of the population has access to safe drinking water, and only 10% of the population have access to safe excreta disposal. Liberia's economy is termed to be dysfunctional as of yet, and characterised by extremely low growth, coupled with a high debt burden. Given the level of general and massive decline in all economic sectors across the board during the Liberian conflicts, and considering the economic sanctions which remain to be lifted, it is unlikely that Liberia will be in a position to provide for the most basic social services needed by its population before some time to come.

7. The above notwithstanding, it is believed that the implementation of the Governance and Economic Management Assistance Programme (GEMAP), which provides for the supervision of government funds by international experts, will play a key role in building the Government's capacity and ensuring the appropriate use of

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<sup>4</sup>It should be underlined that in general, members of the Mandingo ethnic group in Liberia originally emigrated from Guinea. While the Liberian Constitution and the Liberian nationality law recognise the *ius soli* as a mode of acquisition of the Liberian nationality, it remains factually accurate that most of the members of the Mandingo ethnic group who emigrated from Guinea may not have acquired the Liberian nationality through naturalisation, which in the Liberian legislation is a rather cumbersome process, fraught with conditions which are difficult to fulfill for the majority of individuals.

<sup>5</sup> See for instance The World Bank Report on Community Cohesion in Liberia, A Post-War Rapid Social Assessment, Paper No 21 dated 15 January 2005, at <http://siteresources.worldbank.org/INTCPR/214578-1111996036679/20482464/WP+21-web.pdf>; The Report of the Secretary General in pursuance of paragraph 19 of resolution 1478 (2003) concerning Liberia, dated 5 August 2003, at <http://daccess-ods.un.org/TMP/9122912.html>.

<sup>6</sup> See The Joint Action Plan for Community Based Recovery and Restoration of Social Services in Liberia, Monrovia, October 2005. An inter-agency initiative involving UNDP, UNICEF, UNHCR and WFP. This document will be posted on the Humanitarian Information Center for Liberia website anytime from now, at <http://www.humanitarianinfo.org/Liberia/>.

resources. Additionally, the possible lifting of economic sanctions against Liberia<sup>7</sup> in the near future is another key element in the process of the Liberian economic recovery. More tangibly, in an effort to address some of the country's socio-economic needs, UNHCR, UNDP, UNICEF and WFP have pooled their reintegration programmes within the framework of a collaborative plan. This single coherent framework aims to harmonize parallel programs that support smooth transition from relief and humanitarian intervention to long-term MDG-based recovery and development.

8. Since the start of the organised voluntary repatriation operation to Liberia in October 2004, UNHCR and its partners have assisted some 58,000 Liberian refugees to voluntarily repatriate. Additionally, it is estimated that more than 150,000 Liberian refugees have spontaneously returned to Liberia since July 2003. Furthermore, out of the estimated 315,000 Internally Displaced Persons (IDPs) who were living in various camps throughout Liberia, more than 270,000 individuals have been assisted to return home since the commencement of this operation in November 2004. The return and reintegration of refugees and IDPs is a priority for the newly elected President, who has appealed to all refugees to return home, and who is personally committed to ensuring their return and reintegration in conditions of safety and dignity. In light of the overall positive developments in Liberia and the increasing interest of the Liberian refugees currently living in different asylum countries to return home, UNHCR decided in February 2006 to start promoting the voluntary repatriation of Liberian refugees.

9. In light of the above, it is the view of UNHCR that:

i) Asylum requests of Liberians should be examined thoroughly in fair and effective individual refugee status determination procedures with the necessary procedural safeguards, taking into consideration the individual merits of their asylum claim, based on the criteria in the 1951 Convention, and where applicable, Article I.1 of the 1969 OAU Convention. In this respect, asylum claims of members of the Mandingo ethnic group should be given careful consideration in light of paragraph 5 of this document. Additionally, in light of the particularly violent nature of the armed conflict in past years, asylum claims of victims of particularly atrocious forms of persecution suffered in the past should be examined taking into account the consequences and effects of such persecution on the victims concerned where the continuing impact of the past persecution could put the individuals at risk of serious harm to their well being if returned. In the process of refugee status determination, due attention should be paid to possible grounds for exclusion, in accordance with Article 1F of the 1951 Convention, or Article I.5 of the 1969 OAU Convention, as applicable.

ii) In regard to individuals found not to be eligible for refugee status under the 1951 Convention or OAU Convention, as applicable, UNHCR would have no objection to

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<sup>7</sup> The lifting of the sanctions against Liberia is yet to be agreed upon within the international community. So far, many stakeholders – including members of the panel of experts monitoring the implementation of the sanctions – are of the view that the success of the GEMAP might be at stake, if the economic sanctions on Liberia remain in force.



their possible return to Liberia. In the context of assessing the feasibility and timing of the return, States may consider humanitarian reasons for granting stay to certain individuals taking into account the poor state of social and medical infrastructure in Liberia.

10.. This position will remain valid until further notice.

UNHCR Geneva  
31 March 2006.