



LIBERIA

**Ninth Session of the Working Group on the Universal Periodic Review
United Nations Human Rights Council
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**Submitted by The Advocates for Human Rights, a non-governmental organization
in special consultative status pursuant to HRC resolution 5/1 of 18 June 2007**

I. EXECUTIVE SUMMARY

1. The Advocates for Human Rights (“*The Advocates*”) is a volunteer-based non-governmental organization committed to the promotion and protection of international human rights standards and the rule of law. Since 1983, The Advocates has conducted a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training and publications. The Advocates has produced more than 70 reports documenting human rights practices in more than 25 countries and holds special consultative status with the Economic and Social Council.

2. From 1979 until 2003, the Liberian people survived a bloody coup d’etat, years of military rule and two violent civil wars. Out of a pre-war population of approximately 3,000,000, an estimated 250,000 people were killed and as many as 1,500,000 people were displaced. The Truth and Reconciliation Commission of Liberia (“*LTRC*”) was established by legislative act in 2005 to “promote national peace, security, unity and reconciliation” and to make it possible to hold perpetrators accountable for the gross human rights violations and violations of international law that occurred in Liberia between January 1979 and October 2003. The LTRC was the first truth commission to involve a diaspora population in the truth seeking process. At the request of the LTRC, The Advocates coordinated the work of the LTRC in the diaspora. The Advocates documented more than 1600 statements from Liberians in the United States, the United Kingdom and in the Buduburam Refugee Settlement in Ghana, and held public hearings in St. Paul, United States to gather public testimony from Liberians in the U.S. diaspora. *A House with Two Rooms: The Final Report of the Liberia TRC Diaspora Project* was published in 2009.

3. Statement givers in the diaspora had strong opinions about the measures that should be put into place in Liberia to help the nation recover and move forward. While there was no clear agreement on every issue, major themes emerged, which included ensuring that individuals responsible for serious crimes under both domestic law and international law be prosecuted. The Advocates wishes to convey this belief in the need for accountability by making the following recommendations based on an international human rights and humanitarian law framework.

4. In this submission, The Advocates provides information under Sections B, C and D as stipulated in the General Guidelines for the Preparation of Information under the Universal Periodic Review.¹ The Advocates recommends that the Government of Liberia take a creative, pragmatic approach to ensuring accountability with its limited resources and utilize all possible mechanisms on the international, national and local levels. The U.N. Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity provide a guiding framework for implementation of prosecution, amnesty, vetting and civil claims against perpetrators.²

II. BACKGROUND AND FRAMEWORK

A. Scope of Legal Obligations

5. Liberia has ratified many important international and regional human rights treaties, including the core UN international human rights treaties.³ Likewise, Liberia has ratified important humanitarian law instruments, including the Geneva Conventions and Protocols and the Rome Statute of the International Criminal Court. In addition, Liberia has ratified numerous international treaties related to issues of corruption, use of mercenaries and trafficking.⁴

6. The Government of Liberia has a legal duty to prosecute individuals who violated international human rights and humanitarian law during the conflict. It must ensure “that those responsible for serious crimes under international law are prosecuted, tried and duly punished.”⁵ Although individuals cannot be prosecuted for actions that did not constitute a crime under law when the act was committed, numerous criminal laws apply to the time period of the Liberian conflict. These include Liberian domestic law,⁶ customary international law, the Geneva Conventions (ratified by Liberia in 1954), and Additional Protocols (ratified by Liberia in 1988) as well as the Convention on the Prevention and Punishment of the Crime of Genocide (ratified by Liberia in 1950).

III. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Need for Accountability

7. Upon the completion of its mandate, the LTRC published a consolidated final report in December 2009. The LTRC determined that individuals affiliated with warring factions or armed groups in positions of command authority and decision making, including heads of warring factions, commanders, financiers and political leaders are responsible for the commission of gross human rights violations, including violations of international humanitarian law, international human rights law, war crimes and egregious domestic law violations.⁷

8. However, Liberia has not, to date, brought prosecutions against those allegedly responsible for serious crimes of international law.⁸ The TRC recommended establishment of an extraordinary criminal court to prosecute more than 100 perpetrators for gross human rights violations.⁹ These recommendations were met with considerable controversy and some threats by former faction leaders and other conflict actors (some of whom hold elective office or political appointments), and the Liberian legislature’s formal debate regarding the recommendations has been postponed.¹⁰ Of the six living leaders of warring factions recommended for prosecution by the TRC, the only two in custody are in non-Liberian jurisdictions.¹¹

9. Although there appears to be significant support in Liberia, as well as in the diaspora, for prosecutions, serious questions remain regarding the political will of both the Liberian government and the international donor community to establish accountability mechanisms.¹² Additional obstacles to accountability include the potential for the Liberian legislature to block accountability efforts and the existence of a 2003 act that granted immunity for war crimes committed from 1989 to 2003.¹³

B. Lack of Capacity to Prosecute and Detain

10. In addition to an apparent lack of political will, efforts to establish an accountability mechanism are further complicated by weaknesses within the Liberian justice system. Although the institutions are in place to accommodate an effective justice system in Liberia, the reality is that the destruction of the Liberian justice system during the war has resulted in a system that is functioning so poorly that criminals are rarely prosecuted and businesses are forced “to shun the courts and turn to politicians and other traditional fixers.”¹⁴ The lack of access to legal training during the conflict has limited the number of legal professionals available to enforce the rule of law¹⁵ and many individuals employed by the courts lack the training necessary to implement an effective justice system.¹⁶ In particular, the lack of qualified prosecutors and defense lawyers remains a pressing concern and one that may not have an immediate solution.¹⁷

11. The lack of training of judges, Justices of the Peace (JP), and magistrates, creates an unstable, unpredictable and poorly run system that drives Liberians to seek alternatives in the customary law system and destroys the public’s confidence in the Judiciary.¹⁸ The lack of facilities and supplies available to the Judiciary also contribute to its ineffectiveness.¹⁹ In some cases, the circuit courts are not functioning because no physical courthouse exists.²⁰ In rural counties where this is the case, trial by ordeal and other traditional forms of justice fill the vacuum of judicial power, often to the detriment of human rights.²¹

12. Corruption is a problem in all levels of government, including the Judiciary.²² “Although corruption tends to be most entrenched at the JP level, it pervades all ranks of the justice system.”²³ In 2008, UNMIL recommended that the government of Liberia review the entire JP system “with a view to removing judicial functions from their jurisdiction.”²⁴ In one case, the magistrate at Bondiway Magistrates’ court was giving prisoners sentenced to one month imprisonment the option of paying a fine of \$500 for their release.²⁵ These practices appear to be the norm, rather than the exception, owing in large part to the meager salaries paid to JPs and magistrates,²⁶ as well as to a lack of oversight by the circuit courts that are charged with the task.²⁷

13. At the circuit court level, many of the judges are simply absent from their courtrooms.²⁸ As of July 2006, circuit courts in five counties were not operating.²⁹ Many circuit court judges accept their positions and collect their salaries, but stay in Monrovia and rarely set foot in their courtrooms.³⁰ Because circuit courts have original jurisdiction over the most serious offenses, when they do not function, murderers and rapists are set free.³¹

14. In addition to potential problems with effectively carrying out prosecutions, serious questions exist about whether Liberia could effectively detain individuals during trial and, if convicted, while serving their sentences. Liberia is facing a shortage in available

prison space while the prisons that are functioning fail to meet minimum human rights standards.³² A recent UNMIL report notes that Monrovia Central Prison is now filled to four times its capacity, despite the opening of a new women's block at that facility and the reopening of the National Palace of Corrections in Zwedru, Grand Gedeh County.³³ Overcrowding undermines security and contributes to mass escapes.³⁴ On several occasions in 2008, detainees escaped from the often overcrowded Sanniquellie Central Prison in Nimba County.³⁵ On June 7, 2008, 25 male prisoners broke the cell doors and escaped from Gbarnga Central Prison in Bong County.³⁶

15. The prisons also are understaffed, the staff are undertrained, and the working conditions are so poor that they are a factor in the occurrence of jailbreaks.³⁷ Often, where there are no authorized detention facilities, officials construct holding cells that are understaffed by untrained personnel.³⁸ Between July 14 and July 28, 2006, 26 detainees were illegally released from the Sanniquellie Central Prison; this included eight charged with rape, six charged with murder and three with aggravated assault.³⁹ The courts also lack vehicles to transport prisoners from the detention centers to the courthouses.⁴⁰ In Nimba County, complainants are sometimes required to transport the persons they have accused to prison.⁴¹

IV. RECOMMENDATIONS

16. There is no single model that will adequately address the many violations of human rights and humanitarian law committed during the conflict. The Government of Liberia should evaluate all possible options for prosecution, including:

- **bilateral and international options**, making efficient use of existing mechanisms with current jurisdiction over crimes committed during the TRC mandate period including: (a) considering issuing an Article 12(3) declaration of intent⁴² to accept International Criminal Court jurisdiction over crimes committed before Liberia's date of ratification of the Rome Statute (September 22, 2004)⁴³ but after entry into force of the Rome Statute (July 1, 2002);⁴⁴ (b) assessing the possibility of using existing regional mechanisms to pursue intergovernmental claims and to bring individual perpetrators to justice by, for example, ratifying both the 1998 Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights and the Protocol on the Statute of the African Court of Justice and Human Rights or seeking jurisdiction in the Economic Community of West African States Court of Justice for human rights claims against member states that may have arisen as a result of the conflict;⁴⁵ and (c) coordinating with national prosecutorial and immigration bodies in the United States and European states to assess extraterritorial prosecution options for Liberian perpetrators physically present in another jurisdiction by, for example, evaluating with U.S. authorities the possibility of bringing prosecutions using U.S. federal criminal laws⁴⁶ and evaluating with European authorities the possibility of bringing prosecutions for serious violations of international law;⁴⁷
- **new hybrid models** that combine international prosecutorial mechanisms with internationally-assisted domestic prosecutions, developed in consultation with civil society, the international community and other appropriate stakeholders;
- **domestic prosecutions** which create a platform for reforming and building capacity in the judicial system, as well as entrenching the rule of law and transitioning any additional infrastructure, such as courts, administrative staff, and computer systems, created for the purpose of prosecutions of individuals to serve the basic needs of the Liberian justice system when the process is complete;

17. In any carrying out prosecutions, the Government of Liberia should be guided by the U.N. Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity as a framework for implementation of prosecution, amnesty, vetting and civil claims against perpetrators.⁴⁸ The Government of Liberia should:

- ensure that all prosecutions comply with international standards, including due process protections, protections for victims and witnesses, and prohibitions against the use of the death penalty.⁴⁹
- take specific care to protect the rights of any former child combatants who might be tried for their crimes, including: (a) ensuring that neither capital punishment nor life imprisonment without possibility of release is imposed for offenses committed by persons below 18 years of age;⁵⁰ (b) ensuring that children accused of crimes under international or national law allegedly committed while associated with armed forces or armed groups are treated in accordance with international standards for juvenile justice;⁵¹ (c) ensuring that individuals are not prosecuted or punished or threatened with prosecution or punishment solely for their membership in those groups;⁵² and (d) seeking alternatives to judicial proceedings for children;⁵³
- develop a prosecution strategy that is not dependent on the capacity of prisons in the Liberia and evaluate the appropriateness and feasibility of non-custodial sentencing (*e.g.*, the U.N. Standard Minimum Rules for Non-Custodial Measures⁵⁴) in lieu of imprisonment for low-level perpetrators who committed less serious crimes or who did not hold command and control responsibility;

18. The Government of Liberia should also:

- immediately pass legislation criminalizing the destruction of or tampering with evidence and otherwise obstructing the process of evidence gathering related to war crimes and human rights violations committed during the TRC mandate period from 1979 to 2003;⁵⁵
- seek assurances from key African and non-African nations that those governments will not extend any protective status, including diplomatic asylum, to persons with respect to whom there are reasons to believe they have committed a serious crime under international law;⁵⁶
- consider traditional and customary justice mechanisms that comply with international human rights standards (*e.g.*, due process and other rights of the accused, as well as protections against discrimination on the basis of gender, ethnicity, or religion) in developing an accountability strategy for post-conflict Liberia, which may be most appropriate for low-level perpetrators who participated in less serious offenses and for former child combatants;

19. In creating the Extraordinary Criminal Court recommended by the LTRC, the Government of Liberia should ensure that implementation complies with international standards, particularly in ensuring the protection of victims and witnesses and protecting the human rights of accused persons. In addition, special attention should be paid to ensuring a robust Defense by providing equal resources, privileges and immunities to all branches of the Extraordinary Criminal Court.

20. Ratify international and regional human rights treaties, including those it has already signed.⁵⁷

APPENDIX

Reports on Liberia by The Advocates for Human Rights:

A House with Two Rooms: Final Report of the Truth and Reconciliation Commission of Liberia Diaspora Project. St. Paul, MN: DRI Press, 2009.
http://www.theadvocatesforhumanrights.org/Final_Report.html

Liberia is Not Ready 2010 A Report of Country Conditions in Liberia and Reasons the United States Should Extend Deferred Enforced Departure for Liberians
http://theadvocatesforhumanrights.org/uploads/liberia_is_not_ready_2010.pdf

Analysis of the LTRC proposed Statute for an Extraordinary Criminal Court
www.theadvocatesforhumanrights.org

¹ U.N. Human Rights Council [UNHRC] Dec. 6/102, Follow-up to Human Rights Council Res. 5/1 (Sept. 27, 2007).

² U.N. Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity, Principle 19, U.N. Doc. E/CN.4/2005/102/Add.1 (Feb. 8, 2005).

³ International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention on the Rights of the Child (CRC), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Convention on the Elimination of All Forms of Racial Discrimination (CERD), Convention on the Prevention and Punishment of the Crime of Genocide, Convention Relating to the Status of Refugees, International Labour Organisation Convention (No. 182) Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, African Charter on Human and Peoples' Rights, African Charter on the Rights and Welfare of the Child, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa and African Union Convention Governing the Specific Aspects of Refugee Problems in Africa.

⁴ U.N. Convention against Corruption, African Union Convention on Preventing and Combating Corruption, Convention for the Elimination of Mercenarism in Africa, International Convention against the Recruitment, Use, Financing and Training of Mercenaries, U.N. Convention against Transnational Organized Crime, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and Protocol against the Illicit Manufacturing of and Trafficking in Firearms.

⁵ U.N. Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity, Principle 19, U.N. Doc. E/CN.4/2005/102/Add.1 (Feb. 8, 2005).

⁶ **Although Liberian domestic law provides for prosecution of a wide array of crimes applicable in the context of the conflict, prosecutors must be prepared to deal with statutes of limitations defenses, which for a non-capital felony is five years. Liberia has not ratified the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity.**

⁷ Republic of Liberia Truth and Reconciliation Commission Consolidated Final Report, Volume II 335-336 (December 3, 2009). Available at https://www.trcofliberia.org/reports/final/volume-two_layout-1.pdf.

⁸ HUMAN RIGHTS WATCH REPORT: LIBERIA, available at <http://www.hrw.org/en/node/87679>

⁹ TRC Consolidated Final Report, pp. 349-352.

¹⁰ HUMAN RIGHTS WATCH REPORT: LIBERIA, available at <http://www.hrw.org/en/node/87679>. See also AMNESTY INTERNATIONAL REPORT 2007, LIBERIA (2007), available at <http://www.amnesty.org/en/region/liberia/report-2007> (last visited Feb. 7, 2010); United Nations Mission in Liberia [UNMIL], *Twelfth Progress Report of the Secretary-General on the United Nations Mission in Liberia* (September 12, 2006), available at <http://unmil.org/documents/sgreports/srep2006743.pdf> (last visited Feb. 13, 2010).

¹¹ As of April 2010, Charles G. Taylor remained on trial at the Special Court for Sierra Leone in The Hague. In January 2010, George Boley was placed in removal proceedings in the United States and detained at the Batavia Detention Center in New York.

¹² HUMAN RIGHTS WATCH REPORT: LIBERIA, available at <http://www.hrw.org/en/node/87679>

¹³ HUMAN RIGHTS WATCH REPORT: LIBERIA, available at <http://www.hrw.org/en/node/87679>

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- ¹⁴ INTERNATIONAL CRISIS GROUP, LIBERIA: RESURRECTING THE JUSTICE SYSTEM 4 (2006), available at <http://www.crisisgroup.org/home/index.cfm?id=4061&l=1> (password required for full report; last visited Jan. 28, 2010); UNITED NATIONS MISSION IN LIBERIA [UNMIL], *Quarterly Report on the Human Rights Situation in Liberia May 2006 – July 2006* 35 (Oct. 2006), available at <http://unmil.org/documents/hrreportmayjune2006.pdf> (last visited Feb. 13, 2010) (encouraging the government to ensure that judicial officials receive the proper training); United Nations Mission in Liberia [UNMIL], *Quarterly Report on the Human Rights Situation in Liberia August 2006 – October 2006* 34 (February 2007), available at http://unmil.org/documents/hr_report_aug_oct_2006_1.pdf (last visited Feb. 13, 2010) (There is no defense counsel assigned to River Cess County.).
- ¹⁵ United Nations Mission in Liberia [UNMIL], *Twelfth Progress Report of the Secretary-General on the United Nations Mission in Liberia* (Sept. 12, 2006), available at <http://unmil.org/documents/sgreports/srep2006743.pdf> (last visited Feb. 13, 2010); United Nations Mission in Liberia [UNMIL], *Quarterly Report on the Human Rights Situation in Liberia May 2006 – July 2006* 35 (October 2006), available at <http://unmil.org/documents/hrreportmayjune2006.pdf> (last visited Feb. 13, 2010) (UNMIL recommends that the government bring in judges and prosecutors from neighboring countries because there is such a lack of legal personnel.); *Quarterly Report on the Human Rights Situation in Liberia August 2006 – October 2006* 34 (February 2007), available at http://unmil.org/documents/hr_report_aug_oct_2006_1.pdf (last visited Feb. 13, 2010) (There is no adequate training for Magistrates and judges.).
- ¹⁶ United Nations Mission in Liberia [UNMIL], *Quarterly Report on the Human Rights Situation in Liberia May 2006 – July 2006* 35 (October 2006), available at <http://unmil.org/documents/hrreportmayjune2006.pdf> (last visited Feb. 13, 2010) (UNMIL recommends that the government bring in judges and prosecutors from neighboring countries because there is such a lack of legal personnel.); *Quarterly Report on the Human Rights Situation in Liberia August 2006 – October 2006* 34 (February 2007), available at http://unmil.org/documents/hr_report_aug_oct_2006_1.pdf (last visited Feb. 13, 2010) (There is no adequate training for Magistrates and judges.).
- ¹⁷ See United Nations Mission in Liberia [UNMIL], *Fourteenth Progress Report of the Secretary-General on the United Nations Mission in Liberia* 10 (2007), available at <http://unmil.org/documents/sgreports/14.pdf> (last visited Feb. 13, 2010); United Nations Mission in Liberia [UNMIL], *Thirteenth Progress Report of the Secretary-General on the United Nations Mission in Liberia* 8 (2006), available at <http://unmil.org/documents/sgreports/srep200613.pdf> (last visited Feb. 13, 2010); United Nations Mission in Liberia [UNMIL], *Quarterly Report on the Human Rights Situation in Liberia May 2006 – July 2006* 9 (October 2006), available at <http://unmil.org/documents/hrreportmayjune2006.pdf> (last visited Feb. 13, 2010) (stating that there was an absence of lawyers in certain counties because they are not able to train enough to fill all the needed spots. In particular, cases listed for trial in River Cess County since last year were not heard in the May Term of Court because there is no prosecutor in the county; Maryland County also could not hear any cases because they lacked a prosecutor.); HUMAN RIGHTS WATCH, WORLD REPORT 2007—LIBERIA 2 (2007), available at <http://hrw.org/wr2k7/pdfs/liberia.pdf> (last visited Feb. 13, 2010) (The judicial system has few prosecutors and public defenders.).
- ¹⁸ The International Crisis Group estimated that anywhere from 50 to 75 percent of JPs were illiterate and that magistrates “often run courts that have only an improvised, uneven relationship with statutory law norms.” INTERNATIONAL CRISIS GROUP, LIBERIA: RESURRECTING THE JUSTICE SYSTEM 4 (2006), available at <http://www.crisisgroup.org/home/index.cfm?id=4061&CFID=62793589&CFTOKEN=90851082> (password required for full report; last visited Jan. 28, 2010).
- ¹⁹ UNITED STATES DEPARTMENT OF STATE, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES (Mar. 6, 2007), available at <http://www.state.gov/g/drl/rls/hrrpt/2006/78742.htm> (last visited Feb. 13, 2010) (noting that some judges were unable to hold court because of a lack of equipment).
- ²⁰ United Nations Mission in Liberia [UNMIL], *Thirteenth Progress Report of the Secretary-General on the United Nations Mission in Liberia* 8 (2006), available at <http://unmil.org/documents/sgreports/srep200613.pdf> (last visited Feb. 13, 2010).
- ²¹ See generally INTERNATIONAL CRISIS GROUP, LIBERIA: RESURRECTING THE JUSTICE SYSTEM 9 (2006), available at <http://www.crisisgroup.org/home/index.cfm?id=4061&CFID=62793589&CFTOKEN=90851082> (password required for full report; last visited Jan. 28, 2010).
- ²² United Nations Mission in Liberia [UNMIL], *Quarterly Report on the Human Rights Situation in Liberia November 2006 – January 2007* 1 (May 2007), available at http://unmil.org/documents/humanrights_nov_jan_2007_report.pdf (last visited Feb. 13, 2010);

United Nations Mission in Liberia [UNMIL], *Quarterly Report on the Human Rights Situation in Liberia August 2006 – October 2006* 23 (February 2007), available at http://unmil.org/documents/hr_report_aug_oct_2006_1.pdf (last visited Feb. 13, 2010); HUMAN RIGHTS WATCH, *WORLD REPORT 2007—LIBERIA 2* (2007), available at <http://hrw.org/wr2k7/pdfs/liberia.pdf> (last visited Feb. 13, 2010) (Reports of unprofessional and corrupt practices by judicial staff were frequent.); United Nations Mission in Liberia [UNMIL], *Quarterly Report on the Human Rights Situation in Liberia May 2006 – July 2006* 6 (October 2006), available at <http://unmil.org/documents/hrreportmayjune2006.pdf> (last visited Feb. 13, 2010) (“The extremely serious problem of corruption in the Liberian judicial system, in particular, remains an enormous challenge to the rule of law and thus to long-term peace and stability.”); UNITED STATES OF AMERICA STATE DEPARTMENT, *COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES* (Mar. 6, 2007), available at <http://www.state.gov/g/drl/rls/hrrpt/2006/78742.htm> (last visited Feb. 13, 2010) (“Corruption persisted in the judiciary.”).

- ²³ INTERNATIONAL CRISIS GROUP, *LIBERIA: RESURRECTING THE JUSTICE SYSTEM 20* (2006), available at <http://www.crisisgroup.org/home/index.cfm?id=4061&CFID=62793589&CFTOKEN=90851082> (password required for full report; last visited Jan. 28, 2010).
- ²⁴ United Nations Mission in Liberia [UNMIL], *Report on the Human Rights Situation in Liberia November 2007 – June 2008* 27, available at http://unmil.org/documents/humanrights_nov_2007_June_2008.pdf (last visited Feb. 13, 2010).
- ²⁵ United Nations Mission in Liberia [UNMIL], *Quarterly Report on the Human Rights Situation in Liberia November 2006 – January 2007* 19 (May 2007), available at http://unmil.org/documents/humanrights_nov_jan_2007_report.pdf (last visited Feb. 13, 2010) (stating that in one Magistrates’ Court, prisoners paid from L \$500 to L \$2,000 in attempts to secure their release.).
- ²⁶ INTERNATIONAL CRISIS GROUP, *LIBERIA: RESURRECTING THE JUSTICE SYSTEM 20* (2006), available at <http://www.crisisgroup.org/home/index.cfm?id=4061&CFID=62793589&CFTOKEN=90851082> (password required for full report; last visited Jan. 28, 2010).
- ²⁷ HUMAN RIGHTS WATCH, *WORLD REPORT 2007—LIBERIA 2* (January 11, 2007), available at <http://hrw.org/wr2k7/pdfs/liberia.pdf> (last visited Feb. 13, 2010) (suspects are often released after the payment of a bribe); INTERNATIONAL CRISIS GROUP, *LIBERIA: RESURRECTING THE JUSTICE SYSTEM 4* (2006), available at <http://www.crisisgroup.org/home/index.cfm?id=4061&CFID=62793589&CFTOKEN=90851082> (password required for full report; last visited Jan. 28, 2010); United Nations Mission in Liberia [UNMIL], *Quarterly Report on the Human Rights Situation in Liberia August 2006 – October 2006* 25 (February 2007), available at http://unmil.org/documents/hr_report_aug_oct_2006_1.pdf (last visited Feb. 13, 2010) (Detainees paid the magistrate and LNP officer to secure their release from their holding cells); United Nations Mission in Liberia [UNMIL], *Quarterly Report on the Human Rights Situation in Liberia May 2006 – July 2006* 6-7 (October 2006), available at <http://unmil.org/documents/hrreportmayjune2006.pdf> (last visited Feb. 13, 2010) (There are no reports made by the magistrates concerning the cases they hear or what fines they impose and collected; detainee in a suspected theft case claimed the magistrate requested that he pay L \$2,800 to be released.); United Nations Mission in Liberia [UNMIL], *Thirteenth Progress Report of the Secretary-General on the United Nations Mission in Liberia* 7 (December 11, 2006), available at <http://unmil.org/documents/sgreports/srep200613.pdf> (last visited Feb. 13, 2010) (There were incidents of corrupt practices involving magistrates and judicial officials.); U.S. DEPARTMENT OF STATE, *COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES 4* (Mar. 6, 2007), available at <http://www.state.gov/g/drl/rls/hrrpt/2006/78742.htm> (last visited Feb. 13, 2010) (Judges took bribes to release people from prison.).
- ²⁸ INTERNATIONAL CRISIS GROUP, *LIBERIA: RESURRECTING THE JUSTICE SYSTEM 5* (2006), available at <http://www.crisisgroup.org/home/index.cfm?id=4061&CFID=62793589&CFTOKEN=90851082> (password required for full report; last visited Jan. 28, 2010).
- ²⁹ INTERNATIONAL CRISIS GROUP, *LIBERIA: RESURRECTING THE JUSTICE SYSTEM 5* (2006), available at <http://www.crisisgroup.org/home/index.cfm?id=4061&CFID=62793589&CFTOKEN=90851082> (password required for full report; last visited Jan. 28, 2010); United Nations Mission in Liberia [UNMIL], *Quarterly Report on the Human Rights Situation in Liberia May 2006 – July 2006* 10 (October 2006), available at <http://unmil.org/documents/hrreportmayjune2006.pdf> (last visited Feb. 13, 2010) (“Circuit courts in Gbarpolu, Lofa, River Cess, Grand Kru and River Gee counties were not operational at all.”).
- ³⁰ INTERNATIONAL CRISIS GROUP, *LIBERIA: RESURRECTING THE JUSTICE SYSTEM 5* (2006), available at <http://www.crisisgroup.org/home/index.cfm?id=4061&CFID=62793589&CFTOKEN=90851082> (password required for full report; last visited Jan. 28, 2010); see HUMAN RIGHTS WATCH, *WORLD REPORT 2007—LIBERIA 2* (Jan. 11, 2007), available at <http://hrw.org/wr2k7/pdfs/liberia.pdf> (last

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- visited Feb. 13, 2010) (Explaining that the judiciary “suffers from absenteeism by judges.”); United Nations Mission in Liberia [UNMIL], *Quarterly Report on the Human Rights Situation in Liberia May 2006 – July 2006* 9 (October 2006), available at <http://unmil.org/documents/hrreportmayjune2006.pdf> (last visited Feb. 13, 2010) (Cases were not heard due to the absence of Judges and other important people in the judicial process); U.S. DEPARTMENT OF STATE, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES 4 (Mar. 6, 2007), available at <http://www.state.gov/g/drl/rls/hrrpt/2006/78742.htm> (last visited Feb. 13, 2010) (Judges and magistrates continue to abandon their posts to opt for living in Monrovia).
- ³¹ INTERNATIONAL CRISIS GROUP, LIBERIA: RESURRECTING THE JUSTICE SYSTEM 5 (2006), available at <http://www.crisisgroup.org/home/index.cfm?id=4061&CFID=62793589&CFTOKEN=90851082> (password required for full report; last visited Jan. 28, 2010).
- ³² *Fourteenth Progress Report of the Secretary-General on the United Nations Mission in Liberia* 9 (Mar. 15, 2007), available at <http://unmil.org/documents/sgreports/14.pdf> (last visited Feb. 13, 2010); HUMAN RIGHTS WATCH, WORLD REPORT 2009—LIBERIA 88 (Jan. 14, 2009), available at http://www.hrw.org/sites/default/files/related_material/wr2009_web.pdf (last visited Feb. 13, 2010).
- ³³ United Nations Security Council [UNSC], *Seventeenth Progress Report of the Secretary-General on the United Nations Mission in Liberia* 10 (Aug. 15, 2008), available at <http://unmil.org/documents/sgreports/sg17pr.pdf> (last visited Jan. 29, 2010); U.N. High Commissioner for Refugees [UNHCR] Refworld, *Freedom in the World 2008 – Liberia* 4 (July 2, 2008), available at <http://www.unhcr.org/refworld/docid/487ca220c.html> (last visited Feb. 13, 2010).
- ³⁴ United Nations Mission in Liberia [UNMIL], *Report on the Human Rights Situation in Liberia November 2007 – June 2008* 7, available at http://unmil.org/documents/humanrights_nov_2007_June_2008.pdf (last visited Feb. 13, 2010).
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- ³⁸ United Nations Mission in Liberia [UNMIL], *Quarterly Report on the Human Rights Situation in Liberia November 2006 – January 2007* 6 (May 2007), available at http://unmil.org/documents/humanrights_nov_jan_2007_report.pdf (last visited Feb. 13, 2010); INTERNATIONAL CRISIS GROUP, LIBERIA: RESURRECTING THE JUSTICE SYSTEM 17 (2006), available at <http://www.crisisgroup.org/home/index.cfm?id=4061&CFID=62793589&CFTOKEN=90851082> (password required for full report; last visited Jan. 28, 2010).
- ³⁹ United Nations Mission in Liberia [UNMIL], *Quarterly Report on the Human Rights Situation in Liberia May 2006 – July 2006* 24 (October 2006), available at <http://unmil.org/documents/hrreportmayjune2006.pdf> (last visited Feb. 13, 2010).
- ⁴⁰ In Kakata, the court bailiff simply encourages the prisoners not to escape during the 30-minute walk to the courthouse without handcuffs. INTERNATIONAL CRISIS GROUP, LIBERIA: RESURRECTING THE JUSTICE SYSTEM 4 (2006), available at <http://www.crisisgroup.org/home/index.cfm?id=4061&CFID=62793589&CFTOKEN=90851082> (password required for full report; last visited Jan. 28, 2010); United Nations Mission in Liberia [UNMIL], *Quarterly Report on the Human Rights Situation in Liberia August 2006 – October 2006* 28 (February 2007), available at http://unmil.org/documents/hr_report_aug_oct_2006_1.pdf (last visited Feb. 13, 2010).
- ⁴¹ United Nations Mission in Liberia [UNMIL], *Report on the Human Rights Situation in Liberia May – October 2007* 11, available at http://unmil.org/documents/humanrights_may_oct_2007_report.pdf (last visited Feb. 13, 2010).
- ⁴² Rome Statute of the International Criminal Court arts. 11(2), 12(3), entered into force July 1, 2002, 2187 U.N.T.S. 90.
- ⁴³ The Rome Statute places temporal limits on the court’s jurisdiction. It may only consider criminal conduct occurring *after* the states to which the case applies have ratified the Statute (Sept. 22, 2004 for Liberia). Statute of the International Criminal Court arts. 11(2), 12(3), entered into force July 1, 2002, 2187 U.N.T.S. 11(2).

⁴⁴ “The Court has jurisdiction only with respect to crimes committed after entry into force of this Statute.” ⁴⁴ Statute of the International Criminal Court arts. 11(2), 12(3), *entered into force* July 1, 2002, 2187 U.N.T.S. 11(1).

⁴⁵ The ECOWAS Community Court of Justice has jurisdiction to address breaches of human rights occurring in any Member State. Supplementary Protocol A/SP.1/01/05 Amending the Preamble and Articles 1, 2, 9, 22 and 30 of Protocol A/P.1/7/91 Relating to the Community Court of Justice and article 4 Paragraph 1 of the English Version of the Said Protocol, at art. 3, Jan. 19, 2004. Until recently, jurisdiction of the court was limited to disputes between Member States concerning issues such as interpretation of the ECOWAS treaty and cases brought by Member States on behalf of their own nationals against other Member States or ECOWAS institutions. William Onzivu, *Globalism, Regionalism, or Both: Health Policy and Regional Economic Integration in Developing Countries, an Evolution of a Legal Regime?* 15 MINN. J. INT’L L. 111, 168 (2006) (citing ECOWAS Court Protocol, ECOWAS Doc. A/P.1/7/91 (Jan. 7, 1991)). The 2004 Supplementary Protocol, however, added a new provision that grants access to the court to individuals seeking relief for human rights violations, providing the issue is not under adjudication by another international court. Supplementary Protocol A/SP.1/01/05 Amending the Preamble and Articles 1, 2, 9, 22 and 30 of Protocol A/P.1/7/91 Relating to the Community Court of Justice and article 4 Paragraph 1 of the English Version of the Said Protocol, at art. 4, Jan. 19, 2004. In addition, the new Article 10 grants access to “individuals and corporate bodies in proceedings for the determination of an act or inaction of a Community official which violates the rights of the individuals or corporate bodies.” *Id.* art. 4. At the time of publication, the ECOWAS Community Court of Justice website was not available, and it was impossible to verify whether the Supplementary Protocol has received the requisite nine ratifications to enter into force. *See id.* art. 11.

⁴⁶ Potential Implementation Strategy: Prosecution Options under U.S. Law and Universal Jurisdiction.

⁴⁷ Potential Implementation Strategy: Prosecution Options under U.S. Law and Universal Jurisdiction.

⁴⁸ U.N. Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity, Principle 19, U.N. Doc. E/CN.4/2005/102/Add.1 (Feb. 8, 2005).

⁴⁹ U.N. HIGH COMM’R FOR HUMAN RIGHTS, RULE-OF-LAW TOOLS FOR POST-CONFLICT STATES: PROSECUTION INITIATIVES (2006). The government should ensure that any prosecutorial process: (a) operates with the highest standards of transparency, impartiality and efficiency; (b) includes specific mechanisms to involve victims in the process (Prosecution Initiatives 17-19); (c) ensures the protection of victims and witnesses (Prosecution Initiatives 19-20); (d) protects the human rights of accused persons; (e) does not permit the death penalty as a sentence for offenders; (f) engages appropriate investigation and evidence handling techniques (Prosecution Initiatives 11-17); (g) does not restrict its facilities and activities solely to Monrovia; (h) incorporates capacity building of the Liberian judicial system in all of its policies and activities (Prosecution Initiatives 34-35); and (i) protects the due process rights of accused persons, including the right to a presumption of innocence, the right to counsel, the right to translated documents, the right to be promptly informed of charges, the right to be tried without undue delay, the right to be present during trial, the right to a public trial, the right to confront witnesses and evidence, the right not to be prejudiced by choosing not to testify in one’s own defense, the right to appeal, the right to proportionate and consistent sentencing in accordance with law, and the right to a remedy for breaches of process rights (Prosecution Initiatives 25-27).

⁵⁰ U.N. Children’s Fund, *Principles and Guidelines on Children Associated with Armed Forces or Armed Groups*, ¶ 7.6.1.

⁵¹ U.N. Children’s Fund, *Principles and Guidelines on Children Associated with Armed Forces or Armed Groups*, ¶ 8.8.

⁵² U.N. Children’s Fund, *Principles and Guidelines on Children Associated with Armed Forces or Armed Groups*, ¶ 8.7.

⁵³ U.N. Children’s Fund, *Principles and Guidelines on Children Associated with Armed Forces or Armed Groups*, ¶ 8.9.0.

⁵⁴ U.N. Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules), G.A. Res. 45/110, U.N. Doc. A/RES/45/110 (Dec. 14, 1990).

⁵⁵ U.N. HIGH COMM’R FOR HUMAN RIGHTS, RULE-OF-LAW TOOLS FOR POST-CONFLICT STATES: PROSECUTION INITIATIVES 14–15 (2006).

⁵⁶ U.N. Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity, Principle 19, U.N. Doc. E/CN.4/2005/102/Add.1 (Feb. 8, 2005), Principle 25.

⁵⁷ Optional Protocol to the International Covenant on Civil and Political Rights, Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, Convention on the Rights of Persons with Disabilities, Optional Protocol to the Convention on the Rights of Persons with Disabilities, Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, Convention on the Political Rights of Women, Protocol amending the Slavery Convention signed at Geneva on 25 September 1926, Slavery Convention, signed at Geneva on 25 September 1926 and amended by the Protocol, Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, Protocol of the Court of Justice of the African Union, Protocol to the African Charter on Human And Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights, African Youth Charter, African Charter on Democracy, Elections and Governance, and Protocol Relating to the Establishment of the Peace and Security Council of the African Union.
