

# Report

## International Fact-finding Mission

### “Ballots not bullets!”

### Will human rights be respected in Liberia?



Monrovia, 2005\*

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\*Cover photograph: September 2005: Liberia Watch for Human Rights’ billboard in Freeport, Monrovia

## Introduction

### 1. Mission’s rationale and objectives

In August 2003, Liberia emerged from 14 years of a violent civil war believed to have claimed over 150,000 lives—mostly among civilian populations—and displaced over 850,000 persons. Two years after the signature of the Comprehensive Peace Agreement (CPA) that brought together the three warring parties<sup>1</sup> on August 18, 2003, Liberians were voting to elect their new President, Representatives and Senators in October and November 2005.

Concerned with the challenges and risks at stake during the pre-electoral period under such circumstances, and convinced the ballots endorsed a critical importance not only for the country itself but also for the entire sub-region, the International Federation for Human Rights (Fédération internationale des ligues des droits de l’Homme - FIDH) considered it necessary to mandate an investigation mission to Liberia:

- To assess the preparation and organization of the elections with regards to international human rights standards;
- To assess the respect of the right to justice and reparation for victims of the most serious crimes committed during the civil wars;
- To assess the situation of the administration of justice;
- To assess the general situation of fundamental freedoms, notably freedoms of association, demonstration and expression and of the press, in particular in the light of the electoral context;
- To document obstacles that inhibit the work of human rights defenders in Liberia, according to the rights notably laid out in the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and other instruments of international human rights law and international humanitarian law;
- To explore specific and achievable recommendations for the newly elected government.

### 2. Delegation’s composition and activities

The international fact-finding mission mandated by FIDH was conducted from August 21 to September 7, 2005, with the help and support of Liberia Watch for Human Rights (LWHR), FIDH member organization in Liberia. A regular follow-up was later ensured in order to cover Election Days.

The FIDH delegation was composed of: Mr. Wolfgang Kaleck (Germany), a criminal and human rights lawyer and president of the Republican Attorneys’ Association (Republikanischer Anwältinnen- und Anwälteverein - RAV), Mr. Badié Hima (Niger), vice-president of the Niger Association for the Defence of Human Rights (Association nigérienne de défense des droits de l’Homme - ANDDH, FIDH member organization in Niger), and Ms. Julia Littmann (France), FIDH delegate.

The delegation, which was unfortunately not able to leave Monrovia, was able to meet with the following government officials, representatives of the United Nations Mission in Liberia (UNMIL) and civil society representatives:

#### Government officials

- Mr. Kabineh Muhammad Ja’neh, Minister of Justice
- Mr. William Allen, Minister of Information
- Mr. H. Dan Morias, Minister of Internal Affairs
- Mr. Henry Cooper, Chief Justice
- Mr. Samuel K. Jacobs, Montserrado County Attorney
- Mr. George G. Koukou, NTLA acting speaker of Parliament

#### Representatives of national institutions

- Mr. David P. Kialain, national consultant, Governance Reform Commission (GRC)
- Mrs. Frances Johnson-Morris, Chairman, National Elections Commission (NEC)
- Mr. Gerald Coleman, acting Chairman, Truth and Reconciliation Commission (TRC)

#### Civil society representatives

- Messrs. Thompson Ade Bayor and Bill Pyne, president and coordinator, Liberia Watch for Human Rights (LWHR)

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1. The Liberians United for Reconciliation and Democracy (LURD), the Movement for Democracy in Liberia (MODEL) and the Government of Liberia.

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- Messrs. Alfred Quayjandii and Joseph Blamiyon, national coordinator and programme officer, National Human Rights Center (NHRC)
- Mr. T. Dempster Brown, chairman, Independent National Human Rights Commission (INHRC)
- Mr. Alfred Brownell, president, Green Advocates
- Mrs. Juliana Buoro, deputy director, Liberia Broadcasting System (LBS)
- Mrs. Etweda Cooper and Mrs. Sartah Dempster, secretary general and financial secretary, Liberia Women Initiative (LWI)
- Mrs. Zeor C. Daylue, treasurer, Association of Female Lawyers of Liberia (AFELL)
- Mr. Cecil B. Griffiths, president, Liberia National Law Enforcement Association (LINLEA)
- Mrs. Elizabeth Hoff, president, Press Union of Liberia (PUL)
- Messrs. Aloysius Toe and Senyan Kieh, president and programme officer, Foundation for Human Rights and Democracy (FOHRD)
- Mr. Augustine Toe, national director, Catholic Justice and Peace Commission (JPC)
- Mr. Alfred Thomas, Liberia Federation of Labour Unions, secretary gen. Adm., Seafarers union
- Mr. Marcus Blamah, general secretary, National Timber Wood Construction and Allied Workers' Union of Liberia (NTWCAWU)
- Mr. Jerry Duplaye, secretary general, Congress of National Trade Unions of Liberia (CONATUL)
- Messrs. Alfred Summerville and Lavelaku Stanley, deputy secretary general and VP/administration officer, General Agricultural and Allies Workers' Union of Liberia (GAAWUL)
- Mr. Ezekiel Pajibo, president, Centre for Democratic Empowerment (CEDE)
- Mr. Bobby Tapson, journalist, *the News Newspaper*
- Messrs. James Morlu and George Bennett, station manager and project director, STAR Radio
- Mr. Charles Abdoulaye, lawyer, White Watch law firm

**UNMIL representatives**

- Mr. Ray Kennedy, director, UNMIL electoral division
- Mrs. Dorota Gierycz and Mr. Adam Abdelmoula, director and deputy director, UNMIL human rights and protection section
- Mr. L. Reeves, UNMIL legal section

The delegation wishes to underline the high level of cooperation with the authorities who acceded to all requests for meetings, and to express its gratitude for their information and help to all the persons it met and whose names might not be mentioned in the list above.

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**ABBREVIATIONS AND ACRONYMS**

**AU:** African Union  
**CPA:** Comprehensive Peace Agreement  
**ECOWAS:** Economic Community of West African States  
**INHRC:** Independent National Human Rights Commission  
**LURD:** Liberians United for Reconciliation and Democracy  
**MODEL:** Movement for Democracy in Liberia  
**NEC:** National Elections Commission  
**NPFL:** National Patriotic Front of Liberia  
**NTGL:** National Transitional Government of Liberia  
**NTLA:** National Transitional Legislative Assembly  
**PRC:** People's Redemption Council  
**SC-SL:** Special Court for Sierra Leone  
**TRC:** Truth and Reconciliation Commission  
**ULIMO:** United Liberation Movement of Liberia  
**UNMIL:** United Nations Mission in Liberia

## I. Background information: A war-torn country

### 1. Map



Source: UNEP

### 2. General Data<sup>2</sup>

Area: 111,370 sq km  
Population: 3,482,211 (July 2005 est.)  
Population growth rate: 2.64% (2005 est.)  
Infant mortality rate: 12, 9%

Life expectancy at birth: 47.69 years  
GDP (US\$ billions): 0.4 (2003 est.)  
Unemployment: 85% of the active population  
Illiteracy: 80%

Two years after the civil conflict ended, Liberia still lacks basic amenities such as pipe-borne, running water, electricity and a proper road network.

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2. Sources: The CIA World Factbook, UNDP, UNMIL and UNICEF.

### **3. General History**

In 1816, a group of white Americans established the American Colonisation Society (ACS), aimed at providing freed slaves the opportunity to return to Africa. First Afro-American emigrants were shipped to Sierra Leone and Northern Liberia in the 1820s under the auspices of the ACS. After thirty years of settlement and tensions with the local native tribes, the colony declared itself an independent State on July 26, 1847. From 1847 to 1980, the Republic of Liberia was ruled by members of the True Whig Party (TWP) formed by descendants of the Afro-American freed slaves; this situation engendered recurrent tensions with the native populations over the decades. After a period of calm and economic development under President William V.S. Tubman's presidency from 1944 to 1971, these tensions grew under President William R. Tolbert's term.

#### **Samuel Kanyon Doe's regime: 1980-1989**

- April 12, 1980: President William R. Tolbert, in office since Tubman's death in 1971, was overthrown and killed along 13 of his Cabinet members by a coup led by Sergeant Samuel Kanyon Doe, from the Krahn ethnic group. The Constitution was suspended by the Doe-headed People's Redemption Council (PRC), which assumed full legislative and executive powers. Political parties were banned and Doe's first years in power were marred by violent repression against suspected opponents and dissidents.

- July 26, 1984: Following national and international pressure, the ban imposed on political parties was lifted and general elections were planned for October 1985.

- October 15, 1985: Mr. Samuel Doe won the presidential election, and his party, the National Democratic Party of Liberia (NDPL), won the majority at the National Assembly. Post-electoral period was marked by increased violations of fundamental freedoms.

- November 12, 1985: Mr. Thomas Quiwompka, one of Doe's former aides of Gio descent and "strongman of the 1980-revolution," entered Liberia from neighbouring Sierra Leone seeking to overthrow Doe's government. The Krahn-dominated Armed Forces of Liberia (AFL) executed him in Monrovia. As revenge, Doe's government launched a violent repression campaign against the Gio and Mano ethnic groups in Quiwompka's Nimba County.

- January 6, 1986: A new Constitution, drafted in 1983, was adopted.

#### **The first civil war: 1989-1997**

- December 24, 1989: Charles Ghankay Taylor, heading a 100-men troop (trained by Libya and backed up by Burkina Faso), crossed the Ivorian-Liberian border and attacked an AFL position in Butuo. The AFL started a bloody retaliation campaign against Gio and Mano populations, echoing the 1985-purge. As a consequence, Gios and Manos joined en masse Taylor's NPFL, all the more than Taylor presented his rebellion as a continuation of the 1985-coup and was related by marriage to Thomas Quiwompka.

- February 1990: Taylor's second in command, Prince Yormie Johnson, split off from the NPFL and formed the Independent National Patriotic Front of Liberia (INPFL).

- May 1990: Doe's AFL started to target the Gio and Mano populations in Monrovia. The Economic Community of West African States (ECOWAS) decided to establish a Standing Mediating Committee (SMC).

- June 1990: Rebel forces reached the outskirts of Monrovia.

- August 7, 1990: ECOWAS peace plan called for a ceasefire, the establishment of the ECOWAS Monitoring Group (ECOMOG), for the holding of a national conference to establish a broad based interim government in Liberia, and for holding elections within 12 months. The NPFL, who attended the meeting, rejected these decisions.

- August 24, 1990: 3000 ECOMOG forces arrived in Monrovia.

- August 30, 1990: An Interim Government of National Unity (IGNU), headed by Mr. Amos Sawyer, was elected in Banjul by a conference convened by ECOWAS.

- September 9, 1990: Prince Y. Johnson's forces (INPFL) captured Samuel Doe in the ECOWAS headquarters of Monrovia and executed him.

- November 22, 1990: President of IGNU Mr. Amos Sawyer, a well-known Liberian intellectual, was sworn in. Monrovia-based IGNU was not recognized by rebel leader Charles Taylor, who was based outside Monrovia and controls the rest of the country, which remained divided between two effective seats of government.

- November 28, 1990: A cease-fire agreement was signed in Bamako, Mali, between the NPFL, the interim Government and the ECOWAS.

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- March 1991: Armed groups led by Mr. Foday Sankoh (Revolutionary United Front - RUF) and backed by Taylor launched an attack from Liberia against eastern and southern Sierra Leone, which Taylor accused of backing the ECOMOG.

- September 1991: Mr. Alhaji Kromah organized Krahn and Mandingo refugees in Sierra Leone to form the United Liberation Movement of Liberia (ULIMO), mostly composed of Doe's AFL-remnants.

- October 15, 1992: Taylor's NPFL launched the "Operation Octopus" to take over Monrovia, and was stopped by ECOMOG forces backed by ULIMO.

- July 1993: A peace conference under the auspices of the UN and ECOWAS led to a ceasefire and to the Cotonou peace accord signed on July 25, which provided for a new Transitional Government, elections, ceasefire, disarmament, demobilization, repatriation of refugees and a general amnesty. Disarmament of the warring factions was impeded because of inter-factional fighting. The Security Council established an Observer Mission in Liberia (UNOMIL), which was deployed in early 1994.

- March 1994: ULIMO split between ULIMO-J, headed by Roosevelt Johnson and mainly composed of Krahns, and ULIMO-K, headed by Mr. Alhaji Kromah and mainly composed of Mandingoes.

- August 19, 1995: A peace accord was signed in Abuja, Nigeria. The transitional government provided for by the accord was installed in September 1995, while UNOMIL and ECOMOG forces were deployed in early 1996 to implement the peace process.

- April 1996: The ceasefire ended when fighting erupted in Monrovia following the announcement by Charles Taylor that his troops would arrest Prince Y. Johnson; after weeks of violent fighting on the streets of Monrovia, the warring factions agreed on the Abuja Peace Accord Supplement, which provided for a ceasefire, disarmament of the factions and the organization of elections by June 1997.

- July 19, 1997: Mr. Taylor and his civilian party, the National Patriotic Party (NPP), under the motto "*you killed ma 'ma, you killed my 'pa, but I'll still vote for you*" won the presidential election with over 75% of the votes, in a ballot marred by irregularities.

### **The second civil war**

- 1999: A new rebel group, the Liberians United for Reconciliation and Democracy (LURD), supported by Guinea, was formed.

- July 2000: Fighting involving the LURD factions, mostly based in Guinea, broke out in Lofa County.

- March 7, 2001: The UN Security Council adopted Resolution 1343 imposing a travel ban for senior officials and a ban on diamond exports.

- 2001-2002: Fighting intensified, notably in Lofa County, between the Taylor's Armed Forces of Liberia (AFL) and the LURD.

- February 8, 2002: Mr. Taylor declared the state of emergency, which lasted until September 14, 2002.

- May 2002: LURD launched its offensive on Monrovia, which was repelled by the government forces by October 2002.

- September 2002: An International Contact Group on Liberia (ICGL) bringing together the UN, the ECOWAS, the European Union's Presidency and Commission and the United States, was established.

- March 7, 2003: The Special Court for Sierra Leone indicted Charles Taylor for crimes against humanity.

- April 2003: The Movement for Democracy in Liberia (MODEL), supported by Côte d'Ivoire and based in southern Liberia, began incursions into the Liberian territory.

- June 17, 2003: LURD forces controlled 2/3 of the territory; a ceasefire agreement was signed in Accra, Ghana, between the Government forces, the LURD and the MODEL. A week later, on June 24, rebel forces launched an offensive in central Monrovia followed by weeks of violent, bloody fighting.

- August 11, 2003: Mr. Charles Taylor handed over power to his Vice President, Mr. Moses Blah, and fled in exile to Nigeria.

- August 18, 2003: Following negotiations led in Akosombo and Accra since August 4, a Comprehensive Peace Agreement (CPA) was signed in Accra, Ghana, between the LURD, the MODEL, the Government and political parties. The CPA established the National Transitional Government of Liberia (NTGL) comprised of representatives of the 3 warring factions mentioned above.

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**The National Transitional Government of Liberia (NTGL):  
2003-2005**

- October 14, 2003: The National Transitional Government of Liberia (NTGL) was inaugurated under the new Chairman Gyude Bryant. The United Nations Mission in Liberia (UNMIL) was deployed, reaching over 15 000 staff by the end of the year.
- December 2003: The Cantonnement, Disarmament, Demobilization, Rehabilitation and Reintegration (CDDRR) programme was launched.
- April 2004: The National Elections Commission (NEC) was established.
- October 28-31, 2004: Violent riots broke out in Monrovia, mainly targeting Mandingo populations.
- January 1, 2005: The NEC launched the voters' registration campaign.
- April 25 - May 21, 2005: Voters' registration process was led under the auspices of the NEC. Over 1,3 million Liberians were registered as voters.
- August 13, 2005: The NEC announced the list of eligible candidates, allowed to campaign from August 15 to October 9.
- October 11, 2005: General Elections Day.
- November 8, 2005: Presidential run-off election between Mrs. Ellen Johnson-Sirleaf (Unity Party - UP) and Mr. George Manneh Weah (Congress for Democratic Change - CDC).
- November 23, 2005: The NEC officially announced Mrs. Ellen Johnson-Sirleaf new President of Liberia.
- January 16, 2006: Swearing-in of Mrs. Ellen Johnson-Sirleaf as President of Liberia.

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## **II. Assessment and analysis of the 2005 electoral process with regards to international human rights standards**

On October 11, 2005, Liberians went to poll to elect their president, vice-president, representatives and senators. The second round of presidential elections was held on November 8, 2005. Two years only after the end of 14 years of a violent civil war, while impunity prevails for the gross violations of human rights committed among a 3 million population, the electoral process and ballots could have led to tension and violence. Election Days, however, were qualified as peaceful, transparent and respectful of international standards by both national and international observers.<sup>3</sup> It was the result of a process that started almost a year ago, in which national institutions such as the National Elections Commission (NEC), the United Nations Mission in Liberia (UNMIL), the international community, but also civil society and the entire population truthfully involved in. Only few tensions arose when Mr. George Weah's supporters contested the results declaring Mrs. Ellen Johnson-Sirleaf new President of Liberia.

On November 23, 2005, Mrs. Ellen Johnson-Sirleaf became Africa's first elected female leader with 59.4% of the votes.

Whereas the success of the electoral process in Liberia brings hope for the establishment of democracy and the rule of law in the country, the election of former warlords and persons subjected to UN sanctions as representatives of the State is highly prejudicial to the necessary fight against impunity for the serious crimes committed during the civil wars, essential component of a long-lasting peace.

### **1. A free, fair and transparent process**

#### **A. Legal framework**

The 2005 elections were held in accordance with Article 19-2 of the Comprehensive Peace Agreement (CPA) signed in Accra, Ghana, on August 18, 2003, which stipulates that *“national elections shall be conducted not later than October 2005.”*

The whole process, to which the UNMIL, the Economic Community of West African States (ECOWAS) and international community brought their political and logistical support, was conducted and supervised by the NEC,<sup>4</sup> primarily established by Article 89 of the 1986 Constitution and reorganized pursuant to Article 18-2 of the CPA, which provides that the NEC *“shall be reconstituted”* and *“independent.”* The NEC was tasked with organizing *“voters’ education and registration programs,”* *“in conformity with UN standards, in order to ensure that the rights and interests of Liberians are guaranteed and that the elections are organized in a manner that is acceptable to all.”*<sup>5</sup>

The seven NEC Commissioners<sup>6</sup> were appointed by Mr. Gyude Bryant, Chairman of the National Transitional Government of Liberia (NTGL), with the advice and consent of the National Transitional Legislative Assembly (NTLA), and officially installed on April 29, 2004. Four of these seven *“men and women of integrity”*<sup>7</sup> stemmed from civil society organizations<sup>8</sup> in order to ensure the requisite independence of the institution and the

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3. According to the European Union Election Observation Mission to Liberia, *“the 8 November presidential run-off election has been peaceful and generally well administered, consolidating the achievements of the 11 October elections and advancing the process of returning Liberia to a normal functioning State.”* See Statement of preliminary findings and conclusions, Monrovia, 10 November 2005, [www.eueom-lib.org](http://www.eueom-lib.org).

The African Union Observer Mission stated that the conduct of *“the second round of the presidential run-off election has been free and transparent.”* See, Statement of the AU Observer Mission, 9 November 2005, [www.african-union.org](http://www.african-union.org).

*“The 11 October 2005 presidential and parliamentary elections have so far been peaceful and generally well administered, marking an important step forward in the process of returning Liberia to a normal functioning state. (...) Voters were provided with a wide range of political contestants, and (...) were able to cast their ballots free from fear. (...) During election day, voters turned out in large numbers, in a calm and orderly manner. Polling procedures were largely well followed and the secrecy of the vote was generally well maintained.”* Source: Peaceful and orderly election marks an important step forward in the process of returning Liberia to a normal functioning state, Statement of preliminary findings and conclusions of the European Union election observation mission to Liberia, October 13, 2005.

4. For further information, see also the official NEC website: <http://www.necliberia.org>.

5. See Article 18-2 (a) of the CPA.

6. Members of the Commission are: Mrs. Frances Johnson-Morris (chair), Mr. James Fromayan (co-chair), Mrs. Elizabeth J. Boyenneh, Mrs. Mary N. Brownell, Mr. James K. Chelley, Mr. Karmo Soko Sackor, and Mr. Jonathan Karvie Weedor.

7. See Article 18-2b of the CPA.

8. Mrs. Frances Johnson-Morris, chairperson of the Commission, for instance, was the former national director of the Catholic Justice and Peace Commission (JPC).

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close collaboration with national NGOs as stipulated by Article 19-4 of the CPA.

In order to “create appropriate conditions for elections,” an electoral reform was conducted in 2004 as provided for by Article 18-1 of the CPA: the Electoral Reform Law, which suspends some provisions of the 1986 Constitution and amends certain sections of the 1986 Election Law, was drafted by the NEC and approved by the NTLA on December 17, 2004.

According to the electoral legislation as modified by the Reform Law 2004, residency requirements for presidential and legislative candidates were suspended. The House of Representatives will be composed of 64 members elected for a six-year term, each of the 15 counties being allocated two seats and 34 additional seats being distributed according to the number of voters registered in the counties.<sup>9</sup> The Senate will be composed of 30 members—two per county—serving a six- to nine-year term.<sup>10</sup> In addition to this electoral reform, on September 22, 2005, the Supreme Court ruled voters be allowed to cast two votes instead of one for the Senate seats, as originally provided for by the Electoral Reform Law.

The ballot was conducted on a majority system—simple for the parliamentary election, and two-rounds for the presidential election.<sup>11</sup>

## **B. Voters’ registration and education**

### **i) Registration**

The NEC, which officially launched the education campaign for voters’ registration on January 31, 2005, conducted the process from April 25 to May 21, 2005 in 1,511 registration centres throughout the country. In accordance with Section 7 of

the Electoral Reform Law 2004,<sup>12</sup> returning refugees and internally displaced persons (IDPs) were granted a two-week extension period for registering from May 23 to June 4, 2005.

According to the final roll of eligible voters disclosed by the NEC, 1,352,730 persons (90% of the 1.5 million estimated voting population) were registered, which proved the population’s “enthusiasm”<sup>13</sup> for and involvement in the ballot. Another positive sign was the rate of female voters, who were particularly targeted by civic education campaigns and who represented slightly more than 50% of the total registered voting population.<sup>14</sup> In spite of the effort expended in order to encourage IDPs and refugees to register, they represented less than 5% of the voters<sup>15</sup> on October 11, 2005.

Voters could register in the precinct of their choice, whether in their county of origin or their place of residence (IDPs camps for displaced persons), and “[should] only vote in the voting precinct of the electoral district for which [they were] registered.”<sup>16</sup> Although a lot of people, notably 71% of the registered IDPs, decided to register in their county of origin in order to ensure the highest number of seats as possible for the election of representatives, Montserrado County (where Monrovia is located) still counted for over a third of the registered voters.<sup>17</sup>

The Electoral Reform Law 2004 added citizenship and identity check measures<sup>18</sup> to the existing legislation. Although these provisions were generally not resorted to, some ethnic groups—in particular the Mandingoes—were reportedly more targeted by identity check measures than others and sometimes even denied registration. The issue was specifically raised in border areas, where rumours stated that Mandingoes from Sierra Leone and Guinea were brought to Liberia to throw weight behind Liberian Mandingoes.<sup>19</sup> Such problems, however, seem to have been adequately and rapidly addressed by the NEC.

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9. The seats of the House of Representatives were allocated as follow: Montserrado: 14; Nimba: 7; Bong: 6; Grand Bassa: 4; Lofa: 4; Margibi: 4; Bomi: 3; Gbarpolu: 3; Grand Cape Mount: 3; Grand Gedeh: 3; Maryland: 3; River Gee: 3; Sinoe: 3; Grand Kru: 2; River Cess: 2.

10. According to Article 46 of the Constitution, the 30 Senators are elected on a two-category system: the candidate who receives the highest number of votes is a senator of the first category (a “senior” senator) elected for nine years, while the candidate who wins the second highest number of votes is a senator of the second category (a “junior” senator) to serve a six-year term of office.

11. If no candidate obtains an absolute majority in the first round, the two candidates who won the highest number of votes will be designated for a run-off election conducted on a simple majority system.

12. Accessed at <http://www.necliberia.org>.

13. Interviews with civil society representatives and NEC chairwoman, Mrs. Frances Johnson-Morris.

14. According to the NEC, 676,390 women and 676,340 men were registered.

15. According to the NEC, around 61,000 IDPs and refugees were registered.

16. See Electoral Reform Law 2004.

17. See International Crisis Group (ICG) report, *Liberia’s Elections: necessary but not sufficient*, September 2005.

18. See Section 6-1 of the Electoral Reform Law 2004: production of a birth certificate or valid passport, sworn statements by 2 other registered voters or confirmation by a Liberian traditional leader.

19. See ICG report, *Liberia’s Elections: necessary but not sufficient*, September 2005.

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**Voters’ registration, elections and ethnicity: the Mandingo issue**

The Mandingo ethnic group is the largest Muslim community in Liberia, and represents 8 to 10% of the population. If the religious issue plays a part in the rejection of Mandingoes in the Christian-dominated Liberian society, the negative perception of the group (which was relatively well-integrated before the war) mainly goes back to the alliance of Mandingo leaders with Samuel Doe’s regime (notably in the 1985 elections) and their further involvement in the ULIMO and LURD rebel groups, and is today fuelled by the perceived economic power and takeover of Mandingoes, who are said to be holding a significant part of the business services in the country. Moreover, as a cross-border ethnic group (Mandingoes can be found in most countries of the sub-region, in particular Guinea), they are considered by many in Liberia as “foreigners.”

Few violence or disturbance was reported during the registration process, which was monitored by the NEC, the UNMIL and civil society organizations. Most of the incidents were linked to former fighters’ protests, as was the case in Ganta City, Nimba County, where a group of ex-combatants attacked a registration centre on May 11, 2005 for protesting against the government’s failure to meet their demands and take their situation into account. The rampage could rapidly be settled after talks were initiated between the protesters and the city authorities.<sup>20</sup>

Voters were delivered a voters’ card with their picture, name, age and registration number, and without which they were not allowed to cast their poll on October 11. From September 17 to 30, the NEC organized a two-week voters’ card replacement session for those who lost their cards and whose names were previously duly registered on the voters’ roll.

Several persons interviewed by the delegation underscored that the 28-day registration period and its 2-week extension had been far too short to ensure a comprehensive electorate,<sup>21</sup> notably due to important transportation problems that prevented thousands of Liberians to register. The transportation issue posed even greater difficulties on Election Days: With the rainy season at its height, most roads were impassable, and it takes for instance up to 4 days to drive from Monrovia to Voinjama, Lofa County. Moreover, the increase of the price of fuel, the long travels requiring people to take several days off when working and the lack of travel facilities reportedly prevented numerous registered voters to cast their ballot in their precinct. In rural, remote areas, notably in Northern Lofa and Nimba Counties, certain polling stations remained inaccessible,<sup>22</sup> and several civil society representatives denounced the “urban advantage” at stake in the electoral process.

In order to remedy this situation, the NEC decided to establish special polling places in camps for IDPs who had registered to vote in their county of origin but were still located in the camps on Election Days, in order to allow these IDPs to vote for president and vice-president only. This decision gave rise to numbers of protests throughout the IDPs communities, who threatened to prevent ballot boxes from entering their camps and to boycott the poll if they were not allowed to elect their representatives and senators. These tensions, however, could be settled after negotiations were initiated between the NEC and IDPs community leaders, with the support of the UNMIL.

**ii) Civic education campaigns and media coverage**

Since early 2004, the NEC, the UNMIL and civil society organizations launched civic education programmes and campaigns in order to encourage the population to register as eligible voters and cast their ballots on October 11 and November 8. These campaigns, led by 2- to 3-person units regularly visiting the communities have played an important role in the population’s involvement in the elections.

The civic education officers interviewed by the delegation underlined the high level of cooperation with community leaders and the interest displayed by the population. Most of them, however, reportedly encountered some difficulties organizing workshops and public education sessions—some people would refuse to participate as the units were not providing food, drinks or money—, an obstacle that was circumvented by door-to-door, grass-roots education campaigns in both English and vernacular dialects. The units, who appeared to ensure genuine political neutrality, were tasked with explaining the voting process at the polling stations, promoting a respectful conduct on Election Days and peaceful acceptance of the results. They

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20. Liberia Watch for Human Rights (LWHR) quarterly report, April-June 2005.

21. Interview with Mr. David Gballah, Acting Deputy Speaker of the Parliament and Chairman of the Parliament Standing Committee on Elections.

22. About 150 out of 3,000, see Katharine Houreld, “Mud, rain and decay may stop many Liberians voting,” Reuters, September 21, 2005.

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particularly targeted vulnerable groups, as well as women (to avoid women being threatened or influenced by their husbands for the vote for instance). However, these campaigns were mainly held in Monrovia and its outskirts,<sup>23</sup> and communities in the hinterland (except in the counties' main cities) could reportedly not benefit from such programmes.

Media could operate freely and independently throughout the whole electoral process, while the media coverage of the elections was generally satisfactory and respectful of the Elections Coverage Code of Conduct adopted by the Press Union of Liberia (PUL) on June 15, 2005.<sup>24</sup> Although the press represented an important source of information and education in Monrovia, where over 30 newspapers are registered, the high rate of illiteracy<sup>25</sup> and the poor level of newspapers' distribution throughout the country strongly limited their education capacity. Radio stations however, and notably the UNMIL and STAR<sup>26</sup> Radios—the only two stations broadcasting on short-waves in the country—, played a significant role in voters' education, both for registration campaign, election awareness and disseminating information about the candidates. Several programmes were launched in both English and vernacular dialects, targeting specific groups (women, youth, disabled...), while candidates—in particular presidential aspirants—were granted equal airtime to explain their political agendas after the electoral campaign was officially launched on August 15, 2005.

However, as the majority of independent radio stations face a considerable lack of funding, some of them reported they had sold extra airtime<sup>27</sup> to the candidates. According to the Minister of Information, Mr. William Allen, these practices, which could provoke an imbalance in the electoral media coverage, were all the more difficult to monitor as most of the community radio stations are not networked.

A few weeks only before the ballot, the delegation was concerned that the word “election” was mainly understood as the presidential ballot, while parliamentary elections seemed of a secondary importance. Indeed, several persons interviewed by the delegation admitted there was far less information about

the candidates running for the House of Representatives and Senate. Several press and media representatives notably regretted that the coverage of the parliamentary elections had been overridden by the presidential elections, as it was impossible to grant each of the 762 candidates interviews and air-time due to the lack of time and funding, as well as technical difficulties.

More generally, people expressed their lack of knowledge and comprehension of the legislature's system and power, pushed into the background by the executive's overwhelming powers guaranteed by the Liberian Constitution and strengthened by the country's historical background.

### **C. Candidates' registration and campaigning**

#### **i) Provisions and figures**

On August 13, 2005, the NEC approved a total of 762 candidates and 30 political parties to contest the presidential and parliamentary elections: 22 candidates for President, 22 for Vice President, 205 for 30 Senate seats, and 513 for 64 House of Representatives seats. The 110 female registered candidates—2 of them only running for the presidency<sup>28</sup>—represented 14% of the hopefuls, far below the 30% share called for by the NEC Political Parties Guidelines.<sup>29</sup>

Only 17 candidacies were rejected by the NEC, which excluded five independent presidential aspirants, three vice presidential candidates and nine aspirants for the House of Representatives, for failing to fulfil eligibility requirements—notably the 500 requisite voters' signatures. The rejected presidential aspirants filled a complaint with the Supreme Court to challenge the NEC's decision. On September 26, 2005, the Supreme Court ordered two independent presidential aspirants, Mr. Cornelius Hunter and Mr. Marcus Jones, and one independent candidate for the House of Representatives, Mr. Isaac Johnson, to be granted the right to participate in the campaign. This ruling, which was made public two weeks only before the elections, could have obliged the NEC to postpone the ballots, and could

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23. Most of the monitors mandated by local human rights and pro-democracy NGOs had no car and sometimes had to walk for several hours in order to ensure their campaigns in the outskirts of the capital - up to once every two days.

24. This Code of Conduct notably called on journalists to report on the elections in a “fair, accurate, balanced and impartial way, to give equal access to all political parties while maintaining political neutrality, cover and scrutinize parties' campaigns, disseminate information about the NEC and other institutions involved in the electoral process, and promote tolerance, peace and human rights and expose violations thereof.”

25. Illiteracy rate in Liberia, according to a 2002 UNICEF report, reaches 80 to 85% of the population.

26. STAR radio is an independent radio station founded before the 1997 elections with the support of the USAID. Closed down by Taylor's regime in 2000, it resumed broadcasting in May 2005.

27. Interview with the Liberian Broadcasting System and the STAR Radio.

28. Mrs. Ellen Johnson-Sirleaf and Mrs. Margaret Tor-Thompson.

29. This share is also the minimum one set by the United Nations Development Programme (UNDP) for women's political participation.

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clearly be considered as a political move. Indeed, by the end of August 2005, as the delegation met Chief Justice Henry Cooper, he asserted the Supreme Court would quickly rule on the matter in order to ensure an adequate time frame for the aspirants to prepare their campaign. However, on October 6, 2005, following negotiations notably involving the UNMIL, the international community and Mr. Olusegun Obasanjo, President of Nigeria, Messrs. Hunter and Jones withdrew from the campaign.

Besides, according to the CPA, the NTGL Chairman, senior ministers, NTLA Speaker and Deputy Speaker and the Chief Justice were prevented to register as candidates and to run for office.<sup>30</sup>

#### ii) The conduct of the campaign

The conduct of the campaign remained relatively calm, although a few incidents were reported at the beginning of August 2005, mostly due to tensions before candidates' official registration by the NEC.<sup>31</sup> If some rumours (in late September 2005 for instance, anonymous leaflets distributed in Monrovia accused Mrs. Ellen Johnson-Sirleaf of planning the assassination of Mr. George Weah) occasionally gave raise to tensions, they were rapidly contained through adequate media coverage.

However, on September 4, 2005, mob violence broke out in Tubmanburg, Bomi County, allegedly under the influence of Messrs. Sando Sirleaf and Lincoln Vincent, respectively Liberia Destiny Party (LDP) representative and senate aspirants. They were arrested on September 8, 2005 and charged by the 11th judicial circuit court in Tubmanburg with terrorist threat and criminal facilitation following mob violence. According to UNMIL officials, while the outcome of the proceedings against these two candidates remained unclear at the time of the ballot, they were not prevented from running for office.

Campaign funding, however, raises some concern and will require thorough investigation by the NEC, which is to set up an Audit Committee in accordance with Section 7 of the Campaign Finance Regulations it issued on July 8, 2005. Indeed, several funding scandals were disclosed by civil society organizations, which denounced the low level of funding monitoring by the NEC.

The findings of the Audit Committee shall be presented to the NEC which is vested with the power of imposing administrative sanctions for any campaign finance infraction<sup>32</sup> and reporting election offences to the Ministry of Justice for enforcement or prosecution.<sup>33</sup>

Four civil society organizations<sup>34</sup> established a Campaign Monitoring Coalition, composed of 24 field monitors operating in 7 counties identified as “hot zones” (Grand Bassa, Margibi, Nimba, Bomi, Montserrado, Bong and Cape Mount). These monitors, who were reportedly denied direct access to information on several occasions, mostly had to lead their investigations “under cover,”<sup>35</sup> joining political rallies and wearing the parties' tee-shirts in order to assess the value of the facilities and eventually witness “vote-buying.”<sup>36</sup> These allegations of “vote-buying,” which constitute “bribery”—an offence liable with the disqualification from holding any public office<sup>37</sup>—, shall be taken into account and investigated by the NEC.

Several civil society representatives also reported alleged abuses of State resources by some candidates. The vacuum left by both the Constitution and the electoral legislation about this issue was settled by the NEC Campaign Finance Regulations, which stipulates, “*Campaign committees shall not utilize public resources for campaign activities and shall not receive any contribution resulting from an abuse of State resources.*”<sup>38</sup> These provisions, however, were all the more difficult to implement that a large majority of the candidates were serving public offices.

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30. See Articles 24-6 (c), 25-4 and 27-4 of the CPA.

31. In particular, Mr. George Weah's supporters reportedly caused unrest in Monrovia while his candidacy was challenged over the question of his nationality in July and early August 2005.

32. Specified in Section 2.9 (w) of the New Elections Law 1986, as amended by the Electoral Reform Law, 2004. The NEC may enforce the non-payment of fines imposed through legal actions brought in the courts in its own name.

33. See Sections 20 and 21 of the Campaign Finance Regulations.

34. The Centre for Transparency and Accountability in Liberia (CENTAL), the Foundation for Human Rights and Democracy (FOHRD), the Liberia Institute for Public Opinion (LIPO) and the National Human Rights Centre of Liberia (NHRCL).

35. Interview with the NHRC campaign funding monitoring unit.

36. Several candidates reportedly bought votes from citizens by providing them rice or money. See “18 candidates accused of vote buying,” Menseigar Karnja, Jr., *the Analyst*, September 14, 2005.

37. See Article 10-4 of the 1986 Election Law, amended by Section 25 of the Electoral Reform Law.

38. See Section 6 (2) of the Campaign Finance Regulations.

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More generally the NEC Audit Committee will have to take a close look on the total campaign expenses of the parties and candidates, which are limited by law.<sup>39</sup> It will also have to verify the funding sources as corporations, unions and banks are precluded from financing a party or a candidate and foreign contributions are prohibited.

**iii) Election Days**

**- October 11, 2005: General Elections**

For Election Day October 11, 2005, UNMIL forces and Liberian police were deployed throughout the country. In addition, as of October 13, 2005, the NEC accredited 3.583 national observers,

mostly from Liberian civil society. It also accredited 369 international observers from 29 international organizations including notably the AU, ECOWAS, the EU, UNDP and diplomatic missions.

FIDH welcomed the fact that the elections were held as scheduled in a peaceful manner. No violence or irregularities were reported.

As no candidate won the absolute majority on the first round of the presidential elections, a further ballot had to be organized between the two candidates who gathered the highest number of votes—Mrs. Ellen Johnson-Sirleaf (Unity Party - UP) and Mr. George Manneh Weah (Congress for Democratic Change - CDC) on November 8, 2005, by a simple majoritarian system.

**The run-off presidential elections: Iron Lady vs. King George**

**Mrs. Ellen Johnson-Sirleaf**, Unity Party (UP), Liberia’s “Iron Lady,” born in 1939, is a Harvard-educated economist who served as a vice-president of the Citibank in Nairobi, a senior loan officer of the World Bank, and chaired the UNDP Regional Bureau for Africa. Mrs. Johnson-Sirleaf entered Liberian politics in the 1970s as a Secretary of State for Finance in William Tolbert’s True Whig government. Highly critical of the military regime of Samuel Doe, she notably refused the Senate seat for Montserrado County she had won in the 1985 elections as a protest action against the ballot’s irregularities. Condemned to 10 years of imprisonment following her outspoken position against the government, Mrs. Johnson-Sirleaf was forced into exile and first supported Charles Taylor in his attempt to overthrow Samuel Doe. However, she soon became a relentless opponent of Taylor’s methods, then regime, and contested the 1997 presidential elections, earning the second position against Charles Taylor as standard-bearer of the Unity Party. Mrs. Johnson-Sirleaf, who chaired the Governance Reform Commission from 2004 to 2005, was nominated by the Unity Party for the 2005 presidential election and benefits from the support of women and educated elite (she is notably supported by Mr. Amos Sawyer, former president of the IGNU). Her political agenda mainly focuses on the fight against corruption, good governance and transparency issues, and land reform.

**Mr. George Manneh Weah**, Congress for Democratic Change (CDC). Mr. George Manneh “Oppong” Weah, born in 1966, is a Liberian football star player, who played with some of the most famous European teams and earned the FIFA World Player title in 1995, before retiring in 2002. Often described as a “philanthropist,” “King George” became UNICEF’s Goodwill Ambassador in 1997, supporting HIV/AIDS programmes notably in Africa. Whereas his detractors underline his poor education and his lack of political experience, fearing that he could thus be easily manipulated, Mr. Weah has gained a considerable support among the youth and the former fighters, who see him as an alternative to a political elite they mistrust. His political agenda plans to tackle education, health, social justice and employment under the motto of “national reconciliation.”

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39. Section 20-1 of the Electoral Reform Law 2004 limits the expenses per candidate to 2 million US dollars for president, 1 million US dollars for vice-president, 600,000 US dollars for senator, and 400,000 US dollars for representative.

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Consultations were being held amongst the political parties to decide which candidate to support and the two presidential candidates were seeking alliances with the eliminated presidential hopefuls.

The FIDH was deeply concerned about certain alliances of convenience which might have fostered the culture of impunity in Liberia. Indeed, former warlords such as Prince Johnson, who won a Senate seat, Alhaji G.V. Kromah (All Liberian Coalition Party) and Sekou Demate Conneh (Progressive Democratic Party) pledged their support for Mr. George Weah's CDC a few days after the results of the October 11 elections were announced.

**- November 8, 2005**

The election campaign continued to be conducted in a peaceful manner, despite some minor incidents in Monrovia and Gharnga, and a somewhat more tense, and, at times more negative, campaign atmosphere. No restrictions on freedom of expression, assembly and association were reported. Citizens were able to participate freely in the process.

According to the European Union Election Observation Mission to Liberia, *“election day took place in a calm and orderly manner throughout the country. Only isolated incidents of disruption outside polling places were received. Voting procedures were generally well followed and the secrecy of the ballot was generally well maintained. Polling places closed on time around the country. Counting was conducted much more quickly than during the first round.”*<sup>40</sup>

Despite the international observers' reports, allegations of widespread electoral fraud claimed by Mr. George Weah were brought before the National Electoral Commission on November 16, 2005. These accusations prompted rock-sliding youths to take to the streets and schools and businesses to shut down. Consequently, the government announced an immediate ban on all street demonstrations not authorised by the ministry of justice.

On November 23, 2005, amid tight security enforced by UN peacekeepers and newly-trained Liberian police officers, the NEC officially pronounced Mrs. Ellen Johnson-Sirleaf winner

of the final round of the presidential poll with 59.4% of the vote against her challenger Mr. George Weah, who gathered 40.6 percent.

Following several weeks of legal arguments in hearings into the allegations, the NEC established that the evidence adduced by the Congress for Democratic Change of Mr. George Weah was insufficient to overturn the result of the November 8th run-off election, as requested by the party. Counsels for the CDC announced that it would seek an appeal on the NEC's ruling on its complaints with the Supreme Court. Finally, on December 22, 2005, Mr. George Weah has withdrawn his case of alleged fraud against the NEC.

**2. Participation of former warlords and persons subjected to UN sanctions might impede the fight against impunity**

Whereas 18 parties were represented for the signature of the Accra Agreement in August 2003, a total number of 30 political formations were accredited by the NEC. This proliferation was often described by civil society representatives as a *“recipe for confusion,”*<sup>41</sup> all the more so since the population sometimes found it difficult to differentiate the hopefuls' promises. Indeed, most of the candidates—notably presidential aspirants—had similar political agendas calling for the same basic aims (re-establishing running water and electricity, creating appropriate conditions for the implementation of development programmes, re-instating the rule of law, encouraging education and fighting corruption), and the campaign process seemed built far more on individuals rather than on specific party lines.

While most of the programmes mainly differed in the ordering of the priorities, the question of impunity and accountability for war crimes and human rights violations committed during the war, did not play its expected part in singling out the candidates: indeed, the issue remained subjected to vague, consensual declarations—when not carefully avoided—and the few candidates who expressed a strong position on the topic reduced it to the possible surrender of former President Charles Taylor, in exile in Nigeria since August 2003, to the Special Court for Sierra Leone.<sup>42</sup>

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40. See Statement of preliminary findings and conclusions, Monrovia, 10 November 2005, [www.eueom-lib.org](http://www.eueom-lib.org).

41. Interview with Mr. Augustine Toe, national director of the Catholic Justice and Peace Commission (JPC).

42. See Part III-1-A.

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Only Mr. Charles Brumskine, leader of the Liberty Party, promised to ask for the former president’s extradition, whereas some other candidates, such as Mrs. Ellen Johnson-Sirleaf, declared they would tackle the issue depending on the “people’s will.”

Concerning some of the candidates’ pasts, however, impunity relating to the two Liberian civil conflicts, became a concern. Indeed, several aspirants are still subjected to travel ban or assets freeze measures pursuant to UN Resolutions 1521 (2003) and 1532 (2004)—the “UN sanctions lists”—for their involvement in the latest civil war and their ongoing ties with Charles Taylor.

The candidacy of Mrs. Jewell Howard-Taylor, the former president’s ex-wife, who competed for and won a Senate seat in Bong County under the banner of Taylor’s National Patriotic Party (NPP), is one of the most striking examples. Two other candidates, Mr. Edwin Snowe and Mrs. Myrtle Gibson, are also subjected to both frozen assets and travel ban sanctions: Mr. Snowe, one of Taylor’s associates suspected of still funnelling him funding—and who was involved in an embezzlement scandal in early September 2005—, won a representative’s seat as an independent candidate in Montserrado. As for Mrs. Gibson, a former adviser for Taylor, she canvassed for a Senate seat in Sinoe as a candidate of the Progressive Democratic Party (PRODEM).<sup>43</sup>

Two other individuals subjected to UN travel ban sanctions were running for office: Mr. Saye-Taayor Adolphus Dolo, better known as “General Peanut Butter,” a die-hard “*renegade*.”<sup>44</sup> This Taylor-supporter has been elected senator of Nimba County as a COTOL<sup>45</sup> candidate, under the slogan: “*Let him butter your bread*.” Mr. Kai Farley, former MODEL commander

believed to have “*engaged in activities that [...] derail the peace process and unravel the CPA*,”<sup>46</sup> won a representative’s seat in Grand Gedeh under the banner of Mr. Weah’s Congress for Democratic Change (CDC).

Several former warlords also took part in the electoral campaign: Messrs. Alhadji Kromah, who founded the United Liberation Movement for Democracy (ULIMO) in 1991 and led the ULIMO-K (ULIMO-Kromah) after 1994 and Mr. Sekou Conneh, the LURD leader, both involved in destructive fighting, war crimes and gross human rights violations, created their own parties<sup>47</sup> and ran for the presidency. Mr. Kromah’s ALCOP relative success in Lofa County, where Mr. Kromah came second in the votes and where the party won 2 representatives’ and one Senate seat, is to be explained by Mr. Kromah’s Mandingo origin and the high concentration of Mandingo population in the county. Another warlord, Prince Yormie Johnson, who founded the Independent National Patriotic Front of Liberia (INPFL) against Taylor in 1990, won a Senate seat as an independent candidate in Nimba County.<sup>48</sup>

The participation of these individuals in the electoral process—and for some of them, their participation in the future political life of the country as elected representatives of the people—poses great threats to the settlement of the impunity issue in Liberia, an essential tool for a long-lasting peace in Liberia. In that sense, the refusal of competent institutions such as the NEC and the UNMIL to set registration criteria preventing alleged perpetrators of gross human rights violations to run for office<sup>49</sup> is highly regrettable. Moreover, it raises concerns that the influence of alleged human rights abusers in the political decision-making process will hamper the adoption of laws fostering accountability for such crimes.

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43. Mr. Sekou Damate Konneh, former warlord and LURD political leader who was running for the presidential office, heads the PRODEM.

44. See UN Security Council Resolution 1521.

45. The Coalition for Transformation of Liberia (COTOL), headed by Mr. Varney Sherman, is notably Mr. Gyude Bryant’s party.

46. See UN Security Council Resolution 1521. See also Human Rights Watch Report, *Liberia at crossroads: Human Rights Challenges for the New Government*, September 2005.

47. Namely the All Liberia Coalition Party (ALCOP) for Kromah and the Progressive Democratic Party (PRODEM) for Conneh.

48. Prince Johnson became famous in 1990 when he captured and tortured military dictator Samuel Doe to death.

49. See Human Rights Watch Report, *Liberia at crossroads: Human Rights Challenges for the New Government*, September 2005.



### **III. The fight against impunity and the administration of justice: Critical challenges for newly elected authorities**

In spite of the establishment of the TRC, FIDH and LWHR remain deeply concerned about the persistence of a culture of impunity in Liberia. Since the end of the war, impunity prevails and the persons responsible for gross violations of human rights and humanitarian law have not been arrested or tried. But, the fact that Charles Taylor's case was addressed by the new President Ellen Johnson-Sirleaf in its first official meeting with Nigerian president Obasanjo constitutes a first step forward in the fight against impunity.

Similarly, FIDH and LWHR welcomed the fact that new legislation making rape illegal for the first time in Liberia was passed by Parliament on December 1, 2005. Indeed, the specific case of rape had to be addressed as it was used as a weapon of war by all parties during the two civil conflicts. Since the end of the war, the phenomenon has continued. Although a high number of cases have been reported,<sup>50</sup> few perpetrators have been prosecuted thusfar and until now rape was an offense for which bail was accorded.

It is thus urgent for the new authorities to elaborate a comprehensive strategy in order to reverse this culture of impunity. *“It is not the people corrupting the system but the system corrupting the people,”*<sup>51</sup> as stated by civil society representatives.

#### **1. Impunity for the most serious crimes committed during the civil wars**

##### **A. The Taylor case and the Special Court for Sierra Leone**

The Special Court for Sierra Leone (SCSL) was established in January 2002, following an agreement between the United Nations and the Government of Sierra Leone pursuant to Security Council resolution 1315 (2000) of August 14, 2000.

The Special Court is entitled to prosecute persons who bear *“the greatest responsibility”* for serious violations of both Sierra Leonean and international humanitarian law<sup>52</sup> committed in Sierra Leone since November 30, 1996.

Its jurisdiction encompasses both crimes under international law and Sierra Leonean criminal law. Crimes under international law include crimes against humanity, violations of Article 3 common to the Geneva Conventions and of Additional Protocol II and other serious violations of international humanitarian law including *“the war crimes of attacking personnel or objects involved in humanitarian assistance or peacekeeping missions.”*<sup>53</sup> Crimes under Sierra Leonean law include offences relating to the abuse of girls<sup>54</sup> and the wanton destruction of property.<sup>55</sup>

On March 7, 2003, the Prosecutor of the SCSL, in consistence with Article 15 of the Court's Statute indicted Charles Taylor on seventeen counts for *“crimes against humanity, violations of Article 3 common to the Geneva Conventions and of Additional Protocol II and other serious violations of international humanitarian law”* committed in Sierra Leone since November 30, 1996 and for having actively supported the rebels of the Revolutionary United Front during ten years of civil war in Sierra Leone. An international warrant for his arrest was then issued.

On May 31, 2004, the Appeals Chamber of the SCSL rejected Charles Taylor's claim to immunity from prosecution.<sup>56</sup> Despite this indictment, Mr. Charles Taylor lives free from legal prosecution in Nigeria, as the Nigerian Government refuses to surrender the Liberian former president to the SCSL.

On February 24, 2005, the European Parliament adopted a resolution calling *“on the Government of Nigeria to act in the continued interests of the Liberian peace process and in support of the rule of law by surrendering Charles Ghankay Taylor forthwith to the jurisdiction of the Special Court for Sierra Leone.”*

##### **B. A step forward: The establishment of the Truth and Reconciliation Commission**

The Act to establish the Truth and Reconciliation Commission of Liberia (the TRC Act of Liberia) was drafted by civil society representatives with the assistance of international experts. On May 12, 2005, it was approved by the NTLA and signed into law by NTGL Chairman Gyude Bryant on June 10, 2005.

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50. 98 cases, mostly involving young girls, have been filled by the Association of Female Lawyers of Liberia (AFELL) between 2000 and 2005.

51. Interview with Mr. Aloysius Toe, director of the FOHRD.

52. Article 1 of the Statute of the SCSL.

53. Article 4 of the Statute of the SCSL.

54. Under Chapter 31 of the Prevention of Cruelty to Children Act, 1926.

55. Under the Malicious Damage Act, 1921.

56. See Special Court for Sierra Leone, *Prosecutor v. Charles Ghankay Taylor* (Case Number SCSL-2003-01-I), Appeals Chamber “Decision on immunity from jurisdiction,” 31 May 2004, accessed at <http://www.sc-sl.org/taylor-decisions.html>.

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The TRC should be established within three months of the enactment of law into legislation and should exist for two years with the possibility of extension (Section 6 of the TRC Act of Liberia).

It should be noted that its subject matter jurisdiction is broader than other TRCs in Africa. Indeed, the Liberian TRC is mandated to conduct investigations and publish a report documenting “*gross human rights violations, violations of international humanitarian law*” but also abuses that occurred, including massacres, sexual violations, murder, extrajudicial killings and economic crimes, such as the exploitation of natural resources to perpetuate armed conflict in Liberia between January 1979 and October 14, 2003.<sup>57</sup>

In addition, the TRC shall make recommendations to the government about prosecutions in cases involving crimes against humanity, reparations as well as the need for legal and other institutional reforms.

On the issue of amnesty, the Act excludes pardon for violations of international humanitarian law and crimes against humanity in conformity with international law and standards. However, it can “*recommend*” that amnesty be granted to persons making “*full disclosures of their wrongs*” and “*expressing remorse for their acts,*” for all other crimes.<sup>58</sup>

On October 20, 2005, Mr. Gyude Bryant nominated the nine commissioners<sup>59</sup> who were selected by a panel composed of 3 civil society representatives, 2 representatives of the authorities, along with ECOWAS and UNMIL members.

After a 3-month preparatory period, during which the commissioners shall secure funding (6 to 10 million US dollars are needed), location and planning, the TRC should be operative by the Spring of 2006. According to FIDH’s information, 15,000 victims’ statements have been already gathered and shall be transmitted to the TRC for further scrutiny.

The FIDH welcomes the establishment of the TRC and the nomination of the commissioners but remains concerned

about the willingness of the future authorities<sup>60</sup> to prosecute former warlords and commanders responsible for gross violations of human rights.

## **2. The administration of justice**

### **A. A dysfunctional justice system**

This culture of impunity is also fostered by the current state of the judicial system, which proved unable to redress violations of the citizens’ rights. The whole Liberian system of justice is paralyzed by a serious lack of infrastructure, human resources and funding, which poses great impediments to its proper functioning and severely undermines the restoration of the rule of law and State’s authority in the country.

Two years after the end of the civil war, a mere half of the country’s judicial facilities are operative: in late August 2005, eight circuit courts were reported to be open throughout the fifteen counties—Montserrado, Bong, Grand Bassa, Bomi, Margibi, Nimba, Grand Cape Mount and Grand Gedeh—, while less than 60% of the 138 magistrate courts in the country were functional<sup>61</sup> according to the UNMIL legal and judicial section. Most of the justice and peace courts are located in Monrovia and its outskirts, thus further underlining the gap between urban and hinterland areas, and between the capital and the rest of the country: While several counties and districts were reported not to have any operative court, all levels of the courts’ system are now operating in Monrovia.

Moreover, these figures have to be lowered as the reopening of the courts, if officially announced, severely lacks material and human resources. Most of the courts’ buildings, notably outside Monrovia, are in poor shape and barely equipped. Moreover, facilities are rented by the government, which does not have the means to honour its rental obligations: In August 2005, the 13th circuit court of Kakata, Margibi County, was evicted from its premises as a result of the government’s failure to pay for several years of rent arrears to the private owner of the building.<sup>62</sup>

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57. Section 4 of the TRC Act of Liberia.

58. Section 26 (g) of the TRC Act of Liberia.

59. The commissioners are Sheikh Kafumba Konneh, Rev. Amb. Gerald Coleman, Cllr. Pearl Brown Bull, Retired Bishop Rev. Arthur F. Kulah, Cllr. Jerome J. Verdier, Mrs. Massa Washington, Mrs. Dede A. Dolopei, Mrs. Oumu K. Sylla, and Mr. James H.T. Stewart. They are essentially coming from religious, legal and NGO sectors.

60. Mrs. Ellen Johnson-Sirleaf has made vague comments on the Truth and Reconciliation Commission to try past atrocities.

61. The revised Results Focused Transitional Framework - RFTF (NTGL, UN and World Bank), in April 2005, stated that 40% of the country’s 146 magistrate courts were operating.

62. Although this problem is not specific to the judiciary (in late September 2005, for instance, the owner of the building housing the National Fire Service threatened the government with eviction if the over 8-year rent arrears were not duly paid), it poses peculiar problems as far as the independence of the judiciary is concerned.

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Legal and judicial human resources although remain highly problematic, both in terms of figures and training. In April 2005, the whole country only counted 5 qualified prosecutors and 10 public defence counselors, while 11 of the 21 circuit court judges' positions were filled.<sup>63</sup> The total number of circuit court judges to date (following the commissioning<sup>64</sup> on June 28, 2005, of eleven new judges by NTGL Chairman Gyude Bryant) is only 15 throughout the whole country. In late August 2005, several civil society representatives asserted that in most counties, a sole resident judge was responsible for chairing at least two magistrate courts and underlined that many commissioned judges had refused to leave Monrovia for the counties' courts.

*shall be done without [...] delay*” and to ensure a proper time-frame in examining cases or rendering their decisions. As a result, the 48-hour time limit for pre-trial detention<sup>65</sup> is far from being implemented, and the rate of prisoners on extended pre-trial detention reaches 97% of the total prison population.<sup>66</sup> Most of the prisoners cannot afford to hire a lawyer—the only way to accelerate the process—and assert their right to the writ of *habeas corpus* provided for by Article 21g of the Constitution.<sup>67</sup> In the case of petty, offences with the possibility of bail, indigent prisoners unable to pay their bail sometimes remain in detention for several months due to this situation, very often far longer than the prison time they should have served if charged and condemned.

Courts are thus not able to function in accordance with Article 20a) of the 1986 Constitution, which stipulates that “*justice*

As several civil society representatives asserted, the prevailing rule in Liberia remains “*no money, no justice.*”

**Correctional facilities in Liberia: the Monrovia Central Prison**

On August 29, 2005, the FIDH delegation visited the Monrovia Central Prison, where 248 inmates, including 6 women, were detained. The prisoners' registration board testified that 5 prisoners were released that same day.

Detainees are confined in three separate blocks as follows: criminal offences (men), petty offences (men) and female blocks –female prisoners being properly separated and guarded by female officers. The buildings of the prison were in a terrible shape, cells and facilities being highly depleted by the rainy season (the criminal offences block, notably, seemed on the edge of crumbling down). In both criminal and petty offences buildings, the cells, approximately 4 to 5 square meters large, were crowded with up to 15 persons, thus preventing them from lying down at the same time. Except in the women block, inmates are not provided blankets or mattresses and lie directly on the cement floor or on thin mats. The outdoor latrines being subjected to a fee, prisoners have to relieve themselves in a common bucket. The inmates receive a spoon of dry corn meal in the morning, and a meal in the late afternoon (a plate of rice most of the time).

Due to the state of the facilities, the lack of proper washing and drinking water, and the humidity in the cells, most prisoners were in poor health conditions and presented severe skin diseases that the prison clinic is unable to heal due to the lack of available medications, nursing and medical personnel and infrastructure. When sick, the inmates are allowed to stay about 15 minutes in the clinic and receive tablets and painkillers, before being brought back to their cells. Several inmates reported deaths in custody due to the absence of proper medical care.

The separation between juvenile and adult detainees, provided for by Article 10-2 of the ICCPR, is far from being implemented. The delegation noticed a juvenile cell in the petty offences block where 6 or 7 boys aged 13 and 14 were detained, and several prisoners, both in the criminal and the petty offences blocks claimed to be 16 and 17-year-old. They receive the exact same treatment as adult prisoners and as such are not provided any education nor allowed to have any activity while in detention.

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63. See RFTF document, April 2005.

64. See Article 27-3 of the CPA, “*Under the NTGL, all new judicial appointments shall be made by the Chairman of the NTGL and approved by the NTLA. Nominations for such judicial appointments shall be based on a shortlist of candidates for each position recommended by the National Bar Association, including the female lawyers.*”

65. See Article 21f of the Constitution, “*Every person arrested or detained shall be formally charged and presented before a court of competent jurisdiction within forty-eight hours.*”

66. Interview with the UNMIL human rights and protection unit.

67. “*The right of the writ to habeas corpus being essential to the protection of human rights, shall be guaranteed at all times, and any person arrested or detained and not presented to court within the period specified may in consequence exercise this right.*”

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Out of the 248 inmates, 14 were reported to have been sentenced, while the 234 other were on pre-trial detention for periods of time largely exceeding the 48 hours provided for by the Liberian Constitution. In the criminal offences block, notably, one of the detainees asserted that 43 inmates in the block had been kept on pre-trial detention for over a year. In the petty offences block, the delegation met with inmates detained for loitering for several months without charge, in spite of legal provisions requiring their cases to be examined for a release after 10 days. In all blocks, detainees explained they had not been brought to court nor informed of the exact charges against them. They did not have access to a lawyer as they could not afford to pay bail or fees. Although some human rights lawyers and NGO members provide free legal assistance in the prison, these initiatives remain insufficient to notably compensate for the low number of available public counselors, by whom criminal offenders are allowed by law to be assisted.

The unlawful extension of pre-trial detention also poses important problems for conducting investigations when cases are eventually brought before a court. The delegation, for instance, was able to attend the hearing of one of the female inmates who was, together with her son, accused of the murder of her husband deceased in early January 2005. The whole file mainly consisted of the few results of a criminal investigation based on an autopsy led four months after the death, while the body was at an advanced stage of decomposition, and which could obviously not prove the cause of the death.

Moreover, prisoners do not have any chance to warn their families upon their arrest, which in fact prevents them from receiving visits and thus additional food and medication.

The training of legal professionals is another concern: In mid-September 2005, the Supreme Court ordered the disbandment of illegally-operating magistrate courts, arguing that some judges were ruling without being commissioned or with expired letters of commission. A large number of judges, in particular in counties' courts, were reported to actually operate without a valid diploma, and several judges were reported not to possess a law degree.<sup>68</sup>

Several corruption cases were reported in justice and peace courts—the lowest courts in the country's statutory law system—, which are often named “Tamba courts” after the name of a judge known for his corrupt practices.

Besides, misbehaviours were also reported, such as judges drunk during hearings, common bribing practices, cases of plaintiffs beaten in front of the courts as intimidation or retaliation. The low salaries (a judge, for example, earns US\$ 25 a month), aggravated by the several months of arrears very often owed by the government, foster corruption among legal personnel, whether clerks, judges, prosecutors and counselors, whom suspected or accused persons often have to

bribe to enforce their rights. The bail system, in particular, was reported to be highly vulnerable to corruption. Moreover, the victims also have to pay to enforce their rights and have to give money to the clerks to pay the formularies, the papers and the fuel to transport an accused to the court...

The shortage of qualified legal personnel is further aggravated by the existing legal impediments preventing foreign legal professionals,<sup>69</sup> whether judges or lawyers, to operate in Liberia even on a temporary basis. These provisions, which a whole branch of the Liberian legal profession seems reluctant to revise,<sup>70</sup> hamper the implementation of several UNMIL programmes.

As Liberia remains under a dual law system—both statutory and customary—, traditional justice, which comes under the responsibility of the Ministry of Internal Affairs, remains another alternative and most people, especially in the counties where courts are not operative, resort to traditional leaders to settle disputes before eventually bringing the case before a statutory court.

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68. According to Article 69b of the Constitution, “the judges of subordinate courts of record (...) shall be an Attorney-at-Law whom has practiced for at least 3 years, or a counsellor of the Supreme Court Bar.”

69. Article 69a of the Constitution stipulates that “judges (...) shall be Liberian citizens.”

70. “The Liberian legal profession, and notably private law firms, tends to stick up for their prerogatives,” interview with the UNMIL human rights and protection unit.

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**Traditional justice in Liberia<sup>71</sup>**

Although traditional justice is supposed to come under the Minister of Internal Affairs’ responsibility and competence, no comprehensive review of the cases ruled by paramount chief courts is available. These courts mainly deal with cases of witchcraft, land or matrimonial disputes (palava), and are not competent for judging murder or disappearance cases. Traditional courts hold public hearings, in the presence of the paramount chief council composed of several interest groups (eldest, youth, women...).

Traditional leaders still resort to trial-by-ordeal, commonly the placement of a heated metal object on a suspect’s body in an attempt to determine whether the defendant is telling the truth, which is permitted under the Liberian law for the application of traditional matters. These practices, which amount to torture or cruel, inhuman or degrading treatment, are contrary to Article 21 of the Liberian Constitution, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as well as the ICCPR.

However, certain practices such as “sassywood” (administration of a poisonous decoction) have been banned and are punishable by imprisonment due to the high number of deaths they provoked. According to UNMIL human rights officials, there is little or nonexistent monitoring of ordeal practices, which are mostly administered following the traditions of the poro and sande secret societies.<sup>72</sup>

Moreover, several types of abuses were reported to the delegation: some clan and paramount chiefs were said to have their own detention centres, where people allegedly suffer a form of servitude.

Another issue raised about traditional justice is the discrimination it breeds against women, notably in land inheritance matters. Although a law guaranteeing women inheritance and land rights under both statutory and customary marriages<sup>73</sup> was passed in 2003, both women and paramount chiefs remain poorly aware of its provisions.<sup>74</sup>

In general, the population remains largely ignorant of the functioning of the justice system, and several civil society representatives notably deplored the lack of media programmes and information campaigns about the issue. This lack of awareness of both rights and procedures fosters fear as well as mistrust, and people very often consider going to court as “*the last judgment day*.”<sup>75</sup>

The dysfunctioning of the Liberian judicial system, along with ignorance and mistrust fostered by the feeling that “no good ruling can be issued without good money” leaves the door open for personal justice and mob violence.

On September 5, 2005, the delegation witnessed a mob violence scene on the road to Freeport, Monrovia. A middle-aged man accused of theft was being held by three others, while another two were pouring fuel on him in order to set him on fire alive, in front of a large crowd that had gather on the

road. Ironically, the scene was taking place 10 meters away from a billboard “*Stop mob violence.*”

This scene is one out of many. All human rights NGOs’ reports mention an increasing number of mob violence cases and civil society representatives denounced “an endemic phenomenon” encouraged by the long, expensive and uncertain procedures to engage before the courts. Faced with the incapacity of the justice system to ensure a proper rule of law, the population prefers to resort to expeditious popular justice.

**B. Corruption: An endemic plague**

The lack of transparency as far as the authorities’ management of the national resources is concerned is of a great concern and inconsistent with Article 15c of the 1986 Constitution that stipulates, “*there shall be no limitation on the public right to be*

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71. Interview with Mr. Dan Morias, Minister of Internal Affairs.

72. The Minister of Internal Affairs himself being a member of the Poro society there was little chance that ordeal practices and abuses in traditional justice be addressed.

73. See An Act to Govern the Devolution of Estates and Establish Rights of Spouses of Both Statutory and Customary Marriages, October 7, 2003.

74. Interview with Mrs. Etweda Cooper and Sartah Dempster, Liberia Female Initiative (LWI).

75. Interview with Mrs. Elizabeth Hoff, PUL President.

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*informed about the government and its functionaries.”* Two major corruption cases were notably reported to the delegation by the FOHRD.

#### **The iron ore saga**

The NTGL entered into a contractual agreement with a Chinese company for the exportation of the country's iron ore. Inconsistent with the law, the contract was never made public, the amount was not disclosed to the public nor deposited into a government account, the contract was never ratified by the legislature nor the amount appropriated for expenditure by the legislature. There were already credible reports that the iron ore sold at a devalued price of US\$10 million had been exported and that a few state officials had pocketed the money. Whereas two ships were reported to have left the port of Buchanan with a consignment of ores, several human rights NGOs petitioned the Supreme Court of Liberia to place a “stay order” prohibiting further ships from taking iron ore out of the ports of Liberia until the government accounted for the money. The petition was granted on August 27, 2004, and a Writ of Prohibition was issued against the government. Although the court's order was served to the captain of one of the ships in port at the time, the ship left with the ore in defiance of the court's order, reportedly at the urgings of government's officials. Since August 2004 when the prohibition was issued, the government has ignored the court's order and brought in 16 additional ships to take away iron ore.

Human rights NGOs then issued a Notice of Information to the Supreme Court that the government was in violation of the

court's order by allowing additional ships to dock at the port for iron in the wake of the court's order. To date, the Supreme Court is deadlocked on reaching a final verdict in the iron case, whereas some members of the Court are allegedly involved in the case.

#### **The LAC case**

The Liberian government entered into agreement with the Liberia Agricultural Company (LAC) and surrendered land owned by locals without any just compensation or relocation plans. The government secretly finalized the agreement with the LAC, whose lawyer Mr. Varney Sherman is closely linked to Chairman Gyude Bryant. It was alleged that Bryant and other top officials at the Ministry of Justice received huge bribes to sign the agreement, and that the LAC was granted 400,000 acres of land in districts 4 and 5 of Grand Bassa county, which included 75 towns.

Once the agreement was signed, LAC proceeded by requesting a permit and carrying out a forced eviction. The residents protested and refused to be evicted without relocation or just compensation. On LAC's request, the government assigned armed security to enforce the eviction. Residents reacted by arming themselves with clubs. In the process, the government arrested and detained 93 persons, including women, children and the elderly on January 10, 2005. Even the traditional 'devil' was desecrated and detained. They were all released after 48 hours of detention, after civil society representatives and Human Rights activists engaged in the case and visited arrested people.

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## **IV. The situation of fundamental freedoms: Improvements do not extend to all human rights violations**

The Republic of Liberia, mostly under the influence of the National Transitional Government of Liberia (NTGL)<sup>76</sup> ratified the following international conventions, which create an obligation on Liberia to promote and protect the rights enshrined in these instruments:

- The International Convention on the Elimination of all forms of Discrimination (CERD) on December 5, 1976,
- The African Charter on Human and Peoples' Rights (ACHPR) in 1982,
- The African Charter on the Rights and Welfare of the Child in 1992,
- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) on August 16, 1984, and its Optional Protocol on September 22, 2004,
- The Convention on the Rights of the Child (CRC) on July 4, 1993 as well as the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC-OP-AC) and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC-OP-SC) on September 22, 2004,
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on September 22, 2004,
- The International Covenant on Civil and Political Rights (ICCPR) on December 22, 2004,
- The International Covenant on Economic, Social and Cultural Rights (ICESCR) on December 22, 2004.

Moreover, the rights and freedoms enshrined in these instruments are also reaffirmed in Chapter III of the 1986 Constitution of Liberia, which provides for a Bill of Rights, and the Comprehensive Peace Agreement signed in Accra, Ghana.

### **The Independent Human Rights Commission**

In accordance with Article 12-2 of the CPA, the Independent Human Rights Commission (INHRC) was established in

January 2004 in order to “*monitor compliance with the basic rights guaranteed in the present Peace Agreement as well as promote human rights education throughout the various sectors of Liberian society, including schools, the media, the police and the military.*” The CPA specifies that these basic civil and political rights include: “*the right to life and liberty, freedom from torture, the right to a fair trial, freedom of conscience, expression and association, and the right to take part in the governance of one’s country.*”

However, the appointment of the commissioners by NTGL Chairman Gyude Bryant was somehow criticized for its lack of transparency and consultation with civil society. In this regard, the FIDH delegation considered the approval and signature into law, on March 23, 2005, of the Act creating the INHRC, as a very positive step and a necessary stage to ensure the credibility of the Commission.

### **Human Rights Defenders**

The United Nations (UN) General Assembly passed a Declaration on Human Rights Defenders on 9 December 1998 which places a duty on State parties to ensure that certain minimum standards or conditions exist where human rights defenders operate. Based on the UN Declaration, the Observatory for the Protection of Human Rights Defenders, a joint programme of the International Federation for Human Rights (FIDH) and the World Organization against Torture (OMCT), uses the following operational definition of a human rights defender: “*Each person victim or risking to be the victim of reprisals, harassment or violations due to his or her compromise exercised individually or in association with others, in conformity with the international instruments of protection of Human Rights, in favour of the promotion and realisation of the rights recognized by the Universal Declaration of Human Rights and guaranteed by international instruments.*”

The FIDH delegation agreed to leave the definition of a human rights defender very wide so as to include anyone fighting for the promotion and the protection of universally recognized human rights and fundamental freedoms, including members and representatives of Non Governmental Organisations (NGO), human rights lawyers and activists, academics, intellectuals, religious leaders, trade unionists and public

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76. Since it was inaugurated on October 14, 2003, the NTGL signed 103 treaties and United Nations (UN) conventions.

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officials such as public prosecutors, judges and magistrates.

Human rights defenders often constitute the targeted population for State-repression in pre- and post-electoral periods. Although this pattern was confirmed during the 1985 and 1997 elections, the role of civil society—and especially members of human rights organizations—in the October 11, 2005 elections seems to be relatively encouraged and well accepted by the authorities and no crackdown related to the ballots was reported to the delegation. Whereas all human rights activists underlined that their situation had improved since 2003 in terms of freedom in their activities and absence of repression, most of them also expressed fears

about the post-electoral period thus underlining the precariousness of the balance and collaboration that could be instituted under the NTGL.

However, if “*the basic civil and political rights enunciated in the Declaration and Principles on Human Rights adopted by the United Nations, African Union, and ECOWAS, in particular, the Universal Declaration of Human Rights and the African Charter on Human and Peoples’ Rights and as contained in the Laws of Liberia,*”<sup>77</sup> appear to be straightforward to defend, the denunciation of violations of economic and social rights remains a highly difficult and perilous exercise for human rights defenders.

**Liberian civil society: an influential but segmented actor**

Although civil society’s mobility was limited for years due to regimes’ repression, the crackdown on fundamental freedoms also planted the seeds for an active and vibrant sector. In the early 90s, as war was at its highest peak, several human rights organizations were founded that to date remain operative. A high number of their staff and management were threatened, attacked, arrested, tortured, forced into exile or even killed during the two civil wars—mostly under the last years of Taylor’s regime—, but they resumed their activities as early as August 2003.

Immediately after the war, Liberian civil society did not only recompose itself but significantly grew. About 45 human rights and pro-democracy organizations, some 75 women’s organizations and over a hundred religious—or community-based organizations were reported to be registered to date. However, most operating NGOs are operating in Monrovia, and the collection and dissemination of information in the hinterland remains highly critical due to the poor road and telephone network outside the capital. Gathering information in certain parts of the country (Northern Lofa County, River Cess, Maryland and Sinoe notably) requires significant funding that most NGOs cannot afford to provide.

The high number of NGOs—a critical percentage of which was reported not to have a board or proper administrative framework, to be politically-oriented or to have insufficiently transparent sources of funding—poses a certain number of problems as soon as allocation of resources and capacity of absorption are concerned, and might be an impediment to proper consideration and funding. Moreover, certain sectors—notably unions and women’s organizations—appear to remain on the fringe of civil society, and several representatives underlined the lack of cooperation and coordination between associations standing in competition for funding.

To remedy this situation, several attempts were made to build civil society organizations’ coalitions—a stance and step expressly encouraged by the UNMIL human rights and protection unit. The latest, called for by the Liberia National Law Enforcement Association (LINLEA), intends to bring together over a hundred civil society organizations.

The first meeting of this coalition, held on September 22-23, 2005, gathered about 75 civil society organizations which agreed to further develop the coalition’s framework, while a 9-member committee was set up to draft the statute. The coalition’s members are to meet again within two months in order to approve the statute and hold elections.

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77. See Article 12-1(a) of the CPA.



## **1. General improvement of civil and political rights**

### **A. Freedoms of association and peaceful assembly**

Article 17 of the 1986 Constitution provides that *“all persons (...) shall have the right to assemble and consult upon the common good, to instruct their representatives, to petition the government or other functionaries for the redress of grievance and associate fully with others or refuse to associate in political parties, trade unions and other organizations.”*

In accordance with the Law on associations and not-for-profit corporations, which was approved on May 19, 1976 and became effective on January 3, 1977, international and local NGOs are to register with the Minister of Foreign Affairs, who is responsible for issuing all articles of incorporation. Associations are to present a list of their board members, address of the office, and a general explanation of the purpose of the organization. The registration process, which does not involve the Ministry of Justice at any stage, seems to be routine, and no case of registration denial since the NTGL was established was reported to the delegation. However, the criteria under which the registration can be granted or denied does not seem to be clearly specified, thus leaving discretionary powers to the authorities.

Article 17 of the Constitution also stipulates that *“all persons, at all times, in an orderly and peaceable manner, shall have the right to assemble.”*

According to the Act requiring the obtaining of permits for public marches and demonstrations approved on February 10, 1975, applications for holding a demonstration are to be made with the Ministry of Justice, which yearly issues executive orders. The procedure appears to have become much smoother since 2003: as human rights NGOs stated, they could freely celebrate human rights’ day for the first time on December 10, 2003, and no peaceful gathering or demonstration was reported to have been prevented by the authorities.

Although the Minister of Justice, Mr. Kabineh Ja’neh, announced a ban on public demonstrations on August 8, 2005, this limitation was occasional and linked to security reasons, after supporters of Mr. George Weah, whose candidacy was challenged at the time, declared their intention *“to march to the head-quarters of the NEC and resist*

*to the death any attempt to exclude him from the presidential race.”* No other demonstration or gathering has been prevented from being held since, and the delegation itself witnessed several peaceful demonstrations organized by civil society organizations across Monrovia.

However, civil society representatives reported that the Ministry of Justice had denied permission to several political meetings short before and after the October 11 elections, due to security reasons again. The FIDH is concerned that the “security” argument shall prevent citizens from fully exercising their right to hold peaceful demonstrations.

Furthermore, the FIDH is concerned that Section 2 of the Public Marches and Demonstration Act, which provides that *“Any group of persons desiring to stage a march or demonstration [...] shall first obtain from the Minister of Justice the permit to do so,”* does not actually detail the conditions and requirements to fulfil to be granted permission, thus leaving discretionary powers to the Minister.

### **B. Freedoms of expression and of the press**

According to Article 15 of the 1986 Constitution, *“every person shall have the right to freedom of expression, which encompasses ‘the right to hold opinions without interference and the right to knowledge’ and includes ‘freedom of speech and of the press’.”*

These provisions appear to have been implemented since the end of the war and the establishment of the transitional government. If Doe’s and Taylor’s regimes operated a violent crackdown on independent media, silencing dissident voices and forcing the remaining journalists to self-censorship, the record has dramatically improved since 2003: no journalist has been jailed since September 2003, and the effective lift of government censorship allows journalists to freely disseminate information, notably about the human rights situation in the country, thus representing an important relay for human rights defenders. Moreover, independent press significantly grew, with an estimated 30 newspapers operating in Monrovia<sup>78</sup> and 33 community radio stations throughout the country.

The press sector is supervised by the Press Union of Liberia (PUL), an independent institution formed in 1964 by a consortium of journalists, which represents a monitoring and accrediting—

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78. Interview with Mr. William Allen, Minister of Information.

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although not regulatory—structure for the profession in the country. The PUL yearly grants individual accreditation to journalists<sup>79</sup> (whether radio, written or electronic press), while the Ministry of Information delivers the license to operate for paper and electronic press—the Ministry of Post and Telecommunications being in charge of issuing this license to radio stations. No case of denial of license was reported, and the PUL and Ministry of Information work in close collaboration, all the more so since the Minister, Mr. William Allen, is a former PUL president.

The PUL also adopted, in 1997, the Rules of conduct and ethics of the Press,<sup>80</sup> and set up an ethics committee tasked with monitoring its implementation. In case of breach of the Rules by a member, the PUL can suspend or fine the contraveners. This committee is also responsible for settling media disputes. If a governmental body or official for instance complains about the content of an article, he will first address his complaint to the PUL, who will investigate the case. If the complaint proves itself to be founded, the PUL can oblige the journalist or media involved to retract or publicly apologize. On the other hand, if a journalist or media can bring evidence of his or their allegation to the PUL, the latter’s authority seems to be sufficient to avoid the case being brought before a court.

In spite of this improved record, the legal framework still remains to modify as numerous provisions promulgated under the previous governments still entail criminal sanctions for journalists including imprisonment.

- Constitutional provisions: According to Article 15 (a), the right to freedom of expression “*shall not be curtailed, restricted or enjoined by government save during an emergency save declared in accordance with this Constitution.*” Article 86, however, leaves the declaration of a state of emergency to the full discretion of the president, while the definition circumstances under which it shall be declared remain vague.

- Decree 88A<sup>81</sup> provides any article about government’s activities be presented to the Ministry of Information for approbation and gives the authorities the license to “*arrest and detain any person found spreading rumors, lies, and misinformation against any government official or individual*

*either by word of mouth, writing or by public broadcast.*” It has not been repealed yet. However, the government has not resorted to this Decree since the end of the war.

- Decree 46 of 1981 established the Ministry of Information. Its sections 31-5 and 31-8 established the Public Affairs Bureau and the National Communications Bureau, which are vested with accrediting local and foreign visiting journalists and yearly register journalists.

The National Communications Bureau is also entitled to make recommendations to the Minister for the suspension of a journalists’ license. FIDH is concerned about the power vested to these bodies as the system of annual registration could provide an opportunity for the government to sanction any journalist. Indeed, any Liberian journalist practicing without due registration can be charged with a misdemeanour of the first degree.

- The National Assembly Act 1989, establishing the National Communications and Regulatory Commission, under the Ministry of Posts and Telecommunications, with powers to formulate policies and regulations to govern the creation, establishment and operations of all electronic and print media, as well as monitor, evaluate and license all media institutions and persons utilizing the instrumentalities of electronic and print communications and other ancillary facilities and services. It is further vested with the power to impose punitive measures, including fines and revocation of license for violation of its policies and regulations.

In order to address these issues, a National Conference on Media Law and Policy Reform was convened in Monrovia from October 21 to 23, 2004, and gathered the Ministry of Information, UNESCO representatives, the PUL, human rights activists, lawyers and journalists.<sup>82</sup> The participants adopted a resolution recommending the creation of an independent regulatory body and the adoption of a Freedom of Information Act. According to Mr. Allen, this Act, which will give members of the public, including journalists, access rights to records and information held by public bodies, in accordance with Article 15 (c) of the 1986 Constitution, was reportedly at drafting stage at the time of the mission.

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79. According to Mrs. Elizabeth Hoff, president of the PUL, journalists are granted accreditation if they hold a degree in journalism or if they can justify five years of practice.

80. In addition, the PUL adopted the Elections coverage code of conduct on June 15, 2005.

81. Samuel Doe introduced Decree 88A which gave the security forces a carte blanche to clamp down on critics and made it a crime to spread “rumours, lies and disinformation” about the government. It was promulgated by the People’s Redemption Council and passed into a law on August 13, 1984.

82. See National Conference on Media Law and Policy Reform in Liberia, Conference report.

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The adoption of such a legal instrument would mark an important step for the work of human rights defenders throughout the country. Indeed, poor access to information is a real impediment to their activities and several civil society representatives complained about the difficulties they encounter in getting copies of official documents such as law texts or budget reviews.<sup>83</sup> Although this situation remains largely due to infrastructural problems—notably the lack of electronic versions and computers, electricity, photocopies etc.—, the government’s unwillingness to disseminate certain information, in particular financial and concerning contracts, was unanimously denounced.

Although local and foreign journalists were issued press accreditations by the Press Union of Liberia, Minister of Information William Allen announced on September 26/27, 2005, that all foreign journalists—unless employed by the UNMIL—shall be registered with the Ministry, especially for the elections. The Minister also asserted that “any journalist violating this provision shall be charged with a misdemeanour in the first degree.”

## **2. Difficult denunciation of violations of economic and social rights**

### **A. Denouncing violations of economic and social rights and corruption related to natural resources: A perilous stance**

In spite of the progress made in terms of respect for civil and political rights in the country, Liberia remains marred by on-going corruption and violations of economic and social rights, notably in the field of natural resources exploitation. The lack of transparency surrounding these issues and the almost total impunity from which the perpetrators of these violations benefit create a dangerous working environment for human rights defenders denouncing these abuses. As a human rights

activist stated: “*Make a report on police violence, and the authorities will even cooperate; but start denouncing corruption, violations of economic and social rights and challenging individuals’ interests, and the trouble will start.*”<sup>84</sup>

In several corruption cases, notably involving high-ranking government members, the delegation received reports of several cases of serious threats and intimidation actions against human rights defenders, and was all the more concerned that it was expressly asked not to detail these cases for security reasons. More generally, defenders denouncing corruption or providing legal assistance to victims of such violations are regularly subjected to defamation campaigns.

On September 5, 2005 for instance, the Centre for Democratic Empowerment (CEDE), organized a press conference to denounce the “*probable misappropriation of State funds by the leadership of the Liberia Petroleum Refining Company (LPRC),*” first disclosed on September 2, 2005, in the New Democrat newspaper.<sup>85</sup> According to credible sources, several LPRC senior officials, and notably Mr. Edwin Snowe,<sup>86</sup> LPRC managing director, embezzled several hundred thousands US dollars between 2004 and 2005. Mr. Snowe, who was an independent candidate for the House of Representatives in Montserrado County, along with three other senior officials,<sup>87</sup> were notably suspected of misusing public funds for their electoral campaign. On September 6, 2005, Mr. Othello Garblah, news editor of the New Democrat, was assaulted by Mr. Edwin Snowe and his bodyguards at the Ministry of Justice where the LPRC managing director had been invited for questioning following the corruption allegations. Mr. Garblah, who simply attempted to take a photograph of Mr. Snowe, was slightly injured.<sup>88</sup>

However, these actions were reportedly committed to be led by individuals—although sometimes by government and State administration officials—and were not the product of State-violence.

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83. Several human rights activists, for instance, asserted they had to buy the copy of the budget.

84. Interview with a human rights activist.

85. See “The price of gasoline: how it benefits LPRC executives and the NTGL,” *the New Democrat*, September 2, 2005, and “Bonanza at LPRC,” *the New Democrat*, September 5, 2005. Documents distributed by the CEDE.

86. Mr. Edwin Snowe is targeted by UN travel bans and assets freeze measures.

87. Mr. Richard Devine, deputy managing director for fiscal affairs, canvassed for a senate seat in Bomi County under the COTOL (Mr. Varney Sherman—and Guyde Bryant—party) banner, Mr. Zoe Pennue, deputy managing director for administration, was a independent legislative candidate in Grand Gedeh, and Mr. Frederick Cherue, chairman of the board of directors, was a COTOL senatorial aspirant in River Gee. It is to be noticed that chairman Guyde Bryant first nominated Mr. Varney Sherman, standard-bearer of the COTOL, as chairman of the LPRC board of directors, Mr. Sherman was later removed.

88. See International Freedom of Exchange (IFEX) press release, September 8, 2005.

**“Ballots not bullets!”  
Will human rights be respected in Liberia?**

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## **B. Trade Unions’ situation**

Workers’ rights in Liberia remain highly challenged, and unions face numerous constraints and impediments in organizing the country’s labour force.

Although the State employs over 50% of the country’s workforce, the government still prohibits the unionization of the public sector, and refuses any collective bargaining and agreement. Under Section 4506 of the 1977 Labour Practices Law, civil servants and public sector’s employees are banned from organizing (they can only form associations, which have no binding force) and are thus barred from instituting strike action.

In June 2004, however, a two-day civil service strike provoked a strong reaction on the part of the government, which referred to the above mentioned Section 4506 and declared that the civil servants’ action was *“illegal and [would] not be tolerated.”* More recently, from July 4 to 13, 2005, civil servants led a general *“go-slow”* strike action to protest against 17 months of arrears in the payment of their salaries, while the newly adopted budget did not encompass allocation of funds for the payment of these arrears. Chairman Gyude Bryant allegedly threatened to dismiss the strikers and *“to replace them with other people.”* An agreement could finally be reached on July 13, when the government agreed to pay the servants four months of arrears before December 2005.

If trade unions are allowed in the private sector, they also face numerous difficulties. According to Section 1508-3b of the Liberian Labour Law, employers are entitled to dismiss any worker without prior notice and compensation, a situation denounced by several unionists who asserted that companies very often resort to this provision to dismiss unionised workers or union leaders.

Most companies were reported to be reluctant to let their workers organize. This was notably the case of the Eures Support Services (ESS) private Company, which provides food, material and maintenance services to the UNMIL. On May 5, 2004, the ESS management filed a formal protest with the Ministry of Labour to challenge the result of the representation election conducted in April 2004 on the initiative of the National Timber Wood Construction and Allied Workers’ Union of Liberia (NTWCAWU), arguing that the ESS was not the workers’ direct employer, initially hired and supplied by the

ENIGMA Shipping Company, and that there had been some irregularities in the conduct of the elections. In its letter to the Ministry requesting the nullification of the election, however, the ESS stated that *“the unionization of employees may have a negative effect on the [UNMIL] in case of work stoppage and strike actions”* and that *“it would be dangerous if [their] employees were unionized with the right to (...) strike action.”* On June 2, 2004, the Ministry of Labour decided to cancel the April election results and ruled that any further election shall be conducted between ENIGMA and the NTWCAWU. This new election was conducted in November 2004, and its results, which led to the establishment of the ESS/ENIGMA Employees Welfare Association and the conclusion of a collective bargaining agreement, were recognized by both the ENIGMA Shipping Company and the Ministry of Labour. Between December 6, 2004 and January 4, 2005, however, 11 ESS employees were dismissed—allegedly for their NTWCAWU membership—without prior notice or compensation. Whereas the ENIGMA Shipping Company did not renew its employment and recruitment agreement with ESS on January 1, 2005, the ESS refused again to recognize the Union, despite the numerous citations of the Ministry of Labour.

In the rubber plantations throughout the country, where agricultural workers are subjected to terrible work conditions and violations of their rights, several cases of unlawful dismissals were also reported. On March 7, 2005, the Liberia Agricultural Company (LAC)’s workers in Grand Bassa County went on a spontaneous, illegal strike to protest against their work conditions and low salaries. This strike lasted for two weeks and was marred by numerous acts of violence and property damage. In mid-April 2005, Mr. Adolphus Weseh, president of the LAC Workers’ Union,<sup>89</sup> which had allegedly not called for nor organized the strike, was dismissed by the management who accused him of encouraging social unrest and causing property damage. Mr. Weseh’s wife, who was working at the LAC medical clinic, was also dismissed, and their 4 children were expelled from the LAC compound school. The case was brought before the Buchanan Labour Court in May 2005 by the GAAWUL, and is to date still pending.

In the fishery industry, the Fishermen’s Union also denounced several cases of fishermen threatened by their employers: in early 2005, Korean captains allegedly threatened and beat up their employees while on board in order to prevent them to report to the Union about their working conditions.

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89. The LAC Workers’ Union is a member of the General Agricultural and Allied Workers’ Union of Liberia (GAAWUL), an umbrella that gathers several unions operating in the major rubber plantations in the country (LAC and Firestone notably).

## **Conclusion and recommendations**

### **Conclusion**

In a country rundown by decades of civil war and political misrule, the six-year term of Mrs. Ellen Johnson-Sirleaf will be critical for Liberia’s future.

Besides restoring national unity, re-establishing security of people and State and strengthening the rule of law, Mrs. Johnson-Sirleaf’s to-do list has to include the respect of economic and social rights in compliance with international human rights standards, notably by making education and training available, creating jobs, restoring water and electricity supply systems and restoring Liberia’s international credibility.

Along these same lines, new national authorities will have to fight against corruption. Corruption practices are ingrained and entrenched in almost every sphere of life in Liberia. But corruption in any form will continue only and as long as it is permitted to. FIDH and LWHR consider that the new government must take drastic measures to stop the plague, in compliance with the African Union Convention on Preventing and Combating Corruption.

One other major issue is the need to fight against impunity, bringing perpetrators of the most serious crimes committed during the civil wars to justice and reforming the justice system.

Indeed, long-lasting peace in Liberia can only be achieved through full respect of the rights of victims to truth and justice. So many times, when political forces attempted to put aside

responsibilities for past crimes through amnesty or pardon in the name of national reconciliation, conflict soon re-emerged.

This implies that all victims shall have the opportunity to assert their rights and receive a fair and effective compensation, ensuring that they obtain reparations and that their oppressors stand trial. FIDH and LWHR believe that there can be no just and lasting reconciliation without an effective response to the need for justice.

The right to truth and justice entails obligations for the State: to investigate violations, to prosecute the perpetrators and, if their guilt is established, to punish them. In that respect, FIDH and LWHR welcome the establishment of the Liberian Truth and Reconciliation Commission. Full and effective exercise of the right to truth is essential to avoid any recurrence of violations in the future.

However, FIDH and LWHR remain highly concerned by the fact that no perpetrator of serious crimes committed during the civil wars was brought to justice.

Thus, FIDH and LWHR, as part of efforts to wipe out impunity from the continent, specifically the ECOWAS sub-region that has been in turmoil for most of the last two decades, call on Nigeria to cooperate with the Special Court for Sierra Leone by extraditing former president Charles Taylor to face justice.

Bringing perpetrators to justice would send a clear message that violations of human rights will not be tolerated and that those who commit such acts will be held fully accountable.

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## **Recommendations**

In order to consolidate peace and ensure the re-establishment of the rule of law, FIDH and LWHR make the following recommendations to

### **The newly elected authorities of Liberia:**

- To reform the judicial system, notably by ensuring a comprehensive review of legal practitioners and a proper training and investigating allegations of corruption among court personnel,
- To limit the use of pre-trial detentions, improve the conditions in correctional facilities and guarantee fair trials,
- To bring to justice all the perpetrators—without any distinction based on official capacity—of alleged violations of human rights and humanitarian law during the past armed conflicts in Liberia,
- To support the work of the Truth and Reconciliation Commission (TRC) by ensuring its proper funding, guaranteeing its independence, facilitating access to information and ensuring the safety of potential witnesses and all other persons collaborating with the TRC, especially in the hinterland,
- To put an end to ordeal practices and abuses in traditional justice in accordance with Article 21 of the Liberian Constitution and the human rights instruments ratified by Liberia and notably the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as well as the International Covenant on Civil and Political Rights (ICCPR),
- To ratify the African Union Convention on Preventing and Combating Corruption and to adopt anti-corruption legislation,
- To put an end to corruption by investigating the alleged cases and sanctioning the perpetrators of such acts,
- To guarantee in all circumstances the physical and psychological integrity of human rights defenders in compliance with international instruments especially the Declaration of Human

Rights defenders adopted by the U.N. General Assembly in December 1998,

- To foster the adoption of legislation limiting the discretionary powers of the Executive in terms of freedoms of association, peaceful assembly, expression and of the press, and ensure the compliance of these laws with internationally-recognized standards,
- To abolish Decree 88A,
- To guarantee free access to public information for human rights defenders, civil society representatives and journalists by adopting a Freedom of Information Act,
- To conform with the international instruments ratified by Liberia and notably, the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the African Charter on Human and Peoples Rights (ACHPR),
- To ratify the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa,
- To ratify the Protocol to the African Charter on Human and Peoples’ Rights establishing the African Court on Human and Peoples’ Rights and to make the declaration under article 34.6 giving the possibility for NGOs and individuals to access directly to the Court,
- To implement the provisions of the International Criminal Court Statute—especially the definition of international crimes and articles on cooperation between the State and the Court—into national laws,
- More generally, to conform to the Universal Declaration of Human Rights.

### **The authorities of Nigeria:**

- To hand over Charles Taylor to the Special Court for Sierra Leone.

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The **International Federation for Human Rights (FIDH)** is an international non-governmental organisation for the defence of human rights as enshrined in the Universal Declaration of Human Rights of 1948. Created in 1922, the FIDH brings together 141 human rights organisations from 100 countries. FIDH has undertaken over a thousand missions of investigation, trial observations, and trainings in more than one hundred countries. It provides its members with an unparalleled network of expertise and solidarity, as well as guidance to the procedures of international organisations. The FIDH works to:

- a) Mobilise the international community
- b) Prevent violations, and support civil society
- c) Observe and alert
- d) Inform, denounce, and protect

The FIDH is historically the first international human rights organisation with a universal mandate to defend all human rights. FIDH enjoys observer status with the United Nations Economic and Social Council (UNESCO), the Council of Europe's Permanent Committee, the International Labour Organization (ILO), and consultative status with the African Commission on Human and Peoples' Rights. FIDH is represented at the United Nations and the European Union through its permanent delegations in Geneva and Brussels.



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**Liberia Watch for Human Rights (LWHR)** was established in 1992, as a not-for profit, non-governmental, non-political, and non-religious but egalitarian institution advocating for the protection, promotion and cohesion of fundamental rights of all Liberians and foreign national alike in accordance with Liberia Constitution and Universal Declaration of Human Rights (UNDHR). LWHR is duly and legally registered with the foreign ministry as a local NGO.

Since its establishment, LWHR has been at a vanguard of human right advocacy promoting and protecting peace, social justice and democracy. LWHR has been educating the citizenry on their fundamental human rights and their attending responsibilities. LWHR activities have immensely affected the society positively, even during the despotic regime of formal president Charles G. Taylor, despite harassment, looting of our offices and incarceration of LWHR Executive Director.

Immediately after the disarmament of all warring factions in 1997, and subsequently holding of the general and presidential elections the same year, LWHR redesigned and restructured its activities and got engaged in Labour movement, Defense of workers right realizing the importance of trade Unionist in reconstruction process, especially in the aftermath of 14 years civil conflict.

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