



Independent National Commission on Human Rights of Liberia (INCHR)

Written Submission to the 3rd Cycle Universal Periodic Review (UPR) –



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Introduction

1. INCHR is a status “A” National Human Rights Institution (NHRI) and is for the first time submitting a written report to the UPR Process. It welcomes the recommendations made to the Government of Liberia (GOL) during the 2nd review cycle. INCHR acknowledges the adoption of the recommendations and the expressed commitment of the GOL by accepting the recommendations.
2. Liberia underwent its 1st and 2nd UPR reviews in November 2010 and May 2015 respectively in conformity with the Human Rights Council Resolution (HRC) 5/1.
3. This report entails actions taken by GOL to implement its 2nd UPR recommendations. It essentially seeks to evaluate commitment to improve human rights situation, assess progress and challenges faced in the implementation, realization and enjoyment of human rights and fundamental freedom; and advanced recommendations.

Methodology

4. In compliance with its mandates, and with support from the Office of the High Commissioner for Human Rights (OHCHR) in Liberia, the INCHR had consultative meetings with stakeholders¹. Other activities carried out also included radio programs for community awareness and participation in the UPR Process.
5. On 16 August 2019, a consultative meeting was held with Ministries, Agencies and Commissions (MACs) in Monrovia to gather data on progress and challenges of the implementation of the UPR recommendations. Also, from 24 – 27 September 2019, a regional consultation was held in Ganta, Nimba County to generate input from local stakeholders.
6. The findings of the exercises were validated on 1 October 2019 by MACs and other non-state actors. Thereafter, a technical team convened on 2 October 2019 to review and submit the report.

Acceptance of international norms and Cooperation with Treaties Bodies

7. In the 2015 review, the GOL accepted to take appropriate and immediate steps to ratify a number of treaties and optional protocols and commit to her reporting obligations. INCHR continues to engage the GOL to comply with its reporting obligations at regional and international levels. Hence, the INCHR notes the following reports were submitted: ICCPR (2016) and UNCRPD (2019); and the GOL is finalizing the reports of CEDAW, African Charter on the Rights and Welfare of the Child and the Maputo Protocol.
8. However, the following reports are outstanding: ESCR (initial report), CRC (2017), CAT (initial report), CERD (Initial report). African Charter on the Rights and Welfare of the Child (2018). African Charter on Human and Peoples Rights (periodic report outstanding since 2016), Maputo Protocol (No initial report).
9. While the GOL has taken steps to implement the UNCRPD, through the development of a national action plan; the GOL is yet to ratify the Optional Protocol of the UNCRPD.

¹ Stakeholders are: traditional leaders (town and paramount chiefs), judicial officials, health and education officials, representative of GOL line ministries along with representative of civil society organizations.

10. Liberia has not domesticated: the 2nd Optional Protocol of the ICCPR on death Penalty and CAT². Notwithstanding, the GOL has a Moratorium on death penalty and over the past 20 years has not implemented death sentence.³
11. INCHR observes that the challenges of the GOL in meeting treaty reporting obligations are largely due to lack of technical capacity in the preparation of treaty reports and the lack of effective coordination frameworks with mandate to engender timely and effective reporting.
12. ***Recommendation: INCHR recommends that GOL signs and ratifies treaties and optional protocols⁴ and take steps to implement its reporting and treaty obligations. Also recommends, coordination frameworks, trainings and supports for treaties reporting.***

Constitutional Reform and Law

13. The GOL has accepted recommendations advanced by States during the 2nd cycle UPR. The Government set up a Constitutional Review Committee (the Committee) in 2012 to manage a process to review Liberia's 1986 Constitution. The Committee submitted several propositions to the President in March 2015 who presented the proposition to the Legislature pending amendment. The propositions include equality between women and men and other non-discriminatory provisions on citizenship, including transfer of nationality of women to their children born to a foreigner were advanced.⁵
14. INCHR notes efforts by GOL aimed at law reform to promote human rights. In 2018, a Land Rights Act was enacted, which for the first time addresses the issue of land tenure providing greater rights for rural Liberians; a 2018 Local Government Act was enacted to increase devolution of power; and a 2019 Domestic Violence law was enacted to protect women and children.
15. ***Recommendation: INCHR welcomes GOL expressed commitment to constitutional reforms; however, encourages the GOL to continue supporting the process and ensure the new amendments will be consistent with human rights norms and standards.***

Non-discrimination

16. GOL still has discriminatory laws against LGBTI persons. The Penal Code of 1978, Section 14.74 criminalizes sodomy and restricts the rights of LGBTI persons to privacy. In November 2018, a proposed bill to criminalize 'same sex practice' was reintroduced in the Legislature. The proposed legislation received sharp criticism from NGOs and INCHR. Despite growing homophobia, the Ministry of Health through the support of Population Service International (PSI) and Family Health International 360⁶, continue to provide health services to the LGBTI community.

² See 2nd cycle recommendation on Liberia (Spain): National Preventative Mechanism and Anti-Torture Bill.

³ See U.N.G.A. Human Rights Council, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Liberia, para. 34, U.N. Doc. A/HRC/WG.6/22/LBR/1, Feb. 18, 2015, also see recommendation advanced by Costa Rica

⁴ Optional Protocol of the UNCRPD, the African Court, the African Charter on Democracy and Governance, International Convention on the Rights of Migrant Workers and the 1st and 2nd Optional protocols of the CRC.

⁵ See 2nd cycle recommendation on Liberia (Germany)

⁶ Includes Stop AIDS in Liberia, LEGAL, White Rose Alliance, TNOL+ and LIPRIDE

17. To address stigmatization against Ebola survivor, the Ministry of Health has adopted a policy to stop discrimination against EBOLA survivors through reintegration into the society.⁷ UNICEF through the Ministry of Gender Children and Social Protection (MGCSP) provides one stop off to every EBOLA survivors in their communities.⁸
18. Even though, there is a Children Act of 2011, the MGCSP in August 2017 developed a Child Welfare Policy to protect children against all forms of discriminations including child labour.⁹ In addition to the child welfare policy of 2017, there is a national plan of action for the welfare and protection of the child (2018 – 2022). Section 2.7 of the 2015 Decent Work Act prohibits discrimination against a person. It provides equality for all persons regardless of gender or sexual identity.¹⁰
19. Article 4.5(1c) of the New Elections Laws provides that political parties in every election endeavor to ensure that their nominations for elected position have no less than 30 percent representation of either gender. INCHR notes that the vagueness of this provision made its application ineffectual. The Affirmative Action Bill seeking the adequate participation of marginalized groups is still pending before the Legislature.¹¹
20. ***Recommendation: INCHR urges Government to decriminalize same sex practices by amending section 14.74 of the Penal Code and Pass into law the Affirmative Action Bill.***

Detention

21. Prolonged pretrial detention, arbitrary arrest and detention are some of the challenges undermining the rule of law. INCHR recognizes GoL deployment of 35 Public Defenders throughout the Country to ensure access to justice, especially for indigent.¹² A Magistrate Sitting Program to fast track misdemeanor cases is in effect at the Monrovia Central Prison since 2009. INCHR notes that GOL has not extended the program nationwide. GOL effort to promote juvenile justice in rural areas by the construction of a Juvenile Court in Bong County is also noted.¹³
22. In spite of GOL efforts, indigents are challenged with inadequate “right to counsel”, considering the limited number of public defenders coupled with the lack of national legal aid programs. Overcrowded prison, poor sanitation, and inadequate medication make condition appalling.¹⁴
23. ***Recommendation: INCHR urges Government to deploy more public defenders, provide logistics to facilitate their work and enact a National Legal Aid program to support persons who come in conflict with the law; and take step to reduce prolonged pretrial detention and improve prison condition.***

⁷ Ministry of Health 2016 Annual Report

⁸ Ibid. & see 2nd cycle recommendations (Trinidad and Tobago)

⁹ See 2nd cycle recommendation (USA), art. 2.3 of the Decent work Act prohibits worst form of child labour

¹⁰ Decent Work of Liberia (2015) sec. 2.4 (b); also see 2nd cycle recommendation (Colombia)

¹¹ The Affirmative Action Bill seeks to provide 21 constituencies for women youth and persons with disability

¹² Public defender association mid-year report (2019)

¹³ See 2nd cycle recommendation(spain)

¹⁴ INCHR Thematic Report on Condition of Prison and Prisoners, 2017

Remedy and rule of law

24. The GOL has put in place measures to deal with sexual and gender based violence. GOL has begun the decentralization of the Sexual Offense Court in 2019.¹⁵ The SGBV crimes unit of the Liberia National Police (LNP), established in 2009, is addressing SGBV cases including rape.
25. Attempts to criminalize FGM in the recently enacted Domestic Violence Act (DVA) proved futile. Further actions included Executive Order 92 issued in January 2018 by the President banning FGM and a moratorium issued by Traditional Council suspending the practice of FGM during school period.¹⁶ However the practice of FGM is continuing.
26. Addressing human rights violations committed during the civil war continues to resonate. The Office of the President has not provided its quarterly report on the implementation of the TRC recommendations since 2014. GOL efforts to implement the TRC recommendations include the completion of two memorials while additional 5 memorials are under construction. The proposition to establish the war and economic crimes courts is currently being debated nationally. The President of Liberia in September 2019, requested the Legislature to advise his office on how to proceed with accountability for crimes committed during the civil war.¹⁷
27. ***Recommendation: GOL must ensure enactment of Law criminalizing FGM in compliance with the Maputo Protocol; establish accountability mechanisms for economic and war crimes and for national healing and reconciliation.***¹⁸

Economic social and cultural rights

28. Living standards¹⁹ is hindered by resources constraints caused by weak institution, corruptions and bad governance. Pillar one of the Pro-poor Agenda for Prosperity and Development recognizes these constraints and seeks to address them through national development priorities.²⁰
29. Right to health continues to be a critical challenge.²¹ Basic health services are extremely non-existent exposed by the 2014-2015 Ebola diseases crisis. In 2018, the Liberia Medical and Dental Association (LMDA) reported that there were 298 medical doctors responsible for the country's 4.5 million population, making the doctor per patient ratio 1:15,000.²² This figure contrast WHO recommended ratio of doctor patient of 1:1000.²³

¹⁵ 1 Court constructed in Bong County.

¹⁶ Ministry of Internal Affairs annual report(2018)

¹⁷ See, Liberia: President Weah Seeks Legislature's Advice for War Crimes Court, <https://frontpageafricaonline.com/news/liberia-president-seeks-legislatures-advice-for-war-crimes-court/> (accessed September 29, 2019)

¹⁸ See 2nd cycle recommendation (Senegal)

¹⁹ 2nd Cycle recommendation (Zimbabwe)

²⁰ PAPD asserts that constraints can be found throughout the life cycle of Liberians from birth to death; but most are concentrated in access to basic education and to basic health, and in women and girls' empowerment, accessed, [https://www.emansion.gov.lr/doc/Pro-Poor%20Agenda%20For%20Prosperity%20And%20Development%20book%20for%20Email%20sending%20\(1\).pdf%20-%20Compressed.pdf](https://www.emansion.gov.lr/doc/Pro-Poor%20Agenda%20For%20Prosperity%20And%20Development%20book%20for%20Email%20sending%20(1).pdf%20-%20Compressed.pdf) (accessed September 29, 2019)

²¹ See 2nd cycle recommendations (Thailand, Trinidad and Tabogo)

²² See LMDA report at, <https://www.bushchicken.com/liberias-4-5-million-population-has-only-298-medical-doctors/> (accessed, September 29, 2019)

30. Liberia educational system is far behind most African countries in almost all educational statistics. Liberia has one of the world highest level of out of school children. Over a third of preschoolers have access to early childhood learning program and only 54 per cent of children complete primary education.²⁴ However, there is a recorded increased in passing rate of candidates for the WASSCE: 65.15% out of 33,979 (2018) passed while 71.22% out of 39,887 (2019).
31. The lack of trained teachers is yet another challenge. Quality learning is a challenge. It is estimated that 36% of primary teachers and 29 % of secondary teachers are unqualified.²⁵ These anomalies are evidenced by the mass failure of Liberian students in the West African Senior School Certificate Examination (WASSCE).²⁶
32. Access to education has been a challenge over the years due to cultural and other social factors, whereby boys have preference to access education than girls. National Policy on Girls Education was initiated to break the barriers and ensure equitable access to education for girls.²⁷ These initiatives experience serious setback due to budgetary constraints.
33. ***Recommendation: INCHR urges the Government of Liberia to prioritize support towards social spending particularly in the area of health and education consistent with ESCR treaties obligations.***

Children Rights and others recommendation

34. The government has made tremendous efforts to ensure children rights are protected. The MGCSP has initiated many programs and policies to protect the right of children. The 2005 Act to Ban trafficking in Persons has been operationalized to ensure children who are primary targets of cross border trafficking are protected. Mano River Union member states have established MoU to address this situation.²⁸ The Women and children protection section of LNP has arrested and prosecuted persons involved in trafficking of children.²⁹
35. The Penal code of 1978 provides for corporal punishment for children. However, number of steps to abolish corporal punishment have been taken by the Ministry of Education.³⁰

²³ Ibid.

²⁴ UNICEF, <https://www.unicef.org/liberia/basic-education>(accessed September 29, 2019)

²⁵ Ibid.

²⁶ WAEC/Liberia, shows that out of 33,124 candidates that sat the examination, 21,580 were unsuccessful while 11,544 students were successful. The figure represents 65.51% passed and 34.85% failure.

<https://frontpageafricaonline.com/news/mass-failure-of-liberian-students-in-wassce-reignites-concern-to-fix-messy-education/>(accessed September 29, 2019) ; the figures for 2019 were significantly higher than previous year.

²⁷ See 2nd cycle recommendations (South Africa , Latvia, Congo, Norway and Trinidad and Tobago)

²⁸ Defence for Children 13 December 2017 Annual Report , <https://defenceforchildren.org/three-dci-sections-guinea-liberia-and-sierra-leone-cooperate-to-end-cross-border-child-trafficking-in-the-mano-river-union-countries-in-west-africa/> (accessed October 2, 2019)

²⁹ Trafficking in Persons Report 2017 - Country Narratives – Liberia, <https://www.ecoi.net/de/dokument/1402499.html> (accessed October 1, 2019) Also reported during Trafficking in Person Task Force Meeting September 25, 2019

³⁰ See 2nd cycle recommendation(Namibia)

The Ministry of Justice in July 2019 arrested, detained and charged a proprietor of a local school for physically beaten a school pupil.³¹

36. Liberia established through legislation anti-graft institutions: GAC, LACC and others to audit and prosecute those involved in theft and embezzlement.³² In March 2019 the President of Liberia mandated GAC to conduct a two-week forensic investigation of a \$25 million mop-up exercise carried out by the Central Bank of Liberia. The findings of the investigations are pending prosecution.³³
37. The Government has taken steps in raising awareness on human rights. Besides, the INCHR statutory mandate to ensure promotion and protection, the Government has used African and ECOWAS Human Right days to raise awareness.³⁴ In addition, December 10 of each year is popularize by Government to highlight human rights issues.
38. The Government has embarked on a national human rights action plan for 2019-2023. The draft work plan contains evaluation plans and costing of program activities.³⁵ In addition, the government with key stakeholders have embarked on the development of a national action plan on business and human rights to address the rights of communities affected by concessions. Interestingly, the Land Rights Act of 2018 has given Liberians, especially rural communities access and rights to land ownership and governance.
39. ***Recommendation: INCHR urges Government to strengthen protection for children in the area of trafficking in children. Also, the Government is urged to review section 5.8 of the Penal Code providing for the use of force by parents and guardians.***

Institutions & policies (INCHR)

40. INCHR is present in all of the fifteen counties of Liberia. Human rights monitors and regional human rights offices are established. INCHR conducts human rights monitoring and carry out thematic visits in the counties. Human rights monitors and justice actors (MOJ, MoGSCP) receive regular training on human rights and rule of law topics.
41. INCHR faces constraints due to low GOL budgetary support. Logistical support such as computers and mobility has hindered INCHR capacity to fully carry out its mandate as a Status 'A' NHRI.
42. ***Recommendation: Government must provide adequate budgetary support to the INCHR to fulfil its statutory mandate of ensuring promotion and protection of human rights. Additionally, Government must prioritize and ensure that rule of law institutions are fully supported and decentralized to increase citizens access to justice. Establish human rights desks in the various MACs of government. Increase budgetary allotment to regional justice and security hubs as motivation to work and to also discourage corruption.***

³¹ Liberia: Court detains Soltiamon School Dean, Proprietor on Multiple charges, <https://theworldnews.net/lr-news/liberia-court-detains-soltiamon-school-dean-proprietor-on-multiple-charges> (accessed September 29, 2019)

³² See 2nd cycle recommendation (Norway)

³³ Analysis: Liberia – Presidential Order Mandating Forensic Probe of US\$25M Mop-up Shifts Attention to Influential Minister, can be found on, <https://frontpageafricaonline.com/news/analysis-liberia-presidential-order-mandating-forensic-probe-of-us25m-mop-up-shifts-attention-to-influential-minister/> (accessed, September 29, 2019)

³⁴ See 2nd cycle recommendation(France)

³⁵ Ibid . (France)