



Human Rights Watch
UPR Submission

Liberia
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I. Summary

Since the end of its 14-year conflict in 2003, Liberia has made tangible progress in addressing endemic corruption, creating the legislative framework for respect for human rights, and facilitating economic growth, but little headway in strengthening the rule of law. Striking deficiencies within Liberia's rule of law sectors have resulted in persistent human rights violations and have undermined President Ellen Johnson-Sirleaf's post-war recovery, anti-corruption, and development agendas. The Truth and Reconciliation Commission (TRC) undertook significant efforts from 2006 to 2009 to provide an account of the crimes committed during Liberia's wars. However there is little political will to ensure that the perpetrators of war crimes and crimes against humanity are held accountable for their alleged crimes, or for the establishment of the Independent National Commission on Human Rights, mandated to ensure adequate follow-up of the TRC reports' recommendations.

The increasing incidence of violent crime as well as protests by disgruntled youths, mob and vigilante justice, and bloody communal violence has claimed numerous lives and exposed the systemic and persistent weaknesses within the police, judiciary, and corrections sectors. Lack of public confidence in the police and judicial system perpetuates the culture of impunity and leads to regular mob attacks on alleged criminals. Concern about inadequate progress in strengthening the rule of law was exacerbated by several risk factors, notably the global economic crisis, high unemployment, and insecurity in neighboring Guinea and Côte d'Ivoire.

II. Human Rights Issues

Truth and Reconciliation Commission and Accountability

Between 1989 and 2003, horrific abuses were committed against civilians in Liberia, including summary executions and numerous large-scale massacres; widespread and systematic rape; mutilation and torture; and large-scale conscription and use of children as soldiers. To date, Liberia has not brought prosecutions against those allegedly responsible for these serious crimes committed in violation of international law. Liberia established a Truth and Reconciliation Commission in February 2006, which began formal hearings in 2007. While TRC operations were plagued with leadership, transparency, and operational problems, it conducted well-attended, countrywide hearings in which over 500 victims and some 35 former faction leaders testified. The hearings generated considerable public debate about the ongoing need to hold accountable perpetrators of war crimes and crimes against humanity committed during Liberia's wars.

In June 2009, the TRC concluded its four-year mandate, and submitted its final report to the legislature, president, and civil society and international partners in December 2009. The report highlighted the role played by corruption and poor management of natural resources in giving

rise to Liberia's armed conflicts, described the root causes of the armed conflict, and concluded that all warring factions were responsible for serious violations of international human rights and humanitarian law, including war crimes and crimes against humanity. The report's recommendations, which included the establishment of a tribunal to prosecute over 100 of the most notorious perpetrators and the exclusion of scores of former alleged supporters of the warring factions from public office, were greeted with considerable controversy and some threats by former faction leaders. The legislature's formal debate of the report was postponed until mid-2010 at the earliest.

There appears to be significant civil society support for prosecutions, although serious questions remain about the political will of both the Liberian government and the international donor community to establish the recommended accountability mechanism. It would be a hybrid international-national tribunal to try individuals for serious crimes that violate international law as well as several domestic crimes, including economic crimes. The tribunal would have both Liberian and foreign judges appointed by the Liberian government and international actors, including the UN secretary-general. The court would have a majority of internationally appointed judges in each chamber, and the international and Liberian judges would work together to try cases.

Efforts at justice are further complicated by problems with the quality of the TRC's report, weaknesses within the Liberian judicial system, the potential for the legislature to block accountability efforts, and the existence of a 2003 act that granted immunity for war crimes committed from 1989 through 2003.

Ongoing Insecurity and Abuses in Law Enforcement

The internal security situation in Liberia has worsened in the last few years, characterized by frequent violent criminal acts, including armed robbery and rape, and deadly land and communal disputes. Most recently, an outbreak of communal violence in Lofa county in February 2010 left at least four dead. Lack of public confidence in the police and judicial system leads to mob attacks on police stations and courthouses to free or attack suspects, and incidents of vigilante justice which claim the lives of several people each year. In 2009, at least eight deaths occurred as a result, and in February 2010, a police officer was burned to death in Monrovia.

The undisciplined, poorly managed, and ill-equipped Liberian police are challenged to maintain law and order, necessitating the frequent intervention of United Nations peacekeepers deployed to Liberia since 2003. Liberian police continue to engage in unprofessional and sometimes criminal behavior, including extortion, bribery, and armed robbery; frequent absenteeism; and failure to adequately investigate and later freeing alleged criminals.

There were reports of detainees being subjected to physical abuse by policemen, including torture. While a few of these cases result in internal police investigations and suspension from duty, few of these infractions result in investigation, suspension, or prosecution. Lack of funding for transportation, communications, and forensic equipment further undermine the effectiveness of the national police, especially in rural areas.

Sexual Violence and Traditional Practices

The incidence of rape of women and girls is alarmingly high, despite positive efforts by the government and United Nations mission, including a public information campaign to encourage victims to report abuse and the establishment of a dedicated court for sexual violence. While

public reporting and police response have improved in recent years, efforts to prosecute these cases continued to be hampered by deficiencies in the justice system.

Serious abuses resulting from harmful traditional practices continue to occur in Liberia, due in part to the absence or distrust of judicial authorities. These included the killing of alleged witches and “trials by ordeal,” in which suspects are forced to swallow the poisonous sap of a tree or endure burning; their alleged guilt or innocence is determined by whether they survive. These local practices often involve extortion, extracting statements under torture, and other forms of physical and sexual assault.

Corruption

Corruption involving public monies has long been endemic, and is widely recognized as having contributed to Liberia’s political instability and failure to provide the country’s most vulnerable with basic services such as education, water, and health care. Fighting corruption is high on the president’s agenda, but weaknesses within the judicial system undermine these efforts.

Concrete steps to reduce corruption have in recent years included the creation in September 2009 of Liberia’s first Anti-Corruption Commission, the dismissal and indictment of numerous corrupt officials, the nullifying of contracts awarded without due adherence to the legal bidding process, the 2009 signing into law of the Extractive Industries Transparency Initiative, and requirements on all public officials to publicly declare their assets.

Deficiencies within the Judiciary

Persistent deficiencies within Liberia’s judiciary lead to widespread abuses of the right to due process and undermine efforts to address impunity. Weaknesses are attributable to insufficient judicial personnel, including prosecutors and public defenders, limited court infrastructure and logistics, archaic rules of procedure, and poor case management. Unprofessional, corrupt, and, in a few cases, criminal practices by judicial staff continue to lead to rights abuses and undermine progress.

Because of the courts’ inability to adequately process their cases, hundreds of prisoners are held in extended pretrial detention in overcrowded jails and detention centers that lack basic sanitation and health care; in 2009, only 10 percent of the some 800 individuals detained in Liberia’s prisons had been convicted of a crime. Meanwhile, hundreds of prisoners escaped in jailbreaks, illuminating the stark inability of the corrections sector to secure Liberia’s prisons. In June 2009, the president took concrete action to improve the weak leadership underpinning these problems by replacing the ministers of justice and national security, the solicitor-general, and the director of the Liberia National Police, among others. The president also ordered a review of pretrial detainees within Monrovia’s central prison, resulting in the release of many prisoners detained on minor charges or who had already served sufficient time.

Independent National Commission on Human Rights

The Independent National Commission on Human Rights (INCHR), mandated as a part of the 2003 Accra Peace Agreement and passed into law in March 2005, has yet to be constituted. Delays have resulted from the consideration of proposed amendments to the INCHR act, vetting and selection of the commissioners, and parliamentary rejection of the commissioners following confirmation hearings. In February 2010, the Liberian Senate rejected the commissioners for the second time. Disturbingly, they gave no reason for their actions. The INCHR is mandated with key functions including the monitoring of respect for human rights and ensuring that recommendations contained in the final report of the Truth and Reconciliation Commission are duly implemented.

III. Recommendations

The government of Liberia should:

Accountability

- Move forward to establish an accountability mechanism as recommended by the TRC that can fairly and effectively ensure justice for the worst crimes committed, including by promoting the independence of such a mechanism from influence by any external actors.
- Ensure prosecutions of those “persons most responsible,” defined by the United Nations secretary-general as those in political or military leadership as well as those down the chain of command who may be regarded as “most responsible” based upon “the severity of the crime or its massive scale,” to focus on high-level perpetrators.
- Adopt fair trial standards directly from the statutes of international and hybrid courts and the International Covenant on Civil and Political Rights in order to help ensure that a tribunal to try past crimes adheres fully to international standards.

B. Government Corruption

- Continue and strengthen efforts of the Anti-Corruption Commission to investigate allegations of corruption by government personnel and publicly expose their findings.
- Encourage all government officials, including those elected to the legislature, to publicly declare their assets in accordance with relevant requirements.
- Set up a special fast-track court dedicated to the adjudication of corruption-related cases.

C. Deficiencies within the Judiciary

- Thoroughly review the cases of all individuals currently detained within Liberia’s prisons in an effort to determine which are being held illegally in extended pretrial detention.
- Ensure adequate funding and long-term government support, including sufficient court personnel.
- Ensure that all defendants are brought to trial within a reasonable time. The authorities should show special diligence in bringing the case to trial if the accused is in pretrial detention.

D. Ongoing Insecurity and Abuses in Law Enforcement

- Explicitly inform all ranks of the police and other security services that all those implicated in corruption, theft, extortion, or other abuses will be held accountable.
- As part of broader judicial reform, enhance the capacity of the judiciary to hold accountable those within the police and other security services who commit such abuses.

E. Death Penalty

- Repeal the July 2008 law that allows for the death penalty for murder committed during armed robbery, terrorism, or hijacking, passed in contravention of Liberia’s obligations under the Second Optional Protocol to the International Covenant on Civil and Political Rights, to which Liberia acceded in 2005.

F. Sexual Violence and Harmful Traditional Practices

- Reinforce specialized police units to investigate cases of rape and other sexual violence and to ensure the protection of victims.
- Increase the capacity of the court specializing in sexual violence by establishing courts in all of Liberia's 15 counties to provide expedient processing of cases for victims of rape and other sexual assault in rural areas of the country.
- Instruct the police and public prosecutors in all counties, in accordance with Liberia's criminal court, to arrest and prosecute those who engage in harmful traditional practices, such as "trials by ordeal," in which suspects are forced to swallow the poisonous sap of a local tree or endure burning to prove their alleged guilt or innocence determined by whether they survive.

G. Independent National Commission on Human Rights and Legislative Developments

- The Liberian Senate should give a detailed explanation for their rejection of the seven commissioners nominated for the INCHR.
- Any further consideration of commissioners should be done individually, as opposed to the group rejection made by the Senate.
- Ensure that there is adequate civil society involvement in the selection process for any new nominations for the INCHR commissioners

IV. Attachments

"Justice in Liberia: The Truth and Reconciliation Commission's Recommendation for an Internalized Domestic War Crimes Court," December 2009,
<http://www.hrw.org/en/news/2009/12/11/liberia-trc>.