



## **Quarterly Report on the Human Rights Situation in Liberia**

**November 2006 – January 2007**

Human Rights and Protection Section

May 2007

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## **Executive summary**

1. Between November 2006 and January 2007, several positive steps forward were taken at the national level in strengthen the rule of law in Liberia. These included statements by the Government that trial by ordeal using the poison sassywood was illegal, the Government's continued anti-corruption campaign and the demonstration of independence made by the Supreme Court in its handling of the dispute between the House of Representatives and its then Speaker.

2. However, despite these positive moves, human rights protection at the local level remained poor. This report focuses particularly on human rights violations caused by failure to uphold minimum detention conditions in prisons and other detention facilities around the country. By the end of January 2007, Liberia had not made adequate progress towards the implementation of international standards recognised as essential to the protection of human rights of all people in detention. The Standard Minimum Rules for the Treatment of Prisoners represent *minimum* conditions, acknowledged internationally as being essential for the enjoyment of fundamental human rights. The prison system in Liberia faces many challenges, including the absence of adequate facilities, trained personnel and logistic support. Many of these challenges will take time to overcome. However, Liberia has set itself a target of upholding these human rights standards for all people residing within its territory, including detainees. Detainees suffered unlawful discrimination on the basis of their detention status, with denial of rights to adequate nutrition, medical treatment and standard of living. Detention facilities were often dirty and there was inadequate food and water for drinking or bathing. These unhealthy conditions were exacerbated in some facilities by overcrowding. The right of juvenile detainees to be separated from adults were not protected.

3. The Rape Amendment Act was not implemented in full and in some cases it appeared that suspects were inappropriately released on bail, including in cases of gang-rape. Delays, failure to charge suspects appropriately and the unexplained release of suspects on bail were observed. Furthermore, law enforcement officials reported that many complainants settled their cases privately.

4. Victims and suspects alike were often denied access to justice by the poor operation of the courts. Many Circuit Courts failed to make headway in dealing with the increasing backlog of cases. Some Circuit Courts did not conduct a single trial during the November Term.

5. Corruption, irregular procedures for imposing fines in at least one Magistrates' Court and problems with the payment of salaries all had an impact on the efficiency of the judicial system and the protection of fundamental human rights. While some detainees claimed to have paid money for their release, others openly paid a fine instead of being sent to prison, without suitable legal basis.

6. Trial by ordeal was still practiced with the consent of county authorities and courts appeared not to appreciate the seriousness of the offences associated with the practice. In

Nimba County, eight suspects were charged with aggravated assault in relation to a trial by ordeal lasting two months and involving 37 victims, subjected to severe assault and other forms of cruelty. All eight suspects arrested were released on bail immediately.

### **Methodology**

7. Information for this report has been collated from monitoring conducted by 25 Human Rights Officers (HROs) of the Human Rights and Protection Section, who cover all of Liberia's 15 Counties. This information was then cross-checked with reports prepared by other UNMIL components, in particular the Legal and Judicial System Support Division (LJSSD) and the Corrections Advisory Unit (CAU). The draft report was sent to the Chief Justice of the Supreme Court and the Minister of Justice of the Government of Liberia for their comments prior to its public release. The report was also shared with the Office of the High Commissioner for Human Rights (OHCHR) prior to release. Responses received from all partners were examined and, where appropriate, incorporated in this report.

### **Mandate of the Human Rights and Protection Section (HRPS)**

8. UNMIL was established by UN Security Council Resolution 1509 (2003) of 19 September 2003. In accordance with paragraph three of the Security Council Resolution, the mandate of HRPS is:

(l) to contribute towards international efforts to protect and promote human rights in Liberia, with particular attention to vulnerable groups including refugees, returning refugees and internally displaced persons, women, children, and demobilised child soldiers, within UNMIL's capabilities and under acceptable security conditions, in close cooperation with other United Nations agencies, related organisations, governmental organisations, and non-governmental organisations;

(m) to ensure an adequate human rights presence, capacity and expertise within UNMIL to carry out human rights promotion, protection and monitoring activities.<sup>1</sup>

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<sup>1</sup> HRPS does not have a mandate to investigate allegations of human rights abuses committed by UNMIL staff. All cases of serious misconduct by UN personnel, including all complaints involving sexual exploitation and abuse, are investigated by an independent mechanism, the Office of Internal Oversight Services (OIOS). OIOS has complete freedom of action and reports directly to UN Headquarters in New York. Therefore, cases involving alleged abuses by UN personnel are not covered in this report.

## **Political and Human Rights Developments and Trends**

### **Human Rights Day**

9. Each year, 10 December is celebrated around the world as the anniversary of the Universal Declaration of Human Rights. This document, the foundation of the modern international human rights legal framework, acknowledged a range of fundamental human rights inherent in all human beings. Celebrations were held around the country, led by UNMIL, the UN Agencies, Government authorities and civil society groups.

### **Supreme Court demonstrates independence**

10. The Supreme Court of Liberia passed a significant test of its independence as a branch of Government in January, in its determination of the dispute between the House of Representatives and its Speaker, Mr. Edwin Snowe. On 18 January, 43 members of the House unanimously passed a resolution to remove Mr. Snowe as Speaker. Mr. Snowe subsequently filed a petition for a writ of prohibition in the Supreme Court, which was granted by an Associate Justice of the Supreme Court on 22 January. Following a hearing on 27 January, the Court issued its decision on the substance of the application on 29 January, finding in favour of Mr. Snowe i.e. that the vote in the House of Representatives did not meet constitutional and procedural requirements.

### **Government affirms illegality of trial by ordeal**

11. In November, the Ministry of Internal Affairs issued an instruction to Ministry personnel and licence-holders that all licences to practice trial by ordeal with the poisonous substance known as “sassywood” were revoked. This announcement was a positive step forward

### **Government continues anti-corruption efforts**

12. The Government started 2007 by moving ahead with its anti-corruption campaign. Following the release in December 2006 of the ECOWAS report of its financial audit of the National Transitional Government of Liberia (NTGL), several former NTGL officials have been interviewed by LNP. These include the former NTGL Chairman, Deputy Chairman, Deputy Minister of Finance, Director General of the Bureau of the Budget, Minister of Industry and the Deputy Minister of Administration.

### **President visits Monrovia Central Prison following mass escape**

13. Fifty-seven detainees escaped from Monrovia Central Prison on 26 November, after 150 detainees entered the grounds and attempted to break through the compound gate. On 21 December, the President visited the Prison, accompanied by the Minister of Justice and the Assistant Minister for Corrections and Rehabilitation. During her visit, the President pledged to improve working conditions for prison staff. Initial reports

suggested that the severe shortage of staff was a key factor behind the mass escape of the previous month.

### **Human Rights Monitoring**

14. The case briefings and analysis contained in this quarterly report cover the major human rights issues identified between November 2006 and January 2007. This edition of the quarterly report has a particular focus on human rights concerns regarding detention conditions.

### **Human Rights in Prisons and Detention Facilities**

*Imprisonment and other measures which result in cutting off an offender from the outside world are afflictive by the very fact of taking from the person the right of self-determination by depriving him of his liberty. Therefore the prison system shall not ... aggravate the suffering inherent in such a situation.<sup>2</sup>*

15. Human rights are inherent in all human beings. Detainees suffer the temporary (or permanent, in the case of life imprisonment) deprivation of the right to liberty and freedom of movement and some limited infringement on the right to privacy. It is this deprivation that is the Court-determined punishment for their crimes against the society in which they live. However, it must be stressed that the police suspect, detainee and prisoner retain all other fundamental human rights, including:

- Freedom from discrimination and the right to protection of human dignity
- Right to life
- Right to physical security and freedom from torture
- Right to adequate nutrition
- Right to the highest attainable standard of physical and mental health
- Right to family
- Right to due process of law
- Freedom of thought, conscience and religion

16. For the sake of simplicity, in this section of the report the term “detainee” refers to police suspects, pre-trial detention and people serving a term of imprisonment as punishment following conviction.

17. The below analysis of detention conditions in facilities around Liberia has been prepared in accordance with the Standard Minimum Rules for the Treatment of Prisoners (SMR), a set of non-binding standards that was first adopted by the United Nations in

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<sup>2</sup> Standard Minimum Rules for the Treatment of Prisoners, Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977, SMR no. 57

1955. The SMR provide guidelines for the management of detention facilities in a manner that upholds international human rights standards. The SMR were supplemented in 1990 by the adoption by the United Nations General Assembly of the Basic Principles for the Treatment of Prisoners (BP).<sup>3</sup>

18. Although not human rights treaties and thus unenforceable alone, the recognition of these guidelines by the United Nations and their long-standing application in countries around the globe does imbue them with persuasive weight. Moreover, the SMR and the BP are a practical reflection of many of the legal obligations contained in the human rights treaties signed or ratified by Liberia. The SMR and BP cover all people in any form of detention, including police custody, pre-trial detention, imprisonment after sentence, detention or imprisonment for debt and detention without charge. Thus the case analysis below includes examples of all forms of detention monitored in Liberia between November 2006 and January 2007.

19. The freedom to enjoy all fundamental human rights without any unlawful discrimination applies to all human beings, regardless of their detention status.<sup>4</sup> This fundamental right, which the Liberia as a State Party to the International Covenant on Civil and Political Rights is bound to protect, is reflected in SMR no.6 and BP 2. The BP also explicitly states that all prisoners must be treated with the dignity due to them as human beings. The cases included in this report indicate that detainees in Liberia do suffer discrimination on the grounds of their detention status and that their right to protection of their inherent dignity as human beings is not respected. Very poor hygiene, lack of fresh air and light, lack of food and water for drinking and bathing all have a very serious impact on the protection of human dignity. These concerns observed between November and January unlawfully aggravated the suffering inherent in the deprivation of liberty.

#### *Absence of detention facilities*

20. In some Counties, legal detention facilities do not exist. In Gbarpolu County, no detention facility was in existence by the end of January.<sup>5</sup> In River Gee County, the Fishtown police station, itself located inside a dilapidated private building, possessed the only makeshift holding cell in the County.<sup>6</sup> In Grand Gedeh County, the Central Prison has not yet been renovated, while in Bomi County there is no Central Prison, thus pre-trial detainees and sentenced prisoners have been held at the Zwedru and Tubmanburg police stations, respectively, since the restoration of peace in 2003.<sup>7</sup> The Robertsport

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<sup>3</sup> Basic Principles for the Treatment of Prisoners, Adopted and proclaimed by General Assembly resolution 45/111 of 14 December 1990

<sup>4</sup> International Covenant on Civil and Political Rights, Article 2

<sup>5</sup> By February 2007, a police station was under construction; this will include holding cells.

<sup>6</sup> The police station building was repossessed by the owner in February 2007, allegedly due to the failure of the Government to pay rent and undertake essential repairs. UNPOL has identified Fishtown as a priority site for the construction of new police premises and it is expected that a station will be completed by mid-2007.

<sup>7</sup> According to UNMIL Corrections Advisory Unit (CAU), land was recently inspected for the future construction of a Prison in Bomi County.

Central Prison, Grand Cape Mount County, is located in a building owned by the Liberian Electrical Company and renovated by the Ministry of Justice in 2006.

21. In some locations, the absence of authorised detention facilities has prompted some officials to construct or use private buildings as illegal holding cells. This leads to problems associated with the absence of trained and qualified personnel and the failure to meet minimum detention conditions. In other cases, suspects had to be released on bail due to the absence of facilities.

- A private building was used as a holding cell for the Owensgrove Magistrates' Court, Grand Bassa County. On 20 November, the County Attorney advised HROs that since the Owensgrove cell is unauthorised, no corrections officer can be assigned to it. At the time of HROs' visit, a local resident was paid by the Magistrate to be present at the cell and keep the key.
- Five cases were listed for trial in the River Gee County Circuit Court during the November Term. However, none of these were heard. In one case, a murder charge, the two defendants did not appear. Since there was no detention facility available in the County, both men had been released to await trial. It was reported that they had travelled to Monrovia.

#### *Overcrowding*

22. The maximum operational capacity of each of the official detention facilities was determined at the time of construction. However, some of these maximum operational capacities were exceeded between November and January. The capacity and dates of peak inmate numbers in relation to each detention facility are given below:

Detention centre	Maximum operational capacity	Highest number of inmates November 2006 – January 2007	Period of inmate peak
Monrovia Central Prison	180	562	Week ending 12 November
Kakata Central Prison	60	75	First three weeks of November
Gbarnga Central Prison	40	26	Week ending 23 December
Buchanan Central Prison	60	31	Fourth week of January
Saniquillie Central Prison <sup>8</sup>	N/A	33	As of 31 January
Voinjama Central	60	19	First week of

<sup>8</sup> Saniquillie Central Prison is currently located in a former warehouse that was not intended for this purpose, thus there is no official maximum operational capacity. Although renovations have been undertaken to provide separate cells for juveniles and for female detainees, in practice juveniles were held in the same cell with adults during the reporting period.

Prison			November
Zwedru LNP holding cells <sup>9</sup>	N/A	20	Second week of November
Harper Central Prison	114	27	First and second weeks of December
Tubmanburg holding cells	10 <sup>10</sup>	30	First three weeks of January

These statistics are compiled from the CAU reports for the period of November 2006 – January 2007.

23. Where facilities were overcrowded, human rights concerns were often increased. There was more pressure on food and water supply, and security of the facility more precarious. Of particular concern was Monrovia Central Prison which held more than three times its operational capacity in November.

#### *Register*

24. In every place of detention there must be a registration book containing information on the identity of the prisoner, the reasons and authority for his or her commitment to the detention facility and the date and hour of the detainee's admission and expected release. A detainee should not be accepted without a valid commitment order.<sup>11</sup> Review of records in prisons and police stations by HROs indicated that record-keeping was often incomplete, with the potential to lead to human rights violations.

- On 8 January, HRO found six boys aged between 13 and 16 years who had been admitted to Monrovia Central Prison on 2 January. During a subsequent visit to gather information on the status of juveniles in detention, HRO observed that neither the prison registry nor the specific juvenile registry contained any record of juveniles admitted on 2 January and that the registry noted the first arrival for that month as occurring on 10 January.
- On 18 December, four men charged with terroristic threat were detained at the Tubmanburg detention facility, Bomi County, without a commitment order. This was confirmed by the Prison Superintendent. It appears that a commitment order was prepared after HROs brought the matter to the attention of the County Attorney.
- In November, monitoring indicated that some detainees were held at the Tubmanburg detention facility without any date listed in the register for their next hearing.

#### *Separation of categories*

<sup>9</sup> In Zwedru and Tubmanburg, detainees and convicted prisoners are held in the LNP station cells. The Zwedru Central Prison is under renovation.

<sup>10</sup> This figure is based on HROs' estimates, since the Tubmanburg detention facility is not a formal prison.

<sup>11</sup> SMR no.7

25. The separation of different categories of detainees<sup>12</sup> has several purposes. First, the separation of pre-trial detainees from convicted prisoners respects the presumption of innocence. Second, the separation of women from men and juveniles from adults reduces the risk of harm occurring to the generally more vulnerable female and juvenile detainees. Third, the separation of juveniles from adults aims to guarantee the additional human rights protections for juveniles due to their status as children. Fourth, the separation of detainees of different risk within each broad category is an important security measure and also aims to prevent the increased criminalisation of petty offenders by preventing their contact with more serious offenders. The practice of holding pre-trial detainees and convicted prisoners in police cells has the further ramification of impeding LNP officers in applying skills learned during their training regarding the handling of suspects.

- In Monrovia Central Prison, in January, juveniles slept in separate cells but were permitted to mix with adults during the day when they were held together in an outside enclosure.
- A 14 year old boy was held in the same cell as adults in Saniquillie Central Prison, Nimba County, between December 2006 and February 2007. Although separate cells were provided for juvenile and female detainees following renovation of the prison during this time, the boy was held with adult detainees due to over-crowding. The boy told HROs that the older detainees used him as a worker to draw water for them, sweep the floor or wash their clothes and that they gave him drugs and alcohol.
- As noted, due to the absence of a Central Prison in Bomi and Grand Gedeh Counties, police suspects and pre-trial detainees were held together at the Tubmanburg and Zwedru LNP stations.<sup>13</sup>
- On 15 December, 39 inmates were held in the Tubmanburg detention facility, Bomi County, including one female. As the facility was crowded beyond capacity, the female was permitted to go home overnight and report back to the police in the morning.
- A 17 year old juvenile, was remanded in pre-trial detention on 28 December at the Tubmanburg detention facility on a charge of rape. The juvenile shared a cell with adults due to overcrowding.

#### *Accommodation, bedding and clothing*

26. Where more than one detainee sleeps in a room together, there must be regular night-time supervision to ensure the safety of all detainees.<sup>14</sup> All accommodation should meet health requirements, including cubic content of air, minimum floor space, lighting, heating and ventilation. Bedding should be adequate and clean, while clothing should be

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<sup>12</sup> SMR no.8

<sup>13</sup> Although no convicted prisoners were held there during November 2006 and January 2007, there have been convicted prisoners in these facilities before, without any possibility of separation from those detainees entitled to the presumption of innocence.

<sup>14</sup> SMR no.9

kept clean and in good condition.<sup>15</sup> In all facilities monitored by HRPS, detainees lacked adequate bedding, including mattresses or floor mats and sheets.

- The Greenville detention facility resembles a dungeon rather than a prison of the 21<sup>st</sup> century. It is a basement underneath the County administration building.<sup>16</sup> There are no windows and the very limited ventilation and light is provided by a small opening in the walls of each cell. The cell floors are not covered with concrete and the air is consequently very dusty. Only those inmates whose families brought them floor mats have any type of bedding; the rest all sleep on the bare floor.
- When HROs visited Monrovia Central Prison, Montserrado County, on 8 January, they observed that 11 juveniles held in one cell shared a single thin foam mattress.
- Floor mats in Gbarnga Central Prison, Bong County, were destroyed during riots there in July 2006, thus detainees slept on the bare floor until the donation of mattresses by UNHCR following the Central Prison's renovation and reopening in November 2006.
- On 16 January, a detainee in the Cestos City holding cell, River Cess County, fainted due to the heat and lack of ventilation in the cell, which is a converted container.

#### *Sanitation and personal hygiene*

27. Adequate toilet and bathing facilities must be provided, including the opportunity to wash hair and / or shave.<sup>17</sup> None of the detention facilities in Liberia has toilets inside the cells. Tubmanburg detention facility has a toilet outside the cells; detainees must seek permission from the guards to use it. In other facilities, detainees must be escorted outside to relieve themselves in the bush. Detainees are not offered opportunities for shaving.

28. Regular human rights monitoring revealed a pattern of frequently very dirty detention cells, in both police stations and prisons. Lack of water and cleaning products was often a challenge to maintaining basic sanitation standards, particularly as detainees often had no option but to urinate and defecate in the cells. The supply of soap and other essential hygiene materials is irregular and dependent on donations from ICRC, UNHCR, Non-Government Organisations (NGOs), HROs and others.

- On 16 November, three pre-trial detainees escaped from Gbarnga Central LNP station, Bong County, after requesting to go outside to relieve themselves. After this incident, LNP officers refused to allow other detainees to go outside and thus they were forced to urinate and defecate in the cell.
- During November, the Superintendent of Harper Central Prison used the prison yard as an animal pen to raise chickens and goats. This area is close to the prison kitchen where meals are prepared for the inmates. When HRO recommended that

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<sup>15</sup> SMR no.17

<sup>16</sup> A new prison funded by UNHCR was under construction during the period covered by this report.

<sup>17</sup> SMR nos. 12 - 16

she move the animals for sanitary reasons, the Superintendent stated that only the Assistant Minister of Justice for Corrections could order her to remove the animals.<sup>18</sup>

- At the end of November, the Tubmanburg Prison Superintendent argued that it was not possible to depend on the community pump situated a few hundred metres away because it is often closed, therefore only those detainees whose family brought them water could bathe. He also stated that bathing was not a priority for “murderers and rapists”; a comment that indicated lack of awareness of minimum detention conditions and the presumption of innocence.

### *Food and water*

29. Detainees must be provided with food of adequate nutritional value and drinking water as needed.<sup>19</sup> There is no Government allocation for the provision of food to detainees in Liberia. Detainees in prisons are provided with food rations by the World Food Programme (WFP) under a unique arrangement struck between WFP and Liberia during the NTGL regime. ICRC, NGOs and relatives also donated food to various institutions. People in the custody of the Liberian National Police (LNP) had to rely on the provision of food by family members or police officers themselves.

- Food supplies at Saniquillie Central Prison, Nimba County, were exhausted on 10 November, and inmates consequently had no food for three days.<sup>20</sup>
- Monitoring of the WFP food supply and usage at the Tubmanburg detention centre in December indicated that the food intended for detainees was being misused by prison staff. At times, HROs observed prison staff eating the WFP rations. The amount provided by WFP was calculated according to expected need based on average numbers of detainees.
- In November and December, access to drinking water was a continuing problem at the Harper Central Prison. On 15 December, UNMIL restored electricity to the prison, thus enabling the water pump to be used. However, this pump required repairs and did not work effectively. Prison guards had to escort the inmates to fetch water each day from outside the compound.

### *Exercise and sport*

30. Each detainee must be allowed at least one hour of outside exercise per day, weather permitting.<sup>21</sup> In some facilities, including Saniquillie and Monrovia Central Prison, detainees were allowed outside the cell block during the day. In other centres, such as

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<sup>18</sup> While UNMIL does not object to the presence of animals inside prison grounds (raising animals may even be helpful as a form of rehabilitative activity) they must be kept in a manner that does not threaten hygiene standards.

<sup>19</sup> SMR no. 20

<sup>20</sup> According to UNMIL Corrections Advisory Unit, the UNMIL Corrections Officer and the Prison Superintendent both made repeated follow-up calls to the WFP Saclapea sub-office. On 16 November, WFP confirmed that it was unable to supply food until new stock was received. The Ministry of Justice was briefed daily on the situation and on 16 November US\$200 worth of food was procured for the Prison.

<sup>21</sup> SMR no. 21

Tubmanburg detention facility and the Central Prisons of Buchanan, Voinjama and Kakata, detainees were not allowed to go outside for exercise. Detainees were, however, allowed outside at times to fetch water.

#### *Medical examination and treatment*

31. All institutions must have a medical officer who will examine every detainee admitted to the facility and provide or arrange appropriate treatment, including psychiatric and dental treatment. The medical officer should note any mental or physical health problems. Sick detainees requiring specialised treatment shall be transferred to hospitals as necessary.<sup>22</sup> The medical officer should advise the facility director on those issues with a bearing upon detainee health, including the food provided, hygiene, ventilation and exercise.<sup>23</sup>

- In the first week of November, HROs facilitated treatment at the Greenville hospital for five detainees of Greenville Central Prison, who were found to be suffering from malaria, diarrhoea and general pains all over the body. The hospital agreed to provide the treatment gratis upon HROs' request.
- A man was arrested on 15 November in Gbarnga Siaquelleh, Bong County, after being attacked by a mob that accused him of murder. He was transferred to the Gbarnga Central LNP station. During a monitoring visit on 20 November, HROs observed that the man had injuries that appeared to have been sustained during the mob attack. He was not provided with medical treatment while in police custody.
- In December, a detainee of Buchanan Central Prison, Grand Bassa County, was found to have been suffering from a serious fever and cough for one week, with no medical treatment provided.

#### *Instruments of restraint*

32. Handcuffs and other forms of restraint must never be used as punishment and should only be used as a precaution against escape during a transfer from one location to another, or to prevent the detainee from injuring himself or others or from damaging property (usually due to medical reasons). Restraints should only be used for the period of time strictly necessary.<sup>24</sup>

- A suspect injured during a mob attack held in handcuffs inside a cell with other detainees at the Gbarnga Central LNP station, Bong County, between 16 and 20 November. HROs observed that the restraints were so tight that they were causing further injury. Although LNP officers claimed that the use of handcuffs was required to prevent the man from escaping, the cell was secure. Since he was held in the same cell with other detainees, the use of restraints could have increased his vulnerability to assault by other detainees. LNP removed the handcuffs upon the request of HROs.

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<sup>22</sup> SMR nos. 22, 24, 25

<sup>23</sup> SMR no.26

<sup>24</sup> SMR nos. 33, 34

### *Information to and complaints by detainees*

33. All detainees should be provided, either in writing or orally, with information on the rules of the facility and the avenues available for making complaints. All complaints shall be dealt with promptly.<sup>25</sup> According to UNMIL Corrections Advisory Unit, Prison Superintendents receive complaints from the detainees while making their daily rounds. Detainees are also encouraged to voice their concerns to HROs during monitoring visits, however these frequently relate to prolonged pre-trial detention and lack of information regarding the status of their cases. Complaints regarding prison conditions, e.g. sanitation, sometimes could not be addressed adequately by the prison staff for lack of resources. During the period under review, disturbances and escapes occurred in Monrovia, Kakata and Saniquillie Central Prisons and Tubmanburg detention facility. After their re-arrest, some detainees involved in escapes from Kakata and Saniquillie told HROs that they were frustrated by their prolonged pre-trial detention and lack of information concerning the status of their case.

### *Contact with the outside world*

34. All detainees shall be allowed reasonable opportunities to communicate with their families and friends, through correspondence and through scheduled visits.<sup>26</sup> Contact with family and friends was limited due to circumstances such as transport costs for visitors, illiteracy, the lack of stationery and the absence of a reliable postal system.

### *Freedom of thought, conscience and religion*

35. Within reason, all detainees must be allowed to fulfil the devotional requirements of his or her religion. Where there a large number of members of one or more faiths is held in a particular institution, a representative of that religion should be appointed to hold services.<sup>27</sup> No detention facility in Liberia has an appointed religious representative, or any facilities for the provision of religious services. The lack of water in cells or cell blocks presents a particular problem for the observance of daily prayers by Muslim detainees.

### *Institution personnel*

36. The SMR enjoin the Government, in appointing prison personnel, to increase public awareness of the role of corrections officers in performing “a social service of great importance”. Personnel shall be appointed on a full-time basis, with adequate benefits and conditions of service, with tenure subject to good conduct.<sup>28</sup> The retention of trained corrections personnel was a challenge during the reporting period, due to low morale

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<sup>25</sup> SMR no. 35, 36

<sup>26</sup> SMR no. 37

<sup>27</sup> SMR no. 41, 42

<sup>28</sup> SMR no. 46

caused by interruptions in salary payments. In some facilities, unqualified or otherwise unsuitable staff were employed, leading to problems in the protection of detainees' rights.

- The two corrections personnel in Tubmanburg detention facility, Bomi County, were elderly and frequently refused or were unable to perform necessary activities such as escorting detainees to fetch water.
- The Superintendent of the Robertsport Central Prison, Grand Cape Mount County, retired in December but was recalled to his post due to lack of staff. The only other person working in this facility was an unpaid and untrained volunteer.
- On 14 November, the Superintendent and personnel of Saniquillie Central Prison, Nimba County, stated their intention to resign, as they had not been paid in four months. This was prevented by UNMIL Corrections Advisory Unit's intervention to secure the provision of two months' salary.

### *Inspection of facilities*

37. SMR no. 55 provides:

“There shall be a regular inspection of penal institutions and services by qualified and experienced inspectors appointed by a competent authority. Their task shall be in particular to ensure that these institutions are administered in accordance with existing laws and regulations and with a view to bringing about the objectives of penal and correctional services.”

By the end of January there was no active detention facility oversight mechanism operating either within the Government or with the Government's authorisation to monitor and report on prison conditions independently. The Human Rights Unit of the Ministry of Justice has a mandate to gather human rights data in general but was not active in the prison system. The Independent National Commission on Human Rights will be the national human rights body with powers to investigate human rights conditions wherever necessary across Liberia but has not yet been established. Moreover, the assessment and analysis of detention conditions requires specific expertise. Several Liberian NGOs are monitoring human rights conditions in detention facilities but their observations were not channelled directly to the Government. By the end of January, UNMIL was the only body providing regular and comprehensive monitoring of human rights conditions in detention facilities in all 15 counties.

### *Rehabilitation of prisoners under sentence*

38. The SMR provide that the aim of imprisonment is to protect society against crime. To this end, the experience of imprisonment must be such that the prisoner is able to avail him or herself of every opportunity for rehabilitation.<sup>29</sup> Activities which help to prevent the prisoner from re-offending after release are essential to the aim of imprisonment, i.e. the protection of the community from crime. While the SMR establishes that sentenced

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<sup>29</sup> SMR no. 55 - 81

prisoners must be provided access to rehabilitation programmes, the participation of all detainees, including pre-trial detainees, in training and other constructive activities can assist in reducing the negative consequences of pre-trial detention, including frustration, anxiety and depression. This is particularly important in Liberia's current circumstances, where the overwhelming majority of people held in prisons are awaiting trial. By the end of January, no rehabilitation or training programme of any kind existed in the Liberian penal system. Once in custody, detainees had no access to education, vocational training, counselling or any form of employment with which to pass the time.

### *Mentally-ill detainees*

39. In accordance with the SMR, detainees presenting symptoms of mental illness (not limited to complete insanity) should be accommodated in appropriate facilities where they can receive necessary treatment.<sup>30</sup> As with any form of health-care, detainees with a mental illness are entitled to medical examination and treatment. In those cases where a person has been determined by the court to have been insane at the time of the commission of a crime and thus found not guilty of that offence, protection of the population may still require the containment of that individual in an appropriate institution. In Liberia, regular prisons are not equipped to provide the psychiatric treatment and counselling required by mentally-ill detainees, including any who might be found legally insane. Moreover, there is no specialist hospital for the treatment of mentally-ill detainees. Some assistance has been provided on an ad hoc basis by international NGOs, facilitated by UNMIL.

### **Sexual and Gender-Based Violence**

40. The Rape Amendment Act was not fully implemented between November 2006 and January 2007, resulting in human rights violations and continuing impunity for rape. Sexual and gender-based violence, particularly rape of children, remained a significant challenge to the rule of law and the protection of fundamental human rights.

- The Officer in Charge of the Tubmanburg Women and Children Protection Unit (WCPU), Bomi County, informed HROs that 17 cases reported in November were later withdrawn by the complainants for private settlement.
- On 10 December in Gbarnga, Bong County, a man allegedly seriously assaulted his girlfriend who was then nine months pregnant. The woman was admitted to Phoebe Hospital and miscarried on 12 December. The suspect was arrested on 11 December and charged with aggravated assault. However, on 15 December the woman died. HRO requested the police to change the charge from the initial Aggravated Assault to Murder. The case proceeded slowly; an updated police charge sheet was forwarded to the Gbarnga Magistrates' Court 5 January and the City Solicitor waited until 17 January to request a death certificate from the

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<sup>30</sup> SMR no. 82

- hospital where the woman died. By the end of January, no further progress had been achieved in this case.
- A rape suspect remanded in pre-trial detention in Grand Gedeh County on 7 November was released on 23 December. He did not show up for the Court hearing scheduled for 3 January but the Judge did not issue an arrest warrant until 10 January.
  - On 6 November, the Owensgrove Magistrate, Grand Bassa County, informed HROs that a man suspected of raping a 13 year old girl had escaped from custody. The Magistrate also stated that the parents of the alleged victim had refused to appear in Court to assist in the investigation.

41. Two cases of reported gang-rape were not handled by the courts in accordance with the law and the suspects in each case were at liberty by the end of January, with no further action taken in prosecuting the cases.

- A 29 year old woman was allegedly raped on 1 December in Suakoko District, Bong County, by four males. The suspects were remanded in custody at Gbarnga Central Prison between 13 and 21 December. They were then rearrested and detained between 3 and 5 January. On 16 January, the Circuit Court Clerk showed HRO a document entitled “Promissory Note” signed by the Judge of the Circuit Court and two witnesses who guaranteed that the suspects would report to the Court on 10 January. The suspects did not report to Court on that date and no action was taken by the end of January to arrest them. Gang-rape is first-degree rape, and thus the right to release on bail is far more limited than in any other cases.
- Five male juveniles were arrested by LNP in Lofa County for the alleged gang-rape of a 14 year old girl. All five were released on 6 November by the Voinjama Stipendiary Magistrate, who told HRO later that the parents of the victim had asked him to release the suspects so they could arrange an out of court settlement. The following week, the County Attorney stated that the case had never been referred to his office and that he was consequently unaware of it.

## **Law Enforcement**

42. Monitoring between November 2006 and January 2007 indicated that many complainants were unaware of their rights to a fair hearing before the courts and that cases frequently had to be closed because complainants did not return to testify. One reason for this was that complainants feared they would have to pay unlawful fees to court personnel for the criminal prosecution to proceed.

- HROs were informed by LNP at the Ganta Parking police station, Bong County, that of the 104 cases reported to that station between 1 December and 9 January, 37 were dropped because the complainant did not want to testify in court. From statements made by police officers at the station, it appeared that they tend to

automatically close the case without informing the complainant of their rights to a fair hearing before the Court, free of illegal charges.

#### *Violation of the 48 hours constitutional limit on police custody*

43. The limit on police custody provided by Article 21 (f) of the Constitution is expressed in very clear terms: “*Every person arrested or detained shall be formally charged and presented before a court of competent jurisdiction within forty-eight hours*”. However, violations of this rule were observed, as illustrated below:

- Throughout January, two men were held at the RIA LNP detachment, Margibi County, reportedly on the direction of the Ministry of Justice. LNP officers claimed that the men were being held there while evidence was gathered. However, this is not a justification for the violation of fundamental human rights. The men should have been brought before a Magistrates’ Court within 48 hours, at which time the court would have decided whether there was enough evidence to justify their continued detention or to release them on bail. Regardless of the outcome of that hearing, the police would have been able to continue their investigations in accordance with the law.
- When HROs informed LNP in Tubmanburg, Bomi County, that a 15 year old boy in their custody had been held beyond the 48 hour limit, the officer in charge of the station incorrectly stated that Sundays do not count towards the calculation of the 48 hour period. When HROs returned to the station to speak with the LNP Commander on 7 December, he agreed with that erroneous explanation and claimed that this was taught at the National Police Training Academy (NPTA). However, the NPTA course specifically teaches that police officers are required, by national and international law, to charge every suspect and bring him or her before court within 48 hours of arrest. Moreover, the LNP policy on pre-trial detention of suspects states that “*the thrust should be to ensure that all persons arrested appear before a competent court as soon as possible and in any case within 48 hours of arrest*”.
- LNP officers at the Gbarnga Central police station, Bong County, admitted that they had kept a suspect for more than one day beyond the 48 hour limit but claimed that this was due to the need to wait for the complainant to agree to an out of court settlement.

#### **The Judiciary**

44. Serious challenges to the effective operation of the judicial system continued to undermine the rule of law and the protection of fundamental human rights.

#### *Failure to ensure due process and hear cases in the November Term of Court*

45. Despite the lengthy backlog of cases due to be indicted or heard during the November Term of Court, and high numbers of people in pre-trial detention, little noticeable

progress was made in the operations of County Circuit Courts during the November Term. The following information is taken from Court records of cases finalised during the Term:

- Montserrado County has three Circuit Courts dedicated to hearing criminal cases. Circuit Court A had 101 cases on its docket for the November Term but no records regarding the number of cases heard and their results were available at the time of writing this report. Circuit Court B disposed of 11 cases from its docket of 55; the cases heard included one habeas corpus application and seven summary proceedings. None of the 10 pending rape cases was tried. No cases were tried in Circuit Court D, which is assigned to hear cases of armed robbery only, as none of the pending cases had yet been indicted.
- Although 24 cases were listed for hearing in the Margibi County Circuit Court, only three were tried, all of which resulted in dismissal.
- Nine cases were on the docket of the Bomi County Circuit Court. Of these, one resulted in a conviction for rape and sentence to 10 years imprisonment, while a minor case resulted in a conviction and the immediate release of the prisoner. Detainees in four other cases were released on defence motion and three cases were reassigned for the following Term of Court.
- Of the 11 cases listed for trial in Grand Cape Mount County, including four rape cases and one murder case, only one case of a guilty plea was finally disposed of during the Term.
- Only three of the 35 cases listed on the Bong County Circuit Court docket were tried but all resulted in a conviction.
- In Grand Bassa County, 13 cases were listed on the November docket, including one murder and two rape cases. Only three minor cases were tried and resulted in convictions. The pending murder and two rape cases were not tried.
- No cases were heard at all in Sinoe, River Gee or Gbarpolu Counties. The 10 pending cases in Gbarpolu County Circuit Court included three murder and three rape cases.

46. In many instances, HROs were unable to obtain accurate or up to date information on the number of cases before each Court and the status of the proceedings, due to incomplete record-keeping. In some Courts, officials declined to provide case information or were unable to do so. In Lofa County, the Court officials declined to provide any information, while the Clerk of Montserrado County Circuit Court C (which hears civil cases) advised HROs that the previous Judge had taken the record of cases with him when he left.

#### *Absence of key personnel*

47. The absence of key personnel in some Counties denied victims and suspects the due process of law in a fair and prompt hearing.

- The Lofa County Circuit Court did not hear any cases due to the absence of the Judge, who left for Monrovia shortly after the Term began.

- There are no City Solicitors in any Magistrates' Courts in Lofa County. In November, a man was convicted of theft of property by the Zorzor Associate Magistrate without defence or prosecution present and sentenced to an indefinite term of imprisonment. The Magistrate was unable to explain why he had imposed an indefinite term.
- The River Cess County Attorney advised HRO that a case of rape of a three year old child has not yet been indicted because there is no defence counsel in the County and thus the case would not be able to proceed. However, the County Attorney is bound to indict cases regardless of other considerations.
- There was no defence counsel in Grand Cape Mount County and the only defence counsel available in Sinoe and Bong Counties were both frequently absent due to illness. The Sinoe defence counsel was also elderly and both visually and hearing impaired, which appeared to have affected his capacity to defend his clients.
- The lack of eligible people willing to serve as jurors prevented the hearing of trials in Grand Cape Mount and Margibi Counties. In Margibi County, only seven of the 15 juror positions were filled. This was apparently because jurors who had served in the past did not receive their allowance of L\$10 per day on a regular basis.<sup>31</sup>

### *Corruption and human rights*

48. Rent-seeking practices were again reported. Requests for illegal fees and bribes undermine public faith in the judicial system, as indicated by the large number of cases that were not pursued by complainants.<sup>32</sup>

- On 8 November, HROs found nine men in the two cells attached to the LAC Magistrates' Court, Grand Bassa County, eight of whom had been in pre-trial detention for approximately one month. One man had been detained since 6 October but no preliminary hearing had yet taken place. He told HROs that he had paid the Stipendiary Magistrate L\$2,000 for his release. Another detainee, held since 21 October, claimed to have paid the LNP officer in charge of the LAC station L\$1,260 and the Stipendiary Magistrate L\$500 to secure his release.<sup>33</sup> The Stipendiary Magistrate and the two Associate Magistrates were all absent.
- In September, the Garwula Magistrate, Grand Cape Mount County, received US\$100 on trust as the part-payment of a financial settlement between a complainant and a man charged with misapplication of entrusted property. Instead of handing the money to the complainant as agreed, the Magistrate kept it. After repeated calls from the Circuit Court Judge and the County Attorney, the Magistrate finally gave the money to the complainant in November. Although the retention of the money amounted to misapplication of entrusted property,<sup>34</sup> no action was taken against the Magistrate.

<sup>31</sup> L\$10 is equivalent to approximately US\$0.20.

<sup>32</sup> See above "Law Enforcement".

<sup>33</sup> These amounts, L\$2,000, L\$1,260 and L\$500 are equivalent to approximately US\$36, US\$23 and US\$9 respectively.

<sup>34</sup> Article 15.56 of the Penal Law

- During monitoring visits to the Bondiway Magistrates' court in November, HROs discovered that the Acting Magistrate had initiated an scheme whereby any person sentenced to one month imprisonment can instead pay a fine of L\$500 to secure their release. Those who can not afford the amount would have to serve their prison sentence. The Magistrate claimed to have started this practice in order to relieve the overcrowded conditions of Kakata Central prison. When asked about those who cannot afford the price, he replied that there is always somebody who can pay for them. Fines must be imposed following a judicial determination of the case and not automatically.

#### *Problems with the payment of judicial salaries*

49. On 18 December, Magistrates' Courts in River Gee County closed in protest at the alleged failure of the Government to pay salaries to Magistrates and other personnel in this County since April 2006. The Courts stayed closed throughout January.

### **Harmful Traditional Practices**

#### *Trial by ordeal*

50. Trial by ordeal violates many of Liberia's international human rights obligations, including the rights to fair trial, to freedom from torture, to liberty and security of the person and to non-discrimination. While trials by ordeal are supposedly called to determine an alleged crime, cases such as the one below reveal that trials by ordeal have nothing to do with justice and are frequently motivated by desire for financial gain.

- From September until the end of October, when they were rescued by LNP and UNPOL, 37 people were kidnapped, detained and tortured in a trial by ordeal allegedly ordered or approved by the Town Chief, Zone Chief and Youth Leader in Boutuo, Nimba County. The trial by ordeal, conducted by a team of Ivorian herbalists, involved numerous criminal offences including extortion, torture, humiliation and illegal detention. Victims reported that they had been told to pay L\$3,500 as the herbalist's fee and to stop the trial. Those people who were unable to pay were accused of witchcraft and consequently kidnapped and tortured. The torture included rubbing mud and pepper in the orifices of the body, including the vagina, being forced to sit in the open regardless of rain or hot sun, shaving of the head, serious beatings and denial of food. Of the 37 victims, 34 were women. On 24 November, UNPOL and LNP arrested eight suspects and charged them with aggravated assault. The defendants allegedly said that they had conducted the illegal trial by ordeal because of the lack of development and employment opportunities in the town. On 27 November, the suspects were charged only with aggravated assault and released on bond the same day. It is likely that the money they used to post bail had been previously extorted from some of the victims. An elderly victim of the trial by ordeal died on 24 December, apparently as a result of her injuries. By the end of January, the charges against the suspects had not been

- amended to include murder or any other crimes committed in the course of the trial by ordeal.
- In January, a man was subjected to trial by ordeal in Montserrado County, in the presence of the Todee District Superintendent. When questioned later by HROs, the District Superintendent first stated that he was not aware the trial by ordeal was illegal. He then admitted he had heard of the Ministry of Internal Affairs instruction banning the practice of trial by ordeal but stated that he had not seen a copy.

*Other crimes in the context of secret societies and practices*

51. Those traditional practices that threaten fundamental human rights and the rule of law violate Liberia's international legal obligations and the Constitution, which requires the Republic both to guarantee due process and to "promote positive Liberian culture".

- A woman accused of witchcraft was reportedly killed on 5 November in Sinoe County. Due to the remoteness of the location, the complainant had to walk for five days to report the case to Greenville LNP.
- In November, the Nimba County Circuit Court held five days of hearings regarding a motion by the defence to move a murder case to the Grand Gedeh Circuit Court. The case concerned the alleged murder on 19 September 2005 of a man in Gbedin Town by eight men, including the victim's father. The killing was allegedly motivated by the victim's refusal to become a member of the Poro Society. The motion, which had been filed on the grounds that the defendants would not enjoy a fair trial in Nimba County due to animosity from the local residents, was granted.
- Also in November, HROs attended the conclusion of the hearing of criminal mischief charges against nine men alleged to have caused damage to and attacked with rocks a home in Lugbei Town after the woman living there defied the order of the local devil to stay inside. The attacks were alleged to have taken place between November 2004 and June 2005. The accused men were acquitted and released because the testimonies of the prosecution witnesses did not corroborate each other in all respects. It appeared that one element of the complainant's case, that 2000 of his rubber trees had been cut down by the defendants, could not be corroborated. Although this element had no relation to the charge of criminal mischief concerning the attack on the house, the accused were acquitted of all charges.
- In January, six people were arrested for the alleged ritualistic killing of a three year old girl in Sinoe County. The girl's grandmother allegedly confessed under duress that she had killed the child and then implicated her five co-accused. Three of these suspects were later released by the LNP due to lack of any evidence to connect them to the alleged crime.

**Recommendations**

52. These recommendations are offered in support of the Government's continuing efforts to strengthen human rights protection for all Liberians through the democratic rule of law. The SMR establish minimum universal conditions for all people in detention, some of which may be currently beyond the means of the Liberian Government. However, the SMR reflect the human rights norms contained in those international treaties to whose implementation Liberia has willingly committed itself. The Government is thus obliged to take steps, as quickly and completely as possible, to uphold those minimum standards. The recommendations identify some key areas for improvement in order to fulfil this worthy commitment.

- The Government of Liberia should take concrete steps to complete the ratification process in relation to all human rights treaties which it has already signed and to fulfil its reporting obligations. Civil society organisations should provide input and develop parallel reports. Harmonisation of domestic legislation with international human rights commitments is essential. [This recommendation was contained in the following previous public reports: August – September 2005, February – April 2006, May – July 2006, August – October 2006]
- The Government should consider the establishment of an independent oversight mechanism to monitor and report on detention conditions in all places of detention. Such a body should include representatives of civil society and the Government and have powers to make recommendations to the Ministry of Justice, Chief Justice and the Independent National Commission on Human Rights.
- The Government should, as far as possible, expedite the building or renovation of detention facilities in line with a comprehensive national corrections policy, to end the practice of holding police suspects and court detainees in the same facilities.
- The Government should establish, in line with a national corrections policy, separate facilities for female and juvenile detainees. A rehabilitation service for juveniles should be established as a matter of urgency.
- The Government should, as far as possible, expedite the building or renovation of police stations and holding cells. Budgets for police stations should include provision for feeding people in custody and the supply of necessary hygiene materials.
- The Government should develop and implement a comprehensive programme to improve conditions in detention centres and prisons. This would include developing a budget which ensures adequate salaries for newly-trained corrections officers and provision for the feeding of detainees and supply of necessary hygiene materials. Accurate and complete record-keeping and the institution of systematic visits by medical personnel should be priority issues included in such a programme. [This recommendation was contained in the following previous public reports: October – November 2005, December 2005 – January 2006, February – April 2006, May – July 2006, August – October 2006]

- The Government should take all necessary steps to ensure that the Rape Amendment Act is fully implemented. All allegations of rape must be fully and independently investigated and suspected perpetrators brought to justice in trials that meet international fair trial standards. A concerted and ongoing effort towards community education and sensitisation to sexual assault issues, including broader discrimination against women, should be undertaken in cooperation with nongovernmental organisations. [This recommendation was contained in the following previous public reports: December 2005 – January 2006, February – April 2006, August – October 2006]
- The Chief Justice must ensure that Judges, Magistrates and other personnel assigned to Courts outside Monrovia are *in situ* and that they receive the necessary training to ensure that they uphold Liberian as well as international human rights law. This should include specialist training on sexual and gender-based violence and the Rape Amendment Act. [This recommendation was contained in the following previous public reports: August – September 2005, October – November 2005, December 2005 – January 2006, February – April 2006, May – July 2006, August – October 2006]
- Courts, LNP stations and prisons should be equipped with adequate supplies of basic stationery and other equipment to allow proper management of files and record-keeping, to protect fair trial standards. Furthermore, case management systems for the prosecution and the Courts should be established to reduce delays and increase Court efficiency. [This recommendation was contained in the following previous public reports: May – July 2006, August – October 2006]
- The Government and Judiciary should ensure that allegations of corruption are fully and impartially investigated and that measures are taken against any officials found to be involved in corrupt practices. [This recommendation was contained in the following previous public reports: December 2006 – January 2006, February – April 2006, May – July 2006, August – October 2006]
- The Ministry of Justice and the Chief Justice should establish coordinated case management procedures covering the entire criminal justice system, ensuring that cases are handled in a prompt manner and that records are accurately maintained and accessible to parties, their representatives and monitors as appropriate. [This recommendation was contained in the following previous public reports: August – October 2006]
- Upon its establishment, the future Law Reform Commission should identify a list of priority legislation for review, including the Criminal Procedure Law, the Penal Code and the Revised Rules and Regulations Governing the Hinterland of Liberia. Legislative review should ensure that amendments and fresh legislation uphold Liberia's international human rights obligations. [This recommendation was contained in the following previous public reports: December 2006 – January 2006, February – April 2006, August – October 2006]

- While upholding positive cultural values and practices, the Ministry of Justice should take immediate steps to outlaw harmful traditional practices such as trial by ordeal which violate human rights standards. Investigation and prosecution of such allegations should take place against the backdrop of a comprehensive campaign to inform the community about the dangers of these practices. [This recommendation was contained in the following previous public reports: February – April 2006, May – July 2006, August – October 2006]
- The Government of Liberia and its international partners should continue to work towards the full implementation of the recommendations contained in the UNMIL rubber plantations report released in May 2006, and of the recommendations contained in the UNMIL – Government of Liberia Rule of Law Task Force Report, also released in May 2006. [This recommendation was contained in the following previous public reports: May – July 2006, August – October 2006]