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Report of the Working Group on the Universal Periodic Review

Liberia

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*

* The present document was not edited before being sent to the United Nations translation services.

Response of the Government of Liberia to recommendations in the report of 4 January 2011 of the Working Group on the Universal Periodic Review (A/HRC/16/3)

1. Liberia welcomes the recommendations made during its Universal Periodic Review on November 1st, 2010 and would like to reaffirm Liberia's commitment to the promotion and protection of the human rights of all Liberians. The Government of Liberia (hereinafter: the Government), in consultation with relevant stakeholders,¹ carefully considered the recommendations, and its responses are as follows:

Human Rights Instruments

Recommendations 1–4

Neither accepted nor rejected

2. The signature and ratification of treaties of international human rights instruments was a subject of questions and recommendations. The Republic of Liberia is in the process of researching the full extent of its regional and international obligations and taking steps to submit overdue treaty reports under numerous human rights instruments. Pursuant to domestic legal procedures and requirements, it is the view of the Government that, in order to successfully adopt all deferred recommendations relating to the ratification and incorporation of international human rights conventions, careful consideration and deliberation needs to precede any such commitment. Therefore, the Republic of Liberia will need more time and is currently unable to take a position on these recommendations.

3. Notwithstanding the foregoing, the Republic of Liberia has already ratified a number of international and regional human rights instrument and wishes to inform the United Nations Human Rights Council that it has already ratified and published the CRPD.² In addition, a commission has been established to domesticate and implement the CRPD under a five year program.

4. Liberia also favourably considers the ratification of Optional Protocols to the Convention on the Rights of the Child (CRC)³; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights, and; the Convention on Discrimination Against Women (CEDAW)⁴.

5. Furthermore, the Law Reform Commission (LRC) has begun the process of identifying the conventions and treaties that have been signed and providing the necessary recommendations and advice to the legislature for possible ratification and domestication consistent and in line with the constitution. Moreover, in order to fortify the general political will to sign and ratify Human Rights Treaties, to which Liberia is not yet a party, the Government is planning to conduct national consultations to guide the process.

Recommendations 5 and 13

Neither accepted nor rejected

6. Many international human rights conventions have been ratified during the last three decades, even during the height of the civil war when human rights abuses were prevalent. Therefore, we firmly believe that once the country has time to raise public awareness and understanding of the various human rights instruments, and the international obligations emanating thereof, the requisite speed for domesticating those laws will come with relative ease.⁵

7. Liberia will, however, continue its efforts to support public education and awareness in order to garner the much needed public support for such legislations.

Death Penalty

Recommendations 6–9 and Recommendations 14–20

Neither accepted nor rejected

8. The Republic of Liberia acknowledges its international obligations under the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. Ergo, the Government and the people of Liberia are having consultations, with a view to repealing the Death Penalty Law, which have started in the form of raising awareness and sensitization.

9. It is clear withal, that even though the Death Penalty Law was enacted at a time that high armed robbery rates deemed such deterrent measure necessary, the Supreme Court has up till now not affirmed any death penalty sentence and has shown disinclination to enforce death penalties in recent cases by commuting capital punishment into life imprisonment. Furthermore, the current administration, headed by President Ellen Johnson-Sirleaf, has not signed any warrant to carry out the execution of a death sentence.

Female Genital Mutilation (FGM) & Trials by Ordeal

10. The issue of female genital mutilation and the practice of trials by ordeal are deep-rooted traditional practices still shrouded in myth and secrecy. Often, discussions of both are strongly resisted and perceived as attempts to destroy the cultural and traditional heritage of the country. Accordingly, the Republic of Liberia is taking important yet cautious steps to engage the local community and to determine the best ways to address these issues. The process is ongoing and while the country is always taking steps towards full compliance with its international human rights obligations, it is currently unable to take a position on recommendations relating to female genital mutilation and trials by ordeal.⁶

Recommendations 21–27 (FGM)

Neither accepted nor rejected

11. The Republic of Liberia would like to stress that it opposes harmful traditional practices. In the realm of FGM the Government proclaimed and ordered the Ministry of Internal Affairs to no longer issue licenses that enable local health care providers to perform FGM.⁷

12. In this regard the Government is in the process of implementing the provision of alternative sources of livelihood to practitioners of harmful traditional practices through training and linkage to micro programs in 4 counties (Cape Mount, Lofa, Gbarpolu and Bong).⁸ Furthermore, a Taskforce has been established by the Government to monitor and take action to protect children whose parents have deliberately delayed primary education in order for their children to partake in the informal rituals of their tribal secret society.

13. Moreover, the respective Government ministries are actively involved with the health aspects of FGM; conduct awareness and sensitization campaigns; and have launched human rights education programs, which encompass the subject of FGM, in schools nationwide.⁹

Recommendations 34–35 (Trials by Ordeal)

Neither accepted nor rejected

14. In spite of the fact that trials by ordeal are legally outlawed, its practice is still widely supported as a form of justice by denizens of rural communities. As a result, the government has deemed it necessary to carry on sensitization, especially in the remote areas, as well as to take other concrete steps to deter practitioners from performing trials by ordeal.

15. The Ministry of Justice has been making strides to implement a 1916 Supreme Court ruling prohibiting trials by ordeal. Because trial by ordeal denies fundamental constitutional rights, especially under an adversarial system of justice, the Supreme Court of Liberia has continued to maintain its position that trial by ordeal is unconstitutional.¹⁰ Pursuant thereto, the Government has proclaimed and ordered the Ministry of Internal Affairs to no longer issue certificates (requisite to practice) to individuals who perform ordeal trials.¹¹

Sexual and Gender Based Violence (SGBV)

Recommendations 28–30

Neither accepted nor rejected

16. In recognition of the Government's commitment to prevent and respond effectively to cases of SGBV, concrete steps have been taken to adjudicate SGBV cases. An enabling legislation was enacted in 2008, creating a specialized criminal court, Criminal Court “E”, as well as special divisions within circuit courts throughout the country. Already operational, Criminal Court “E” is fully functioning in Montserrado County and has the mandate to prosecute all sexual offences as provided for in the Penal Code.

17. To ensure due process, specialized trainings are held periodically with judges, prosecutors and investigators. Additionally, a special prosecution unit was established under the Ministry of Justice to complement the work of the Specialized Court. Also, the Ministry of Gender and Development has an SGBV unit with sub-offices in the various counties which liaise with the Ministry of Justice SGBV Crimes Unit in the reporting of cases. Furthermore, safe houses are being constructed by the Ministry of Gender and Development for survivors of sexual violence.¹²

18. Although many initiatives have been evolved in the field of SGBV, capacity and resource constraints still impede full implementation of the recommendations related to SGBV. Awareness is considered an important step to point out to the victims on the importance to issue cases and file reports on SGBV crimes.

Recommendations of the Truth and Reconciliation Commission (TRC)

Recommendations 37 and 38

Neither accepted nor rejected

19. Liberia has started taking positive steps towards implementing realistic and achievable components of the TRC recommendations. A Reporting Commission has been established to examine constitutionality of the TRC recommendations and a Government Taskforce is formed to guide the implementation process. The Government therefore reiterates its position to continue to study and seriously consider all recommendations of the TRC.

20. In addition, the Independent National Human Rights Commission (INHRC) has been established and is working with institutions to draft a strategic plan. In view thereof, it is not practical at this time to set timelines.

21. As a country emerging out of a conflict marked by a blatant disregard for the rule of law, the Republic of Liberia believes in formulating TRC recommendation implementing mechanisms that respect the Constitution of the country as well as the civil liberties and due process rights of all citizens. On account of that, a special taskforce is reviewing the TRC recommendations and advising the President of Liberia of potential legal and constitutional implications of recommendations. While the Government has taken and continues to take concrete measures to implement a number of the TRC recommendations, Liberia is at this time unable to take a position on recommendations relating to the work of the TRC.

Access to Justice and Women's rights

Recommendation 12

Neither accepted nor rejected

22. Equality is addressed in the organic law of Liberia, with reference to all persons. In this connection, many efforts are pursued to create gender equality.¹³ At present the Gender Equity Bill, being the latest development in this regard, is pending before the legislature.

Recommendations 33 and 39

Neither accepted nor rejected

23. The Government is in the process of building courts around the country and training magistrates to hear cases while also giving support to civil society organizations to give women basic legal training.¹⁴ Through this arrangement, the Association of Female Lawyers of Liberia (AFELL) has initiated and encouraged Alternative Dispute Resolution (ADR), a model which has been adopted by the Ministry of Internal Affairs and is being used for mediation in civil matters in areas where the communities do not have immediate access to justice or where ADR is considered the best means for conflict resolution. Also, Palava Hut discussions are encouraged for settling civil disputes through the Traditional Leaders (Chiefs, Elders and Zoes).

24. Much progress is made to improve access to justice for all members of society.¹⁵ However, at this point in time, Liberia lacks the capacity and technical assistance to remove all obstacles that obstruct effective access to justice, and subsequently, to ensure full and unhampered access to justice for all members of society.

Other Recommendations

Recommendation 10

Neither accepted nor rejected

25. The Government is in the process of reviewing and reforming its national laws. Therefore, national laws are revisited to address contemporary norms and values within Liberian Society as well as incorporating international obligations as to ensure compatibility with international human rights instruments.

Recommendation 11

Neither accepted nor rejected

26. The Government has been acting even-handedly and indiscriminately when dealing with ethnic conflicts, looking at the facts and not the ethnicity. The Government is very aware that when violence erupts due to “ethnicity”, the manner in which it handles the situation has to be with cultural sensitivity, while maintaining its belief that all Liberians have the same and equal rights to the Government’s protection regardless of ethnicity. In court cases where the perpetration of a crime is allegedly based on ethnicity, the Government has allowed a change of venue unopposed. The Ministry of Justice has been very visible and vocal in those communities about the rights of all citizens to the protection of the Government regardless of ethnicity. It is in this light that the Government wishes to underline that all Liberian laws are being reviewed and changed accordingly when unconstitutionality or inconsistency with international obligations give rise hereto.

Recommendation 31

Accepted

27. The Government is undertaking reform of the judiciary and the justice systems and includes in this process stakeholders, civil society groups and international community.

Recommendation 32

Neither accepted nor rejected

28. Decentralization has priority and access to justice is used as a starting point. Liberia has been put on the agenda of the Peace Building Commission (PBC) and both the PBC and the Government have expressed their commitment to enhancing efforts at peace and security in Liberia through a Statement of Mutual Commitment that identifies critical peace building priorities and actions through effective management, resource mobilization, and advocacy.

29. Although extensive training programs are put into place for all key positions associated with both criminal and SGBV cases, the Republic of Liberia still has resource and capacity hurdles to overcome. Hence, given the far reaching nature of the recommendation, the Government is unable to take a position at this point in time.

Recommendation 36

Neither accepted nor rejected

30. Pre-trial detention is a concern of the utmost priority for the Government. However, given the country’s present circumstances, most notably, its limited resources, the Republic of Liberia is not able to take a position on this recommendation.

31. Notwithstanding the foregoing, the Government has implemented and continues to implement a number of initiatives in order to combat the problem, just a few examples of which include, (i) the creation of a special pre-trial detention taskforce (and attendant subcommittees) bringing to bear sustained and multi-sectoral focus on systemic deficiencies and priorities;¹⁶ (ii) the implementation of a fast-track review mechanism for minor offenses known as the Magistrates Sitting Program, which has had a significant impact on controlling the detention problem;¹⁷ (iii) the creation, by the Ministry of Justice, of a public outreach strategy addressing pre-trial detention and sensitizing the population at the community and national levels; (iv) the implementation of projects to assess and enhance staff profiling and record keeping resources and practices within both the Judiciary and Ministry of Justice; (v) the successful training of officers and implementation of a probation program, and the ongoing work towards enhancing other alternatives to detention including, among other things, a juvenile diversion program; (vi) and ongoing review and

work towards law reform pertaining to jury law, criminal procedure and subject matter jurisdiction.

Recommendation 40

Neither accepted nor rejected

32. The Decent Work Bill (DWB) is now at the legislature and will be passed in the shortest time. The next and more important step is implementation after it has gone through legislation. A valid concern is that the DWB will not reduce unemployment. For this matter the DWB will be revised and treaty provisions of the recently ratified Youth African Charter will be incorporated within the DWB.

Recommendation 41

Neither accepted nor rejected

33. In spite of the fact that the security situation has stabilized in recent years and with reference to current security threats, the Government's prime endeavour remains, with regard to the protection and promotion of human rights, to secure peace and security. Liberia still copes with the aftermath of civil conflict and, accordingly, the Government continues to regard maintaining social stability as a matter of importance.

34. For an answer on domestication of international obligations reference can be made to the provided explanation under recommendations 5 and 13.

Notes

¹ Stakeholders include civil society, human rights institutions, faith based groups and advocacy groups.

² The government is presently working out modalities to deposit this document with the Secretary General of the United Nations.

³ Although the Optional Protocol to the CRC is still in the process of being ratified, the Government has already made huge achievements in relation to the CRC. For this matter it has: Established children clubs in schools; established 15 children's Assemblies, one in each of the fifteen counties; established one national children's parliament; employed 15 child welfare officers, one from each county; established child welfare offices in seven counties (Grand Kru, River Gee, Maryland, Bomi, Gbarpolu, Grand Cape Mount and Rural Montserrado); established a child protection network (comprised of line ministries and local and international NGO's working to protect children in Liberia) both on national and county levels.

⁴ The CEDAW Committee has made several recommendations in respect of Liberia's ratification of the Optional Protocol to the CEDAW. In response to this the Government has spearheaded efforts to address the recommendations made by the CEDAW Committee by establishing a Taskforce charged with the responsibility to meet quarterly to review the level of progress that has been made in the implementation of the CEDAW recommendations and on the Convention itself. In addition, five thematic committees (legal, health, social institutions, education and employment, each to be chaired by a deputy or assistant minister from the sector ministry) have been set up. Specific recommendations were assigned to each committee to ensure their implementation.

⁵ Furthermore, the expensive process of domestication makes Liberia dependent on the need for logistical, financial, capacitive and institutional support.

⁶ Since the coming into power of the current administration, practitioners, whose action under the practice of FGM and Trial by Ordeal caused the death of another human being, have been tried in a court of competent jurisdiction and sent to prison under the sanctions imposed for the conventional acts.

⁷ FGM is usually practiced by female Zoes, who are knowledgeable on traditional medicines and medicinal herbs and are hence also referred to as "Herbalists". Before Zoes can practice they have to obtain a license from the Ministry of Internal Affairs.

⁸ Many of the practitioners practice FGM as a source of income and in some cases the line between

economic benefits and cultural practice becomes obscured.

- ⁹ Activities are carried out in cooperation with stakeholders.
- ¹⁰ All Supreme Court decisions upheld the 1916 Supreme Court judgment outlawing trials by ordeal and the Government's judiciary position is still in support of these rulings.
- ¹¹ This also affects trials by ordeal of a minor nature as allowed and authorized by the Revised Laws and Administrative Regulations for Governing the Hinterland of Liberia.
- ¹² In addition to this an endowment fund has been established to meet the immediate needs of the survivors in the 15 counties.
- ¹³ E.g. the new Public Land Laws that have been drafted conform with the Constitution in that it provides equal access to all citizens including women. The land commission investigates, furthermore, how best to incorporate the aspect of the new inheritance law as related to women to ensure that they are given equal access to and ownership of land particularly under the customary system.
- ¹⁴ Especially on precarious topics like inheritance law and rape law.
- ¹⁵ Witness the fact that three concrete policy proposals were advanced in a recently held National Conference on Enhancing Access to Justice, which resolve to provide more acceptable justice outcomes for the Liberian people.
- ¹⁶ On December 6, 2010, Liberia received the Sub-Committee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) and efforts are made to incorporate the SPT's recommendations into ongoing programs to improve (pre-trial) detention center conditions and protect citizens from torture and ill treatment.
- ¹⁷ Pre-trial hearings are held in Monrovia Central Prison by magistrates from 6 magisterial courts in Montserrado County.
