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TECHNICAL ASSISTANCE AND CAPACITY-BUILDING

**Report of the Office of the United Nations High Commissioner for
Human Rights on the progress made in the situation of human
rights in Liberia and activities undertaken in the country***

* Late submission.

Summary

On 19 September 2008, the independent expert on technical cooperation and advisory services in Liberia, Charlotte Abaka, presented her report on the situation of human rights in Liberia to the Human Rights Council.¹ The mandate of the independent expert was not renewed; instead in resolution 9/16 the Council invited the Office of the United Nations High Commissioner for Human Rights (OHCHR) to report to the Council at its twelfth session on the progress made in the situation of human rights in Liberia and the activities undertaken in the country. The present report is submitted in accordance with the mandate thus given to OHCHR and covers the period September 2008 to June 2009.

The Government of Liberia has made some initial and important advances towards improving institutional human rights protection. With a view to reforming and strengthening the key institutions in the criminal justice sector, the Government commenced the drafting of strategic plans for the judiciary and the corrections sectors, while the strategic plan for the Liberia National Police (LNP) was finalized, setting out the framework for transforming the LNP into a viable, operationally effective law enforcement service.

The legislature passed amendments to the act establishing the Independent National Commission on Human Rights (INCHR). With the enactment of the amendments, it is critical that the commissioners of the INCHR are expeditiously appointed and a functioning, independent and accessible Commission put in place. The Truth and Reconciliation Commission (TRC) continued its public hearings and a preliminary report, containing initial findings and recommendations, was published in January 2009. The TRC concluded its mandate on 30 June 2009 and presented its final report to the national legislature with a copy to the President.

Although there is apparent growing commitment by Government to address human rights issues, for instance through strategic planning towards reforming institutions in the criminal justice sector, a number of serious human rights concerns persist. Institutions in the criminal justice sector remain weak due to shortages of qualified personnel, insufficient funding, lack of infrastructure and equipment, poor administration and corruption. Prison facilities are massively overcrowded, with over 90 per cent of the prison population in pretrial detention.² Despite efforts made by the Government and members of the international community to implement a major joint programme to combat sexual and gender-based violence, cases of rape and other sexual crimes are still prevalent. Harmful traditional practices, including trials by ordeal, ritual killings and female genital mutilation are deeply entrenched and continue to be widely practised, in some cases with the knowledge or encouragement of local authorities. Inadequate protection of children's rights remains a problem. Whether at home, school or in the community, children continue to suffer various forms of violence. In addition to physical and sexual abuse, children in orphanages live and study in poor conditions and run the risk of being trafficked especially

¹ A/HRC/9/15.

² United Nations Mission in Liberia Corrections Advisory Unit statistics on prison population for 2008.

through “informal” or illegal adoptions facilitated by unscrupulous orphanage owners. Meanwhile, cases involving children who come into conflict with the law are not appropriately dealt with, as there is no effectively functioning juvenile justice system. Although the humanitarian situation has continued to improve, a large percentage of the population still cannot enjoy their economic and social rights owing to limited access to education, health care and social welfare services. Funding for humanitarian activities has over the years significantly reduced and is expected to decrease further in 2009 as a result of the global economic situation.³

The report concludes with a set of recommendations for the Government of Liberia and the international community.

³ For instance, according to the Financial Tracking Service, the global humanitarian aid database managed by the Office of the High Commissioner for Humanitarian Affairs, in 2008 US\$ 134,665,480 was committed or contributed to Liberia and US\$ 2,117,136 pledged. In 2009, US\$ 22,353,907 has been committed or contributed to Liberia and US\$ 16,554,505 pledged.

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I. RECENT DEVELOPMENTS

A. Independent National Commission on Human Rights

1. On 21 May 2009, the Senate concurred with the House of Representatives and passed amendments to the act establishing the Independent National Commission on Human Rights (INCHR). The OHCHR National Institutions Unit provided legal advice for the drafting of the act and its amendments to ensure compliance with international standards (the Paris Principles). The act as amended was presented to the President of Liberia who assented to it in June 2009. The INCHR is mandated to ensure the implementation of recommendations of the Truth and Reconciliation Commission (TRC), whose mandate ended on 30 June 2009. A list of 11 nominees was submitted to the President in early 2007, from which she is expected to appoint 7 commissioners.⁴ The Executive postponed making any appointments, waiting for the amendments to the act to be passed. Concerns relating to the nominated persons had also been raised and it is possible that the appointment of commissioners will be delayed due to these concerns.

B. Truth and Reconciliation Commission

2. The TRC held institutional and thematic hearings covering, inter alia, the media, legislature, children, women and reparations during the period under review. In January 2009, it released volume I of its final report which contained initial findings and recommendations. The TRC concluded its mandate with the delivery of its consolidated final report, volume II, to the national legislature and the President on 30 June 2009.⁵ The report, whose cover page is marked “unedited”, contains key findings on the root causes of the conflict and recommends criminal prosecution in a special hybrid extraordinary tribunal for the most serious violations, including economic crimes; domestic prosecutions for lesser crimes; reparations; lustration; use of a decentralized “Palava Hut” peacebuilding mechanism; and extensive legal and political reforms.⁶ Fifty public and political figures, including President Ellen Johnson Sirleaf, are listed to face

⁴ Article IX of the Act to Repeal the Act of 1997 Creating the Liberia Commission on Human Rights and to Create the Independent National Commission on Human Rights of Liberia (2005).

⁵ On 24 March, President Ellen Johnson Sirleaf approved a retroactive resolution extending the mandate of the TRC from 22 September 2008 to 30 June 2009.

⁶ Two TRC members made separate dissenting submissions to the report to the House of Representatives on 30 June. The main thrust of these submissions is that the accountability recommendations of the TRC fail to take into account the letter and spirit of the Comprehensive Peace Agreement and run counter to public opinion.

public sanctions.⁷ The report contains a complete list of persons recommended for prosecution for gross human rights violations and war crimes but does not contain a list of persons alleged to have committed egregious domestic crimes. Amnesty is recommended for those under 18 years of age at the time of committing violations and exempts 36 individuals found responsible for gross human rights violations from prosecution because they cooperated with and spoke truthfully before the TRC, admitted their wrongs and showed remorse. However, under section 26 (g) of its governing act, the TRC is prohibited from granting amnesty or exonerating those accused of violations of international humanitarian law and crimes against humanity. While the TRC is careful not to call this “non-prosecutions list” an amnesty, cooperation with the TRC should be a mitigating factor in sentencing, and not an escape clause that avoids all accountability. Publication of the TRC report ends only one phase in a long process of reconciliation, building lasting social cohesion and sustainable peace in Liberia.

3. In this regard, some reconciliation initiatives and activities to promote dialogue at the grass-roots level have been undertaken by different stakeholders. A series of regional dialogues were organized by a consortium of women’s civil society organizations under the umbrella of the Women Non-Governmental Organizations Secretariat of Liberia (WONGOSOL) aimed at encouraging women to actively participate in consolidating peace in Liberia. Women had the opportunity to make contributions to the TRC final report, including recommendations relating to reconciliation, reparations, amnesty and other transitional justice and peacebuilding processes. The TRC also held regional consultations in which representatives from all the 15 counties participated under the theme: “Promoting national peace, security and reconciliation in Liberia”. The consultations aimed to promote transparency, inclusion, participation and ownership of the peacebuilding and reconciliation initiatives designed to support social cohesion, democracy and national development in post-conflict Liberia. At the end of the consultations, participants recommended prosecution for those (including all heads of former warring factions, major actors in the conflict and their financiers) who illegally benefited from the country’s natural resources, committed economic crimes, and violated international humanitarian law, including crimes against humanity. They also called for the establishment in Liberia of a court of competent jurisdiction to deal with these cases. The participants recommended that no blanket amnesties be granted. However, those who were child soldiers at the time of the conflict and those who did not violate international humanitarian and human rights laws could be granted amnesty provided they cooperated with the TRC and were truthful and remorseful.

4. Tensions between ethnic groups and communities over land or natural resources persist and at times have escalated into violent clashes. For instance, in November and December 2008, two separate incidents of land-related disputes escalated into violent clashes in Nimba County. In its National Conflict Mapping Survey of October 2008, the TRC identified land- and property-related disputes as a predominant source of conflict in the 46 districts surveyed. The nature of these disputes ranged from intercommunal boundary and ownership disputes to tension resulting from lack of security of tenure. It was noted that land disputes, particularly in the border counties, “overlie a volatile context of inter-communal divisions which, if escalated to

⁷ The list of 50 persons is non-exhaustive and section 14.3 which recommends the type of public sanctions to be imposed on them is ambiguous and requires further clarification on the precise meaning and extent of its application.

violence, would assume an ‘ethnic’ dimension, spread quickly to neighbouring counties, have repercussions in Monrovia, and risk cross border militia activity”.⁸ Furthermore, if such tension and conflicts are not resolved, they could be manipulated for political or other motives particularly in the period leading up to the 2011 elections.

5. Continued institutional deficiencies are also likely to severely and adversely impact on the implementation of the TRC recommendations. The issue of archiving and ensuring public access to non-confidential material collected by the TRC remains unresolved. In addition, the TRC has not yet developed an efficient mechanism to ensure the safety of its records or documents, particularly those classified as confidential. In addition, the implementation of the TRC recommendations hinges on the INCHR becoming operational since, according to the TRC Act, the INCHR is tasked with ensuring that all the recommendations contained in the TRC report are implemented.⁹

6. Further concerns relate specifically to the issue of prosecutions. National prosecution initiatives undertaken following the conclusion of the mandate of the TRC must conform to international standards. Substantial resources and extensive training for national judges, prosecutors, defence counsels and investigators would have to be made available in order to facilitate investigations and prosecutions that comply with international standards. Additional resources would also be needed for witness protection. The TRC also recommends the establishment of a special tribunal to try serious crimes committed during the conflict.

C. Implementation of the Poverty Reduction Strategy

7. The Government of Liberia has acknowledged shortfalls in meeting the benchmarks set for implementation of the first phase of the Poverty Reduction Strategy (PRS).¹⁰ According to the Minister of Planning and Economic Affairs, the Government has only achieved 18 per cent of the 107 planned deliverables, 68 per cent of the deliverables were off target, while 13 per cent did not meet the deadline. The PRS contains comprehensive economic, social and cultural, as well as civil and political rights benchmarks, linking legal empowerment and the rule of law to development.

⁸ Truth and Reconciliation Commission of the Republic of Liberia, Conflict Mapping Project, page 3.

⁹ Section 46 of the TRC Act of Liberia provides that: “The Independent National Human Rights Commission shall be seized with the responsibility to ensure that all the recommendations contained in the report of the TRC are implemented”

¹⁰ The Liberia Poverty Reduction Strategy is to be implemented from 1 April 2008 to 30 June 2011. The first phase of implementation ran from April 2008 to April 2009. The Government has identified 347 interventions in the three years at an estimated cost of US\$ 1.6 billion.

D. International Women's Colloquium

8. To commemorate International Women's Day on 8 March 2008, President Ellen Johnson Sirleaf and President Tarja Halonen of Finland co-convened the International Colloquium on Women's Empowerment, Leadership Development, International Peace and Security, in Monrovia from 7 to 8 March. A national dimension of the Colloquium was also held from 9 to 10 March. Several resolutions were adopted by the participants at the Colloquium, inter alia on development of a firm accountability and monitoring system for Security Council resolution 1325 (2000); translation of resolution 1325 into local languages; development of gender-sensitive security sector reforms; and development of a comprehensive pre-deployment training guide on resolution 1325 for troop-contributing countries. The Liberia National Action Plan on the implementation of resolution 1325¹¹ was launched, as well as the Angie Brooks International Centre on Women's Empowerment, Leadership Development, Peace and Security, which will train women in leadership and facilitate follow-up action to the Colloquium.

II. THE HUMAN RIGHTS SITUATION IN LIBERIA

A. Rule of law and the criminal justice sector

9. The criminal justice sector remains pivotal in ensuring peace and security in Liberia as well as respect for human rights. During a visit to Liberia in May 2009, a Security Council delegation noted that while Liberia had made some progress, peace and security remained fragile, partly because of a weak security and justice sector.

10. There have been some significant developments in the justice sector since September 2008, notably a national rule of law retreat convened in September 2008 which for the first time brought together the three branches of Government to engage in a dialogue on the rule of law. A resolution committing all the branches to ongoing coordination was endorsed. The judiciary and the Ministry of Justice have both since commenced the process of drafting their strategic plans. Judges have been assigned to all the circuit courts and the judiciary has also commenced a programme of replacing magistrates who do not meet the qualifications criteria with law school graduates. Under a project of the Office of the United Nations High Commissioner for Refugees, implemented by the Ministry of Justice, 10 clerks were recruited to provide clerical assistance to county attorneys in 9 counties. To address the shortage of qualified prosecutors, through a programme initiated by the United Nations Mission in Liberia (UNMIL) Legal and Judicial Systems Support Division, the Open Society Initiative for West Africa provides scholarships for 50 law students who will work for the Ministry of Justice as city solicitors and county attorneys upon graduation.

11. However, the sector still faces numerous challenges including insufficient funding, lack of infrastructure, basic equipment and legal references, poor administration and caseload management, corruption, and the need for law reform. Effective and functioning judicial

¹¹ Besides Liberia, only two other countries in Africa, namely, Côte D'Ivoire and Uganda, have adopted National Action Plans for the implementation of Security Council resolution 1325 (2000).

structures are still lacking in many outlying districts of Liberia. This, coupled with the fact that most rural Liberians are not aware of the domestic law or their rights and how to pursue them, has meant that non-judicial officers have often adjudicated cases beyond their jurisdictional (pecuniary, tribal, criminal and/or geographical) competence.¹² Justices of the Peace¹³ have also continued to operate illegally as the President has not appointed any since the expiration of their commissions. Most rural communities continue to approach Justices of the Peace and non-judicial officers for their justice needs and in some instances, these officers appear to be unaware that they are acting ultra vires or unlawfully.

12. Where courts exist, they are faced with persistent shortages of essential qualified personnel, including magistrates, prosecutors and defence counsel. Although the Government of Liberia recruited 10 new public defenders to provide assistance to indigent defendants, 7 of the 15 counties are still without assigned public defenders.¹⁴ Meanwhile, in those counties where public defenders have been assigned, they are mainly restricted to county capitals. Legal advice clinics are operating in only three counties. This impacts on the proper functioning of the courts and affects the rights of those going through the judicial process. As a preliminary measure, the decision of the Chief Justice to ensure that all 15 counties have at least 1 public defender by 1 July 2009 is commendable. Gradually increasing the number so as to fulfil the right to legal assistance remains critical. Defendants remain in pretrial detention for prolonged periods, victims' rights to protection and redress are frustrated and in some instances, courts have decided on matters beyond their jurisdictions at the expense of defendants. UNMIL continues to provide assistance to the Ministry of Justice for the development of review mechanisms for addressing poor caseload management in the criminal justice system.

13. The corrections sector suffers from low budgetary allocation and weak physical infrastructure. The institutions are understaffed and staff poorly paid and inadequately trained. Frequently, the official staff are supplemented by volunteers, which raises concerns about accountability and other problems associated with prisons relying on the services of untrained staff. Due to the absence of detention facilities in parts of the country,¹⁵ some magistrates have resorted to unlawfully establishing and operating detention facilities as a stopgap measure. The conditions in these illegal makeshift structures and in the official prisons and detention facilities are, on the whole, deplorable and below minimum international standards in respect of

¹² The Aborigines Law and Hinterland Rules and Regulations (2000) confer on certain administrative officials adjudicatory powers over matters falling within their functions.

¹³ A puisne judicial officer appointed and commissioned by the President for a term of two years. The courts of the Justices of the Peace are the lowest in the Liberian statutory judicial structure with a territorial jurisdiction designated by the President. Pecuniary jurisdiction in civil actions is limited to 50 and 100 Liberian dollars for recovery of assets and debt payments respectively and to petty larceny and offences less serious than misdemeanours in criminal matters.

¹⁴ According to data compiled by the Legal and Judicial Systems Support Division of UNMIL.

¹⁵ Three counties, namely Grand Kru, Gbarpolu and Rivercess do not have central prisons.

accommodation, separation of different categories of detainees, health care, ventilation, floor space, bedding, personal hygiene and room temperatures.¹⁶ Overcrowding remains one of the biggest challenges in Liberian corrections facilities. Due to the weaknesses of the criminal justice system, the majority of detainees are in pretrial detention¹⁷ and often over prolonged periods. Overcrowding, coupled with serious shortages in correctional staff and other factors including poor management, poor logistics, absenteeism and dereliction of duties by the respective officers, has created an environment conducive to escapes. During the reporting period, more than 30 separate incidents of prison breakouts occurred throughout the country. Most serious was the riot and subsequent escape of 163 prisoners from Monrovia Central Prison (MCP) in December 2008, of whom 85 remain at large. Prior to the escape, MCP with a maximum operational capacity of 374 inmates, had 839 detainees on 26 November 2008, of whom 789 (94 per cent) were in pretrial detention. Other escapes involving scores of prisoners occurred in Zwedru Central Prison, Grand Gedeh County, where 40 pretrial detainees escaped on 17 April, and in MCP where another 32 detainees escaped on 16 May 2009. Although 39 of the 40 escapees from Zwedru Central Prison and 14 of the 32 escapees from MCP were recaptured with UNMIL support, escapes prevent justice from being delivered in accordance with the law and undermine public confidence in the judicial system and the fight against impunity. Victims of crimes are also at risk of finding themselves intimidated by suspects who have escaped from prison.

14. The Government is, however, increasingly focusing on the sector, and in this regard a draft Bureau of Corrections strategic plan was drawn up and is under review. In addition, the construction of two new correction facilities was completed and rehabilitation work at seven others was conducted. Of the 500 officers targeted for the Liberian corrections system, 209 officers including 25 women have been trained and deployed, with the recruitment of the remaining 291 awaiting additional funding. Furthermore, the Government has introduced a rotational magisterial court on the MCP premises to handle cases of prolonged pretrial detention and thus address difficulties in transporting inmates to the courts. Since 10 February 2009, magistrates from six magistrates' courts within Montserrado County now sit at MCP to carry out preliminary hearings, refer cases to appropriate courts and/or hear cases falling under their jurisdiction. The Legal and Judicial Systems Support Division of UNMIL is currently reviewing the effectiveness of this court.

15. During the period under review, efforts towards reforming and strengthening the Liberian National Police (LNP) resulted in the formulation of a five-year LNP strategic plan. The plan sets out the framework for transforming the LNP into a viable, operationally effective police service. A corresponding support programme to facilitate the implementation of the plan is being developed by the Government with the support of UNMIL and other international partners. Infrastructure development is also under way. Three LNP depots were constructed with support from the United Nations Quick Impact Project (QIP), while a six-room office for the Women and Children Protection Section (WCPS) was constructed at the LNP offices in Tubmanburg, Bomi

¹⁶ See rules 9-22 of the Standard Minimum Rules for the Treatment of Prisoners.

¹⁷ According to data collected by the UNMIL Corrections Advisory Unit, in April 2009, there were 1,226 pretrial detainees out of a nationwide prison population of 1,377.

County, with support from the Norwegian Government. The validation exercise of the deployment status of all police officers was completed, with 3,675 verified at their posts. Efforts to improve professionalism among LNP officers through training and mentoring continue. The LNP has also made a proposal for a small salary increase to be considered during the coming budget process.

16. Despite the advances made, serious limitations in logistics and infrastructure, and insufficient funding to cover operational and recurrent costs, remain major constraints. Although the number of LNP officers deployed outside Monrovia has increased and several police stations have been rehabilitated, police presence beyond county capitals remains limited. In some outlying locations, the total absence of law enforcement structures is further compounded by the non-existence of functional judicial structures. In these locations, there is no rule of law, which poses a threat to peace and security. Such situations are common in certain mining areas of Rivercess County where ex-combatants continue to engage in illegal gold mining activities with impunity. Police officers receive low salaries, which makes them vulnerable to corrupt practices.

17. Complaints concerning serious misconduct by LNP officers, particularly of police brutality, continue to be made. During the period under review, 25 allegations of serious police misconduct¹⁸ were reported to the UNMIL Human Rights and Protection Section (HRPS), of which about half (12 cases) were of police brutality. All these cases were brought to the attention of the LNP Professional Standards Division for investigation. With the exception of three cases where serious follow-up has been undertaken,¹⁹ in the other cases, investigations were delayed or appear not to have been pursued at all for a variety of reasons which included lack of logistical support to facilitate the travel of investigation teams to the areas from which reports originated. According to chapter 6 of the LNP duty manual, the LNP Professional Standards Division is required to investigate all complaints alleging police misconduct and incidents of a criminal nature and to provide the Inspector-General of Police and the Minister of Justice with weekly summary reports of caseload and case status. Public confidence in the law enforcement system has been undermined due to a lack of accountability for misconduct, contributing to a culture of impunity.

18. The problems faced by the criminal justice system also hinder the effective operation of the juvenile justice system. The most evident limitation is that, with the exception of Montserrado County, no juvenile courts have been established in the other 14 counties as required by section 10 (1) of the Judiciary Law. Under a provisional arrangement, the Juvenile Court Procedural Code (JCPC) has conferred jurisdiction over juvenile cases to magistrates' courts.²⁰

¹⁸ Other allegations included rape, theft, extortion and abuse of power.

¹⁹ Namely: a rape case involving a police officer from Gbarpolu county - the accused was convicted and sentenced to one year in prison; a theft case involving two police officers from Grand Gedeh county - investigations were concluded, recommendations made to Police Headquarters and the two suspended; a theft case involving two police officers from Grand Cape Mount county - an arrest warrant was issued and the county attorney has drawn up an indictment.

²⁰ See section 10 (1) and (2) of the Juvenile Court Procedural Code.

However, many magistrates lack the training and expertise to apply the JCPC. Juveniles under 16 years of age continue to be placed in detention without court orders contrary to section 11.42 (1) of the JCPC. When advice is given against such detention, juveniles are usually released into the custody of parents pending adjudicatory or dispositional hearings. However, such cases are seldom followed through and are consequently abandoned by the courts. This leads to a vicious cycle with juveniles repeatedly coming into conflict with the law. Without diversionary or corrective measures by the Government for juvenile offenders, parents, frustrated with their children's repeated unruly behaviour often resort to severe disciplinary actions amounting to physical abuse. Furthermore, the absence of appropriate measures negates the essence of pursuing such adjudicatory or dispositional hearings, especially if the juveniles require rehabilitation. Therefore, while the laws and procedures in respect of juveniles in conflict with the law and in need of care and protection exist in the statute books, they cannot be fully implemented due to the absence of a functioning juvenile justice apparatus.

B. Implementation of the Act to Amend the New Penal Code Chapter 14, Sections 14.70 and 14.71 and to Provide for Gang Rape

19. Despite the 2006 amendments to the Penal Law which broadened the definition of rape and introduced more stringent penalties,²¹ rape and sexual violence remain a constant serious threat to women and girls in Liberia. There is still a high incidence of rape and sexual violence including victims as young as two years old. Between September 2008 and 8 June 2009, United Nations police recorded 442 rape crimes. The consequences of rape are numerous and in the case of young children may result in death. There is still a general lack of awareness within society and among some police officers about the penal law provisions on rape. For instance, although the rape provisions apply to both male and female children alike where the suspect is an adult, there were cases where police officers charged suspects with sodomy where the victim was a male child.²²

20. The withdrawal of rape cases and the tendency to settle such cases out of court continues to be a concern. While the practice may be attributed to lack of awareness that rape is a criminal offence, owing to economic hardship parents have sometimes been persuaded to accept financial compensation in amicable settlements. On the other hand, as the offence of rape may attract a heavy sentence, many victims face societal pressures against pressing rape charges, especially when the persons involved live in the same village. Moreover, the problems associated with access to justice, health facilities and effective law enforcement have contributed to victims settling cases out of court or ultimately resulted in courts acquitting or dismissing rape cases. For example, due to the insufficient forensic skills of police officers, complete absence of LNP, and/or lack of health facilities and properly trained medical personnel in some villages, victims

²¹ See An Act to Amend the New Penal Code Chapter 14, Sections 14.70 and 14.71 and to Provide for Gang Rape.

²² Section 14.72 of the Penal Law provides for aggravated involuntary sodomy and section 14.73 for involuntary sodomy. Given that the new rape law specifically repealed section 14.71, it is unclear why these sections were not similarly repealed as the new definition of rape includes the acts contemplated by sections 14.72 and 14.73.

cannot make immediate reports and secure medical certificates. In some instances, complaints are made long after the incident occurred, raising question as to whether the prosecution would be able to obtain sufficient evidence to support alleged rape charges.

21. The Government, with United Nations support, continues to implement the national plan of action on gender-based violence and in this regard, there have been some significant developments. A special court with exclusive original jurisdiction over the crimes of rape and other sexual offences²³ was formally opened on 3 December 2008 and commenced hearings during the 2009 February court term. A sexual and gender-based violence crimes unit with specially trained staff has been established under the Ministry of Justice. Furthermore, a prosecution handbook on sexual and gender-based violence and a medical report form to be submitted as evidence in a rape trial were developed. Fifty health-care personnel received training on completing the medical report form for survivors of such violence. Liberia also submitted its first report on the Convention on the Elimination of All Forms of Discrimination against Women.²⁴

C. Children's rights

22. Extreme levels of poverty, and a high illiteracy rate²⁵ coupled with limited livelihood and economic opportunities have made children in post-conflict Liberia vulnerable to all forms of exploitation, as they are also often expected to contribute to household incomes. Children of school age are still involved in illegal mining activities, domestic labour, working as hawkers and as commercial sex workers. Along the border areas children also often cross into neighbouring countries to perform paid manual labour. This movement of children also raises concern about child trafficking given that Liberia's land borders are porous and the regular crossing points are inadequately staffed by immigration officers.

23. Reports of child neglect and severe cases of violence against children within the community, in the family, schools and orphanages remain common. There is no effective social assistance mechanism to provide protection for children who are victims of abuse or who have been neglected. Few safe homes exist in Liberia to receive neglected or severely abused children. These are mostly found in Montserrado County and are overstretched, making it impossible for such institutions to take up all the cases presented to them. As a result, neglected and abused children sometimes end up in the hands of "good Samaritans", some of whom are ill-intentioned, in orphanages, or are often sent back to the very homes where they were abused.

²³ Referred to as Criminal Court E of the First Judicial Circuit Court, Montserrado County, and established by an act of parliament in September 2008.

²⁴ See combined initial, second, third, fourth, fifth and sixth periodic reports of Liberia, CEDAW/C/LBR/6.

²⁵ Sixty-eight per cent of children and young people are illiterate (81 per cent of young females are illiterate), see Poverty Reduction Strategy, p. 185. Adult (15+ years) literacy rates are at 74 per cent in the urban areas and 45 per cent in the rural areas - see table 3.4, Poverty Reduction Strategy, p. 32.

24. The situation in orphanages remains critical. Most of the children in these institutions are not orphans but rather recruited to the orphanages with promises to parents that their children will receive a better education and other opportunities. These institutions have become business ventures or money-making opportunities for the directors of the orphanages, who collect funds and finance from unsuspecting donors and uninformed rural families. A majority of the orphanages do not comply with the Minimum Standards for Operating Child Welfare institutions promulgated by the Ministry of Health and Social Welfare (MoHSW). Most orphanages have more than the recommended 50 children but do not have adequate accommodation. The provision of health care is inadequate, as most institutions have no clinic on the premises and children must therefore be transported over long distances to the nearest clinic when they fall sick. While most orphanages also run schools, conditions are very poor with shortages of scholastic materials and well-trained teachers. According to many reports, children in orphanages continue to suffer both physical and sexual abuse and some orphanages are reported to be involved in facilitating “informal” or illegal adoptions, thus raising concern that they may also be involved in child trafficking. Through the persistent efforts of the County Child Protection Committee, HRPS learnt in June 2009 that the MoHSW had closed down Bledisha orphanage. Reports had consistently linked Bledisha orphanage in Grand Gedeh County to child trafficking.²⁶ In other instances, attempts by the MoHSW to close certain substandard orphanages were frustrated by political interference. For example, in March 2009, the MoHSW attempted to close the West African Support Community Network (WASCN) but they were initially obstructed by a senator and senior police officers. The organization was reportedly involved in facilitating illegal adoptions. The MoHSW eventually succeeded in closing the orphanage and 34 children resident at WASCN were placed with Don Bosco Homes. The WASCN instituted a lawsuit challenging the actions of the MoHSW. The matter is still before the courts. The MoHSW is also making efforts to improve the rules and regulations on orphanages, and to this end has commenced discussions with orphanage owners about developing new regulations relating to the provision of alternative care for children in Liberia.

25. The Gender Equity and Child Development Committee of the House of Representatives initiated the process of drafting a children’s act which lays down, inter alia, a bill of child rights and governmental duties, parental duties and rights, standards in juvenile justice and standards for child protection practitioners and organizations, as well as provisions relating to alternative care for children. At present, government responsibility for child protection and welfare is split between several ministries and committees, with no clear central decision-making or accountability mechanism. Alongside these efforts, the MoHSW is in the process of developing a national social welfare policy and plan which will address the needs of vulnerable children.

D. Economic and social rights

26. A large percentage of the Liberian population, particularly the rural and urban poor, have limited access to health and social welfare services and are therefore unable to fully realize their economic and social rights. Through implementation of the PRS, the Liberian Government is progressively working towards improvement of these rights.

²⁶ See UNMIL Report on the Human Rights Situation in Liberia for the period November 2007-June 2008, p. 16, para. 40.

27. In the education sector, volunteer teachers who had been offering their services due to the insufficient numbers of well-trained and qualified teachers following the conflict were laid off²⁷ and are being gradually replaced by qualified teachers. In assigning qualified teachers, the Ministry of Education is paying specific attention to schools in rural areas. Furthermore, plans are under way to rehabilitate three teacher training institutions based in the rural areas.

28. Liberia has a very high maternal mortality rate of 994/100,000 live births. One of the reasons for such a high maternal mortality rate is the lack of sufficiently trained health personnel. To address this challenge, the MoHSW has opened two centres to train midwives over a two-year period. A scholarship scheme that will provide training for a total of 75 nurses was also launched. In order to reform the social welfare sector, a social welfare policy has been drafted. In the immediate future, implementation of the policy will focus on protecting the most vulnerable groups and strengthening the social welfare sector in terms of building capacity; developing a basic package of social welfare services; improving coordination of services; and developing and strengthening relevant laws and regulations.

E. Harmful traditional practices

29. Traditional practices which are discriminatory, harmful and violate the dignity of the person on whom they are performed continue to exist in Liberia. These include female genital mutilation (FGM), trials by ordeal, where in some instances *sassywood*²⁸ was administered, ritual killings and forced initiation into secret cultural societies.²⁹

30. The secret cultural societies mentioned above are traditional social structures and institutions that provide forums commonly referred to as “bush schools”, where pubescent girls and boys undergo rigorous training in preparation for adulthood and family life. Involvement in the bush schools affects school attendance, and full initiation into the secret society for girls and women entails undergoing FGM. Although officials from the Ministry of Internal Affairs, responsible for licensing the operation of these societies, say that participation in the bush

²⁷ In December 2008, there were 11,381 teachers on the government payroll and more than 10,000 volunteers, although 7,056 volunteer teachers were recognized by the Ministry of Education and compensated.

²⁸ A liquid made from the poisonous bark of a particular tree, or other poisonous substances, which when ingested usually causes death. Under Article 73 of the Revised Rules and Regulations Governing the Hinterland of Liberia (2000) use of *sassywood* in a trial by ordeal is illegal.

²⁹ Namely, the *Sande* society for females and *Poro* society for males.

schools should be voluntary,³⁰ this is not always the case. Moreover, where reports of violations or initiations by force are made, law enforcement and local authorities are usually reluctant to handle the cases or even press criminal charges.

31. Among Liberian rural communities, adjudication of disputes through trials by ordeal or the “traditional way” is often preferred. Difficulty in accessing justice through the formal system, particularly for rural communities, may partly explain this preference, especially as these adjudicatory mechanisms, sanctioned by the Hinterland Rules and Regulations, deliver quick remedies.³¹ During the period under review the Legal and Judicial Systems Support Division of UNMIL, in collaboration with national partners and international NGOs, held several consultative forums to discuss whether the Hinterland Rules and Regulations create a separate legal system for rural communities and, if that is the case, the possibility of harmonizing it with the formal justice system for the benefit of all. These discussions are still ongoing.

III. HUMAN RIGHTS ACTIVITIES OF THE UNITED NATIONS MISSION IN LIBERIA

32. The Human Rights and Protection Section (HRPS) presently has a total of 35 human rights officers charged with executing the mandate of HRPS as outlined in paragraph 3 (l) and (m) of Security Council resolution 1509 (2003) establishing UNMIL. Accordingly, the Section is required to:

(a) Contribute towards international efforts to protect and promote human rights in Liberia, with particular attention to vulnerable groups within the capabilities of UNMIL and in close cooperation with other United Nations agencies, related organizations, governmental organizations, and non-governmental organizations;

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

A. Monitoring and reporting

33. In carrying out its monitoring mandate and to ensure comprehensive coverage of the country, the Section maintains field offices in all 15 counties of Liberia. Through its monitoring activities, the Section has identified human rights issues and concerns and engaged with the relevant authorities to address them.

³⁰ Responses of Edward Walker II, Director of Culture in the Ministry of Internal Affairs, and Zanzan Karwor, Chairman of the National Traditional Council of Liberia, during a workshop organized on 28 March 2008 by HRPS to discuss harmful traditional practices and the role of the Ministry of Internal Affairs in the administration of traditional justice.

³¹ These perceptions were confirmed in a yet-to-be-published research project on the experiences and perception of local justice carried out by the United States Institute of Peace in collaboration with George Washington University and the Centre for the Study of African Economies.

34. During the period under review, HRPS produced daily, weekly and monthly reports and contributed to the regular periodic reports required under the UNMIL mandate. These reports informed the United Nations system of the human rights situation throughout the country with the aim of encouraging and facilitating appropriate actions by key stakeholders. In December 2008, HRPS published a public human rights report covering the period November 2007 to June 2008 with detailed recommendations to the Government and the international community.

35. The Section is in the process of drafting a thematic report on conditions of detention in Liberian prisons. Based on systematic verification and documentation, the report aims to draw attention to the challenges facing the corrections sector and to the violations and abuses that occur in prisons, and to recommend actions to address these deficiencies.

B. Human rights awareness and capacity-building

36. Field officers undertook a range of grass-roots awareness-raising initiatives, mainly using UNMIL and community radio to tackle issues relating to the general human rights situation and issues of particular concern in each community. This approach was preferred given the very low literacy rate, particularly in rural areas. Radio is consequently a far more effective medium than publications.

37. The Human Rights Club initiative³² also continued to expand and clubs are now established in each county. Although the focus of the initiative has mainly been on establishing clubs in schools, in December 2008 HRPS met with a group of law students at the University of Liberia to discuss the possibility of reviving the Human Rights Club within the university.

38. The Section's most significant communication initiative during the period under review was the Universal Declaration of Human Rights 60/Human Rights Day campaign which was conducted in all 15 counties. Focusing on public participation, activities were carried out under the theme "Dignity and justice for all of us". Several activities organized to mark the 60th anniversary of Human Rights Day addressed the connection between women, violence and human rights as part of the 16-day campaign of activism against gender violence. The celebratory activities were organized in collaboration with various UNMIL sections and local government authorities and included participation from civil society, schools, human rights organizations and the United Nations Country Team.

39. The Section successfully implemented phase 1 of its initiative aimed at facilitating respect for the rule of law by providing human rights training to each intake of LNP recruits. It also commenced phase 2 of the initiative, the aim of which was to institutionalize this training both at the training academy and at the county level. However, identifying suitable participants in some

³² This initiative aims to engender a human rights culture among the youth through human rights education and awareness-raising among student members of the clubs established in Liberian high schools with technical support from the Section.

counties proved difficult. Meanwhile, HRPS is continuing its own training programme and reviewing the “training of trainers” initiative. The Section has also targeted training LNP officers from the Women and Children Protection Section on child protection and juvenile justice.

40. New recruits into the Armed Forces of Liberia (AFL) have also received human rights training, conducted by HRPS in coordination with Dyncorp, the security firm contracted by the Liberian Government to train its army.

C. Support for institution-building initiatives

41. The Ministries of Justice, Education, Labour, and Health and Social Welfare, as well as the legislature and the TRC, have received sustained technical support from the Section. Partly due to the persistent efforts of the Section, the legislature finally adopted amendments to the INCHR Act in May 2009. HRPS is engaged with government and civil society actors in supporting the establishment of the INCHR and initiating the development of a national human rights action plan.

42. As the Section increases its focus on economic, social and cultural rights, relevant governmental institutions and stakeholders, including the United Nations Country Team, are receiving support on the application of a human rights-based approach to the implementation of the PRS. In May 2009, HRPS in collaboration with OHCHR organized a training workshop aimed at building capacity in the area of business and human rights. Staff of HRPS and the Country Team, as well as 45 representatives of government ministries, national and multinational corporations, trade unions and civil society organizations participated in the training. HRPS and OHCHR also made a significant contribution to mainstreaming human rights into the security sector reform through the designee of the Special Representative of the Secretary-General, who successfully advocated for ethnic and geographic representation as well as a 20 per cent gender balance in recruiting the future armed forces of Liberia.

43. Building on the momentum created by the ratification of the Convention on the Rights of Persons with Disabilities by Liberia on 30 March 2007, HRPS developed a project with the Liberian Government, NGOs and OHCHR on the implementation of rights under the Convention. Under the leadership of the Human Rights and Disabilities Task Force of which HRPS is a member, phases 1 and 2 of the project were implemented. Preparatory meetings and regional consultation workshops were held, during which a human rights and disabilities issues paper was agreed and drafted. Phases 3 and 4 which entail holding a national workshop to validate the paper and a high-level stakeholders’ social dialogue on the paper remain to be carried out. Through this participatory process, it is intended that consensus and commitment will be built within the Government of Liberia, the private sector, the United Nations family and donors, as well as national and international civil society, on the development of a national strategy for the implementation of the Convention in Liberia, based on the issues paper, considered as a key reference.

44. Significant work was done in collaboration with the United Nations Educational, Scientific and Cultural Organization (UNESCO) in support of efforts by the Ministry of Education to institutionalize peace, citizenship and human rights education in the curricula for grades 1 to 12.

With input from the Section and other partners, the Ministry of Education has developed teaching guides on the subject. Subsequently, in March 2009, HRPS assisted in facilitating a “training of trainers” workshop on peace, citizenship and human rights for 55 Liberian educators from the 15 counties and assistants to the three Peace, Citizenship and Human Rights Resource Centres. The trained educators are required to train other educators in their respective counties.

IV. RECOMMENDATIONS

45. In order to consolidate the progress made in improving the human rights situation in Liberia, the Office of the United Nations High Commissioner for Human Rights makes the following recommendations:

(a) As a matter of priority, the executive should appoint commissioners to the Independent National Commission on Human Rights through a process that guarantees their independence, and ensure that it is fully resourced and functional according to the relevant international standards (Paris Principles);

(b) In order to enhance the Government’s reconciliation agenda, the legislature should enact, without further delay, the law establishing a land commission to facilitate land reform and settle land-related disputes;

(c) In collaboration with the international community, the Government of Liberia should provide substantial resources to the key institutions in the criminal justice system and extensive training for judges, prosecutors, defence counsel and investigators to ensure safe prosecutions and respect for due process. Similarly, a fully functional and comprehensive witness protection programme should be established, particularly in view of the Truth and Reconciliation Commission (TRC) recommending prosecution;

(d) The Government, in collaboration with the TRC, should establish an effective mechanism to ensure the safety of TRC information, records and documents, particularly those classified as confidential;

(e) The Government should ensure implementation of all TRC recommendations in accordance with the TRC Act;

(f) The executive branch of the Government and the judiciary should urgently clarify to the public the status of Justices of the Peace, as their continued illegal operation violates international human rights standards on fair trial. The Government should also consider reviewing the entire judicial mechanism relating to Justices of the Peace;

(g) Pending the establishment of juvenile courts throughout the country, extensive training on juvenile justice issues should be provided for all magistrates. The Government should also establish rehabilitation and reformatory institutions that will facilitate the proper functioning of the juvenile justice system;

(h) The Ministry of Justice should identify and close all unauthorized detention facilities. Additionally, the Government should construct at least one central prison in counties without detention facilities, namely, Gbarpolu, Rivercess and Grand Kru Counties;

(i) The Government should cooperate with the international community and civil society to raise awareness on issues such as child development, non-punitive discipline and the need for greater support for families, so as to encourage community and family cohesion and prevent child neglect;

(j) The Government and international partners should continue to work towards the full implementation of the recommendations contained in the comprehensive report of 2007 by the Human Rights and Protection Section of the United Nations Mission in Liberia on the human rights situation in orphanages, as well as the August 2008 Annual Assessment and Monitoring of Orphanages in Liberia of the Ministry of Health and Social Welfare;

(k) Orphanages currently operating without accreditation should be identified and reassessed in order to see to whether they conform to the Minimum Standards for Operating Child Welfare Institutions. Those found to be below standard should be closed down and the children reunified with parents or relatives, or relocated to suitable institutions;

(l) The Government should, by law, prohibit all forms of violence against children, in all settings, in particular:

- (i) Amend article 55 (g) of the Revised Rules and Regulations Governing the Hinterland and sections 2.2 (1), (2) and (3) of the Domestic Relations Law of Liberia and bring these provisions into conformity with section 14.70 (b) of the Act to Amend the New Penal Code Chapter 14, Sections 14.70 and 14.71 and to Provide for Gang Rape, which defines rape as sexual intercourse with a victim of less than 18 years old if the actor is 18 years of age or older. Such amendment should clearly establish the minimum age of marriage to apply in both civil and customary marriages and furthermore specifically make free and full consent of both parties to marriage a legal requirement;**
- (ii) Repeal section 5.8 of the Penal Law which permits the use of force in respect of minors under the age of 18 years by persons with special responsibility for their care, discipline or safety;**
- (iii) Amend the Penal Law to include provisions specifically prohibiting and criminalizing female genital mutilation (FGM).**

(m) The international community, in collaboration with civil society and the Government, specifically, the Ministries of Internal Affairs, Health and Social Welfare,

Justice and Information, Culture and Tourism should raise public awareness of the harmful effects of traditional practices such as FGM, trials by ordeal, ritual killings and witchcraft;

(n) Article 73 of the Revised Rules and Regulations Governing the Hinterland, which permits some trials by ordeal, should be repealed and the Penal Law amended to include provisions specifically prohibiting and criminalizing the organization, facilitation or collusion in the organization of a trial by ordeal;

46. OHCHR calls on the international community to continue providing all possible assistance to facilitate development, improve the human rights situation, and consolidate peace and security in Liberia.

Annex
MAP OF LIBERIA

