



# **An Assessment of Human Rights Issues Emanating from Harmful Traditional Practices in Liberia**

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## Abbreviations

ACHPR	African Charter on Human and Peoples' Rights
ACRWC	African Charter on the Rights and Welfare of the Child
AfT	Agenda for Transformation
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
FGM	Female Genital Mutilation
HRPS	Human Rights and Protection Section, United Nations Mission in Liberia
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social, and Cultural Rights
INCHR	Independent National Commission on Human Rights
LNP	Liberia National Police
MIA	Ministry of Internal Affairs
MICAT	Ministry of Information, Cultural Affairs and Tourism
MOJ	Ministry of Justice
NHRAP	National Human Rights Action Plan of Liberia
UDHR	Universal Declaration of Human Rights
UNMIL	United Nations Mission in Liberia
UPR	Universal Periodic Review

## 1. Executive summary

1. This report was prepared by the Human Rights and Protection Section (HRPS) of the United Nations Mission in Liberia (UNMIL) and is released jointly with the Office of the United Nations High Commissioner for Human Rights (OHCHR). HRPS is mandated to promote, protect and monitor human rights in Liberia, with “special attention to violations committed against women and children.”<sup>1</sup>
2. In fulfillment of its mandate, HRPS conducts human rights monitoring in all 15 counties of Liberia. Through such monitoring, HRPS has observed that some practices carried out under the guise of “tradition” or “culture” are incompatible with universal human rights standards enshrined in domestic law and in regional and international human rights instruments to which Liberia is a party, as well as customary international law. Moreover, HRPS has found that such practices disproportionately affect women, children, elderly persons, persons with disabilities, and other vulnerable persons.
3. Such practices are many and include female genital mutilation (FGM), forcible initiation into secret societies, trial by ordeal,<sup>2</sup> allegations of witchcraft,<sup>3</sup> and ritualistic killings. Despite the domestic legal framework prohibiting some of those practices, these and other harmful practices are largely left unaddressed by the formal justice system because they are widely considered as being part of the national culture and traditions. Hence these hinder the rule of law and the protection of victims. The September 2015 incident in Ganta, Nimba County, in which a man accused of ritual murder was killed by an angry mob, underscores the need for the Government to address these issues with greater urgency.<sup>4</sup>
4. In line with Liberia’s international and regional human rights obligations, the authorities, including customary authorities vested with State power, must not engage in or condone such harmful practices. Such practices clearly breach universal human rights standards. Government authorities must take a comprehensive approach to address such violations, including active efforts to prevent their commission and ensure their full criminalization and the prosecution of alleged perpetrators. Moreover, they must protect the victims, provide them with all necessary medical and psychosocial support, and ensure that they have access to effective remedies and redress.
5. The report includes an analysis of relevant domestic, regional, and international law, and illustrates human rights violations through examples from cases reported to HRPS

<sup>1</sup> Security Council resolution 2239 (17 September 2015), U.N. Doc. S/RES/2239 (2014), 9(c)(i).

<sup>2</sup> Trial by ordeal is a traditional form of trial whereby an accused person is subjected to a dangerous or painful physical test in order to determine his or her alleged guilt or innocence. There are many forms of trial by ordeal, the most well-known and lethal of which is called “sassywood.” This consists in forcing the victim to drink a concoction prepared with the poisonous bark of the *sassywood* tree, sometimes mixed with other harmful substances. The term *sassywood* has also been used as a general reference to trial by ordeal in Liberia. In this report, the use of the term *sassywood* refers to the specific practice.

<sup>3</sup> Accusations of witchcraft are common in Liberia. Witchcraft may be defined in much of Africa as “the ability to harm someone through the use of mystical power. Consequently, the sorcerer or witch embodies this wicked persona, driven to commit evil deeds under the influence of the force of witchcraft.” ALEKSANDRA CIMPRIC, UNICEF WCARO, CHILDREN ACCUSED OF WITCHCRAFT: AN ANTHROPOLOGICAL STUDY OF CONTEMPORARY PRACTICES IN AFRICA (2010) 1-2 [hereinafter “UNICEF WCARO report”].

<sup>4</sup> For further information on this case, see *infra* Section 6.6.

between January 2012 and September 2015 by victims, their families and community leaders. It also draws upon information available in the public domain and interactions with Government officials and other relevant stakeholders.

6. UNMIL/OHCHR recommend that the Government of Liberia take further steps, including targeted legal, educational and policy measures, to eliminate traditional and cultural practices that violate human rights standards, and to put an end to the culture of impunity surrounding these abuses and violations, as well as guarantee non-recurrence. UNMIL/OHCHR also highlights the need to conduct large-scale sensitization of traditional actors on human rights issues arising from some of these practices. The report provides recommendations to the Government of Liberia, the Independent National Commission on Human Rights (INCHR), civil society, and the United Nations and other international partners to address human rights issues pertaining to these harmful traditional and cultural practices.

## 2. Introduction

7. Traditional and cultural practices have long played an important role in Liberian society and continue to permeate many aspects of life in Liberia. Cultural societies such as the *Sande* (for women) and *Poro* (for men) form an important part of that society. They have historically provided training for young adults in the absence of formal educational structures and have been held in high esteem by Liberians for their role in transmitting values and skills from one generation to the next.<sup>5</sup>
8. However, human rights monitoring conducted by HRPS indicates that some traditional and cultural practices common to many Liberian ethnic communities have a significant negative impact on the enjoyment of fundamental human rights. These include FGM, forcible initiation into secret societies, trial by ordeal (particularly the use of *sassywood*), accusations of witchcraft, and ritualistic killings. HRPS has observed that these practices have particularly affected certain groups, such as women, children, elderly persons, persons with disabilities,<sup>6</sup> as well as the poorest Liberians.<sup>7</sup>
9. The purpose of this report is primarily to indicate when traditional and cultural practices that are incompatible with Liberia's human rights obligations. When reviewed in terms of human rights compliance, it is evident that a number of these practices violate both national and international human rights standards and therefore must be promptly, thoroughly, and independently investigated and perpetrators brought to justice. The report argues that these practices, notwithstanding the values attributed to them by some Liberians, cannot prevail over fundamental human rights, for instance

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<sup>5</sup> See, e.g., STEPHEN ELLIS, *THE MASK OF ANARCHY: THE DESTRUCTION OF LIBERIA AND THE RELIGIOUS DIMENSION OF AN AFRICAN CIVIL WAR* 224-25 (2d ed. 2006).

<sup>6</sup> By their very nature, FGM and initiation into secret societies primarily affect women and children. Accusations of witchcraft and trials by ordeal also particularly affect women and children: among victims, whose age and gender were recorded by HRPS, 58 were adult women, 36 were children, and 20 were adult men. Additionally, of the seven victims of suspected ritual murder recorded by HRPS, five were small children, one was an old woman, and one was a man.

<sup>7</sup> For example, women and girls from the poorest households are twice as likely to undergo FGM as those from more affluent households. UNICEF, *FEMALE GENITAL MUTILATION/CUTTING: A STATISTICAL OVERVIEW AND EXPLORATION OF THE DYNAMICS OF CHANGE* (2013) [hereinafter "UNICEF FGM REPORT"]. The majority of cases of harmful practices documented by HRPS occur in rural communities that are among the poorest in Liberia. There are reports that legislators, even Presidents of Liberia, have been members of cultural societies. See, e.g., STEPHEN ELLIS & GERRIE TER HARR, *WORLDS OF POWER: RELIGIOUS THOUGHT AND POLITICAL PRACTICE IN AFRICA* 80 (2004).

the right to life, right to be free from torture or other cruel, inhuman or degrading treatment or punishment, right to liberty and security, freedom of religion, right to non-discrimination, right to equality before law, and many other significant rights.

10. HRPS has found that “culture” too often becomes a space in which serious crimes are committed, and that criminal offenses perpetrated through harmful traditional practices often go unpunished due to their perceived cultural dimensions. Moreover, some harmful practices are permitted by law, and are legitimized through oversight by the Ministry of Internal Affairs (MIA). HRPS has also observed that, in many cases, traditional or customary actors assume the powers and functions of the formal justice system. In the case of customary actors with recognized functions in the customary justice system, these powers may go over and beyond the already extensive law enforcement and judicial powers they are accorded under Liberian law. These are serious impediments to the rule of law in a fragile, post-conflict society. Liberia must address these issues if it is to promote and protect human rights and build sustainable peace rooted in the rule of law.
11. It is expected that this report will serve as an advocacy tool to facilitate substantive engagement with the Government and other partners and to assist Liberia in fulfilling its regional and international human rights obligations. HRPS interactions with Government authorities on human rights concerns are generally very positive. However, the lack of understanding of the human rights implications of harmful traditional practices is often cited as the main reason for their perpetuation. In addition to recommending legal and policy reforms, this report underscores the need for direct engagement of Liberian authorities and other relevant stakeholders with cultural actors at the community level, as part of an effective strategy for the implementation of Liberia’s human rights obligations and particularly the protection of the affected groups.

### 3. Methodology and constraints

12. This report is based on cases documented by HRPS through its countrywide monitoring activities, between January 2012 and September 2015.<sup>8</sup> HRPS also conducted a thorough review of the relevant domestic, regional and international legal framework; outcomes of the United Nations human rights treaty monitoring bodies, the Universal Periodic Review, the Special Procedures, and other United Nations sources; public human rights policies, reports and statements published by the Government of Liberia; local media reports; and various other relevant documents.<sup>9</sup> The report is also informed by HRPS interactions with traditional actors at the county and ministerial levels,<sup>10</sup> senior Government authorities, civil society, and local actors.
13. It should be noted that practices and rituals performed by the *Sande* and *Poros* societies cannot be openly discussed owing to strict cultural rules, and the observation of such rituals by non-members is considered a transgression of the sanctity of these practices. Members of these societies who discuss these practices with non-members may be

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<sup>8</sup> The use of the terms “the reporting period” and “the period under review” in this report refer to this time period.

<sup>9</sup> E.g., ELLIS, *supra* note 5; ELLIS & TER HARR, *supra* note 7.

<sup>10</sup> Many MIA officials are also traditional practitioners and authorities of the *Sande* and *Poros* societies. This issue is covered in greater depth in section four of this report.



severely punished or even killed. For these reasons, HRPS monitors were able to observe only some of the practices described in this report. HRPS believes it is highly likely that there is substantial under-reporting of human rights violations committed under the guise of “culture” or “tradition.” Therefore, the number of reported cases included in this report is not indicative of the significance and prevalence of such violations.

#### 4. Overview of traditional and cultural societies and practices in Liberia

14. The *Sande* and *Poro* societies are the trusted custodians of “culture” in much of Liberia and have been present in the region for centuries. These societies are traditionally believed to inculcate values and teach skills conducive to communal harmony and to prepare children for the rigors of adulthood. They also have a spiritual dimension, though they are not considered to be religious institutions as such, and most *Sande* and *Poro* members are also adherents of Christianity or Islam.
15. The *Sande* and *Poro* exercise a strong influence over large segments of the population in the northern, western and central regions of Liberia.<sup>11</sup> The *Sande* society requires female initiates to undergo FGM, and thus FGM is most prevalent in these regions. Trial by ordeal and accusations of witchcraft are also common in these same regions.
16. In the southeastern counties of Grand Gedeh, Grand Kru, Maryland, River Gee and Sinoe, the *Sande* and *Poro* societies are generally not present. Other cultural or religious societies and institutions exist, including the *Kui* society, *Bodio* priests, and other local oracles and sodalities.<sup>12</sup> The ethnic groups of southeastern Liberia do not generally practice FGM. However, trial by ordeal, accusations of witchcraft and other traditional and cultural practices do occur in this region.
17. Additionally, there are a number of illegal societies believed to engage in ritualistic killing,<sup>13</sup> although these were outlawed in 1949 by the Hinterland Regulations.<sup>14</sup> They include the *Leopard*, *Suska*, *Toya*, *Kala*, and *Uama-Yama* societies, which have historically been associated with southeastern Liberia.<sup>15</sup> However, ritualistic killing is not practiced exclusively by these societies and occurs in other regions of the country as well.
18. As noted, the practices of cultural societies are secret and any member disclosing these secrets may face serious punishment, including killing. Consequently, Government officials - some of whom are themselves members of these societies - hesitate to address issues that relate to these societies due to loyalty or fear of reprisal.
19. Among the *Sande* and *Poro*, traditional practitioners are known as *zoes* and hold leadership positions within their respective societies. The term is not generally used in

<sup>11</sup> HRPS has found that most cases involving these societies occur in the following counties: Bomi, Bong, Gbarpolu, Grand Bassa, Grand Cape Mount, Lofa, Margibi, Montserrado, Nimba, and Rivercess.

<sup>12</sup> ELLIS, *supra* note 5, at 226.

<sup>13</sup> In this report, the term “ritualistic killing” is used to refer to killings carried out according to certain rites or killings motivated by the harvesting of human tissue for ritual usage.

<sup>14</sup> Revised Rules and Regulations Governing the Hinterland of Liberia, art. 69 (2001) [hereinafter “Hinterland Regulations”].

<sup>15</sup> ELLIS, *supra* note 5, at 233-59.

southeastern Liberia, where these societies are largely absent. A chief *Porozoe* and a chief *Sandezoe* exercise authority and supervision over these societies nationally.

20. The National Council of Chiefs and Elders is the representative body of traditional authorities in Liberia. It is comprised of chiefs and elders from all political and electoral districts in Liberia, and one of its main roles is “to preserve, protect and foster positive Liberian traditions, cultural heritage and traditional institutions. . . .”<sup>16</sup> The Council is headed by the chief *Porozoe*. It is highly influential and is consulted by State authorities on all matters related to the society. It also has an advisory role on matters related to internal affairs and is mandated to “assist the Government of Liberia in achieving sustained peace, reconciliation, and reunification at all levels.”<sup>17</sup>
21. In the Government of Liberia, two ministries play a role in the administration of cultural affairs. Under the Executive Law,<sup>18</sup> MIA has a mandate to oversee local government and “tribal” affairs, which includes “administrative supervision over the *Porozoe*, *Sandezoe*, and other tribal societies.” The ministry includes a section devoted exclusively to “culture,” headed by a Deputy Minister of Culture who supervises matters related to traditional practitioners and cultural societies. The National Council of Chiefs and Elders falls under the authority of MIA, and all chiefs, including those in the Council, are paid employees of MIA. The Council also oversees the office of the “cultural investigator,” who is authorized by practice, to investigate matters through traditional means, including trial by ordeal, and whose findings are accepted as authoritative by MIA. Some MIA officials may also be called upon to conduct cultural “investigations.” The Minister of Internal Affairs is in fact considered second only to the chief *Porozoe* in terms of cultural authority.<sup>19</sup> Until recently, MIA issued licenses to traditional practitioners engaging in practices with health implications, such as FGM, trial by ordeal and traditional medicine. However, MIA has since suspended the practice, and senior officials at MIA have indicated in discussions with HRPS that there was no plan to reinstate the issuance of these licenses, at least until such time as they are able to conduct a thorough review of practitioners to rid their ranks of cultural “imposters” responsible, in MIA’s view, for abusive practices.<sup>20</sup>
22. The Ministry of Information, Cultural Affairs and Tourism (MICAT) is charged with “countering unfavorable propaganda by disseminating a wide range of informative material that presents a true picture of Liberia’s national image, its aims and aspirations, policies, programs, institutions, and progress to a wider audience.”<sup>21</sup> Cultural activities falling within the MICAT mandate include the promotion and preservation of “indigenous arts and handicrafts,” the management of a cultural Centre

<sup>16</sup> Act to Create the National Council of Chiefs and Elders of the Republic of Liberia, Section 3(a) (2012). There are 13 members from each county and an additional nine who hold leadership positions at the national level.

<sup>17</sup> *Ibid.*, Section 3(b), (f). In 2012, President Ellen Johnson Sirleaf stated that the Government expected the Council to “promote development, promote reconciliation, help in conflict resolution, and work with the county authorities and with the three branches [of Government] in ensuring that Government’s overall programmes are implemented successfully.” Rep. Liber., Executive Mansion, “President Sirleaf signs Bills creating National Council of Chiefs and Elders,” 22 August 2012, [http://www.emansion.gov.lr/2press.php?news\\_id=2291&related=7&cp=sp](http://www.emansion.gov.lr/2press.php?news_id=2291&related=7&cp=sp) (last accessed on 30 November 2015).

<sup>18</sup> Act Adopting a New Executive Law, Repealing the Present Executive Law and Public Welfare Law, and Amending or Repealing Other Acts in Relation Thereto, Section 25.2(m), Title 12, L.C.L.R. (1972) [hereinafter “Executive Law”].

<sup>19</sup> As described by MIA officials in discussions with HRPS.

<sup>20</sup> *Ibid.*

<sup>21</sup> Executive Law, Section 31.1(c).



and an ethnographic museum, and the management of programmes “for the preservation of folklore, mores, and indigenous culture of the nation.”<sup>22</sup> The MICAT has no direct oversight of traditional practitioners and cultural societies.

## 5. Legal and policy framework related to traditional and cultural practices

### 5.1. International and regional human rights framework

23. Liberia was one of the earliest supporters of the Universal Declaration of Human Rights (UDHR), the foundational document of international human rights law.<sup>23</sup> According to its preamble, UDHR is to serve “as a common standard of achievement for all people and all nations,” indicating that it is to be applied universally, irrespective of local practices of any particular country.
24. The adoption of UDHR was followed by the elaboration of various international human rights instruments to which Liberia has become a party, thereby binding it to obligations, including: the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR); the Convention on the Elimination of Racial Discrimination (CERD); the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); the Convention on the Rights of the Child (CRC); and the Convention on the Rights of Persons with Disabilities (CRPD).<sup>24</sup> These instruments protect a wide range of civil, political, economic, social, and cultural rights, and the human rights of women, children, persons with disabilities, and minorities. They also prohibit discrimination on any ground, including sex, religion, ethnicity, disability, and other status.
25. Liberia is also a party to regional human rights instruments including the African Charter on Human and Peoples’ Rights (ACHPR), the African Charter on the Rights and Welfare of the Child (ACRWC), and the Protocol to ACHPR on the Rights of Women in Africa (the “Protocol”).
26. Liberia has not made any reservations to the international and regional instruments it has ratified. As a State party to these instruments, it is legally obliged to ensure that all of its authorities, including customary authorities entrusted with State functions under domestic law, respect human rights law, and do not commit, participate in or condone any human rights violations. Furthermore, the authorities must protect all persons on their territory and under their jurisdiction against human rights abuses by non-state actors, which includes secret societies, witch doctors and practitioners of FGM.
27. Liberia’s international human rights commitments oblige its Government to combat discrimination and to protect and promote, *inter alia*, the rights of women, children, persons with disabilities and other vulnerable persons. CEDAW, for instance, requires

<sup>22</sup> *Ibid.*, Section §31.1(g).

<sup>23</sup> Liberia was the first sub-Saharan State to join the United Nations and one of the original 48 Member States to vote in favour of UDHR in 1948. “UN Member States: On the Record,” <http://www.un.org/depts/dhl/unms/founders.shtml> (last accessed on 30 November 2015).

<sup>24</sup> Liberia is also a signatory to the Optional Protocol to CRC on the sale of children, child prostitution, and child pornography (2004).

States parties to “take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women”,<sup>25</sup> and “to modify social and cultural patterns... with a view to achieving the elimination of... customary and all other practices which are based on the idea of the inferiority of either of the sexes.”<sup>26</sup>

28. Some of these instruments explicitly require the State party to eradicate harmful practices. CRC provides that “States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.”<sup>27</sup> Furthermore, the obligation of States parties to pursue targeted policies is of an immediate nature, and delays cannot be justified on any grounds, including culture and religion.
29. ACRWC defines “harmful” cultural practices as “[those] practices affecting the welfare, dignity, normal growth and development of the child, particularly those customs and practices prejudicial to the health or life of the child, and those which are discriminatory, on the basis of sex or other status.”<sup>28</sup> The Maputo Protocol provides that States parties must “prohibit and condemn all forms of harmful practices which negatively affect women and which are contrary to recognized international standards,”<sup>29</sup> and explicitly requires States parties to prohibit “through legislative measures, backed by sanctions... all forms of [FGM]...”<sup>30</sup><sup>31</sup>
30. The Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child have issued a joint General Comment with guidelines to assist States parties in determining which practices are harmful. These guidelines provide that harmful, traditional, cultural, customary or religious practices have the following characteristics:
  - a) “They constitute a denial of the dignity and/or integrity of the individual and a violation of the human rights and fundamental freedoms enshrined in the two conventions.
  - b) “They constitute discrimination against women or children and are harmful insofar as they result in negative consequences for them as individuals or groups, including physical, psychological, economic and social harm and/or violence and limitations on their capacity to participate fully in society or develop and reach their full potential.
  - c) “They are traditional, re-emerging or emerging practices that are prescribed and/or kept in place by social norms that perpetuate male dominance and inequality of women and children, on the basis of sex, gender, age and other intersecting factors.

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<sup>25</sup> Art. 2(f).

<sup>26</sup> Art. 5(a).

<sup>27</sup> Art. 24(3).

<sup>28</sup> Art. 21.

<sup>29</sup> Art. 5.

<sup>30</sup> Art. 5(b).

<sup>31</sup> See also art. 2(2) on the elimination of harmful traditional practices, art. 4(2)(d) on the elimination of cultural and traditional practices that impose violence on women, and art. 5(c)-(d) on the State’s obligation to provide services and protections to victims of or persons at risk of being subjected to these practices.

- d) “They are imposed on women and children by family members, community members or society at large, regardless of whether the victim provides, or is able to provide, full, free and informed consent.”<sup>32</sup>

31. CRC, CEDAW, CRPD, ACRWC, and Maputo Protocol also obligate States parties to take special measures to protect vulnerable persons from violence, neglect, and other forms of harm, on the basis of their vulnerable status.<sup>33</sup> Many traditional and cultural practices in Liberia propagate discrimination and particularly affect women, children and other vulnerable persons, and therefore contravene the State’s obligations under these human rights instruments.
32. Trials by ordeal, accusations of witchcraft, forcible initiation, FGM, and ritualistic killings all directly contravene civil and political rights protected under ICCPR, CAT, and ACHPR. These include the right to life; the right to liberty and security of the person; the right to freedom of thought, conscience and religion; the right not to be subjected to arbitrary arrest or detention; and the right to a fair and public hearing by a competent, independent and impartial tribunal established by law.
33. Moreover, these practices may, in some circumstances, violate the right of all persons not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Torture is defined under CAT as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”<sup>34</sup> The State may also bear a responsibility for torture through acts of omission. Trials by ordeal, for example, constitute torture if they cause severe pain or suffering and are carried out by persons such as police officers, district commissioners, and other Government authorities, or if the authorities acquiesce in the conduct of such trials by non-state actors, or if the Government consistently fails to intervene to protect victims or to hold perpetrators accountable. FGM may also constitute torture under international law<sup>35</sup> due to the severe mental and physical pain and suffering it imposes on women and girls on the basis of their sex.
34. Trials by ordeal contravene key fair trial and due process rights under ICCPR, among other instruments, including equality before the law, the presumption of innocence, access to legal counsel, etc. It also breaches provisions of CEDAW related to access to justice.<sup>36</sup> In addition, ICCPR prohibits forcing a person to testify against him or herself, and stipulates that no one can be found guilty of an offense for conduct not recognized

<sup>32</sup> Committee on the Elimination of Discrimination against Women and Committee on the Rights of the Child, *Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices*, 16, UN Doc. CEDAW/C/GC/31-CRC/C/GC/18 (14 November 2014).

<sup>33</sup> CRC, art. 19(1); CEDAW, art. 2; CRPD, art. 16; ACRWC, art. 16; Maputo Protocol, art. 4.

<sup>34</sup> CAT, art. 1. Torture is also prohibited by ICCPR, art. 7; CRC, art. 37(a); CRPD, art. 15; ACHPR, art. 5; and ACRWC, art. 16.

<sup>35</sup> See, e.g., CAT, *General Comment No. 2, Implementation of article 2 by States Parties*, U.N. Doc. CAT/C/GC/2/CRP.1/Rev.4 (24 January 2008).

<sup>36</sup> Notably its articles 2 (c) and 15 (2).

under national or international law at the time when such conduct occurred. Witchcraft, which is not a crime under domestic or international law, may therefore never give rise to any type of trial.

35. The right to freely exercise or manifest one's religion or beliefs, and the right to participate in cultural life are enshrined in international human rights law.<sup>37</sup> States may not generally proscribe the enjoyment of these rights. However, the exercise of religion or beliefs or the practice of culture can be subjected to limitations as provided in some international instruments, notably when they infringe on the rights of others.<sup>38</sup> Thus, under ICCPR<sup>39</sup>, States parties may legally proscribe the manifestation of religion or beliefs when "it is necessary [to do so] to protect public safety, order, health, or morals, or the fundamental rights and freedoms of others." CRC contains a similar provision in its article 14(3). The Committee on Economic, Social and Cultural Rights has noted that "applying limitations to the right of everyone to take part in cultural life may be necessary in certain circumstances, in particular in the case of negative practices, including those attributed to customs and traditions that infringe upon other human rights."<sup>40</sup> The practices highlighted in this report impede public safety, order, health and the enjoyment of the fundamental rights and freedoms of others.
36. As a State party to ICESCR, Liberia is obligated to take all necessary steps, including legal measures, to ensure that the rights enumerated in the Covenant are progressively realized.<sup>41</sup> ICESCR guarantees the rights to enjoy the "highest attainable standard of physical and mental health," the right to education, the right to development, and the right to an adequate standard of living, among other crucial rights. Children also have recognized rights to health and education under ICESCR, CRC and ACRWC. Traditional and cultural practices may directly and permanently deny the enjoyment of these rights and, as such, are in direct contravention of Liberia's obligations under these treaties.
37. During the first cycle of Liberia's Universal Periodic Review (UPR) in 2010-11,<sup>42</sup> 11 recommendations urged the Government to eliminate harmful traditional practices. During Liberia's second UPR cycle in 2015, the number of recommendations on this issue increased to 24.<sup>43</sup> Recommendations included: the elimination of trial by ordeal; implementation of measures to combat FGM, including criminalization of the practice, prosecution of perpetrators, and sensitization on the harmful effects of FGM; and implementation of measures to eliminate ritualistic killings, including prosecution of perpetrators. The Government of Liberia expressed its opposition to harmful traditional

<sup>37</sup> ICCPR, art. 18(1); ICESCR, art. 15(1)(a); CRC, art. 14(1); ACHPR, art. 8.

<sup>38</sup> ICCPR, art. 5(1), ICESCR, art. 5(1).

<sup>39</sup> Article 18(3).

<sup>40</sup> ICESCR, *General comment No. 21 (Right of everyone to take part in cultural life (art. 15, para. 1(a), of the International Covenant on Economic, Social and Cultural Rights)*, para. 19, U.N. Doc. E/C.12/GC/21 (21 December 2009).

<sup>41</sup> Article 2(1) of ICESCR obligates States parties to take measure to progressively implement its provisions "to the maximum of [the State's] available resources."

<sup>42</sup> UPR is a comprehensive review of the status of implementation of human rights in each Member State by other Member States, which takes place once every four years, under the auspices of the United Nations Human Rights Council.

<sup>43</sup> Angola, Cabo Verde, Ethiopia, Madagascar, Mauritania, Rwanda, and South Africa joined 17 other States to recommend the elimination of harmful traditional practices, including FGM.



practices in both cycles of the UPR<sup>44</sup> but only accepted two recommendations made by Member States in 2011 on FGM (to “address the high levels of FGM and early marriage through more concerted efforts, involving local levels,” and to “increase public awareness campaigns against FGM”).<sup>45</sup> The Government stated that it could not take a position on the recommendations regarding trial by ordeal and the other recommendations relating to FGM, arguing that it needed to approach the subject cautiously, as discussions on both practices were “strongly resisted and perceived as attempts to destroy the cultural and traditional heritage of the country.”<sup>46</sup> However, in September 2015, Liberia notified the Human Rights Council that it had accepted all recommendations on FGM during its second cycle review, including its full criminalization.

38. The Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child also made recommendations to the Government of Liberia that included the adoption of legislation prohibiting FGM, sensitization of traditional practitioners and the provision of alternative livelihoods for traditional practitioners.<sup>47</sup>

## 5.2. Domestic legal and policy framework for the protection of human rights in the context of cultural practices

39. The Liberian Constitution enshrines a number of fundamental human rights, including the rights to life, liberty and security of the person; the right to equal protection by law and equality before the law; the right to freedom of thought, conscience, and religion; the right to a fair trial and due process; the right not to be subjected to arbitrary detention; and the right not to be subjected to torture or other cruel, inhuman, or degrading treatment or punishment.<sup>48</sup>
40. While it clearly prohibits few harmful traditional practices (*sassywood* and ritualistic killings), domestic law contains provisions that build upon the rights enshrined in the Constitution and also prohibit either explicitly or by implication practices such as forcible initiation, trial by ordeal, FGM without consent, FGM on children, and ritualistic killings.
41. Thus, the Penal Law criminalizes a number of acts that may occur during or due to the exercise of traditional practices. These include aggravated assault, simple assault, offensive touching, and reckless endangerment; kidnapping, felonious restraint, and false imprisonment; theft of property; interference with custody of a child; endangering

<sup>44</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Liberia: Addendum*, para. 11, U.N. Doc. A/HRC/16/3/Add.1 (15 March 2011) [hereinafter “Liberia UPR Addendum, 2011”]; Human Rights Council, *National Report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Liberia*, para. 54, U.N. Doc. A/HRC/WG.6/22/LBR/1 (18 February 2015).

<sup>45</sup> Recommendations made by Norway (77.33) and the United States (77.34), respectively. Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Liberia*, U.N. Doc. A/HRC/16/3 (4 January 2011).

<sup>46</sup> Liberia UPR Addendum, 2011, *supra* note 40, 10.

<sup>47</sup> Committee on the Elimination of Discrimination against Women, *Concluding observations of the Committee on the Elimination of Discrimination against Women: Liberia*, paras. 18-21, U.N. Doc. CEDAW/C/LBR/CO/6 (7 August 2009); Committee on the Rights of the Child, *Concluding observations on the combined second to fourth combined periodic reports of Liberia, adopted by the Committee at its sixty-first session (17 September-5 October 2012)*, 51-52, U.N. Doc. CRC/C/LBR/CO/2-4 (13 December 2012).

<sup>48</sup> Liberia Constitution, articles 11(a), 11(c), 14, and 20-21.

the welfare of a child; rape and sexual assault;<sup>49</sup> and murder, manslaughter, and negligent homicide.<sup>50</sup> The Penal Law also provides that no one may be criminally charged for conduct that did not constitute an offense under Liberian law at the time such conduct occurred,<sup>51</sup> and establishes that consent is ineffective as a defense if “it is given by a person who is legally incompetent” to do so (such as a child), or if “it is induced by force, duress or deception.”<sup>52</sup> However, most of these provisions are not applied with regard to traditional and cultural practices which otherwise constitute crimes but are perceived as having a cultural dimension. Offenders therefore enjoy impunity.

42. The Children’s Law provides that children have “the right to participate in cultural activities that are in [the child’s] best interests,” and assigns MICAT the task of promoting “activities that are compatible with the dignified life of children.”<sup>53</sup> However, it provides that “no person shall subject a child to [...] any unnecessary or uncultured<sup>54</sup> practice that may inflict physical, psychosocial, or emotional pain to the child or otherwise violate or endanger her or his bodily integrity, life, health, dignity, education, welfare, or holistic development.”<sup>55</sup> While this provision is not an explicit prohibition, it strongly indicates that practices such as FGM and forcible initiation are illegal.<sup>56</sup> The Children’s Law also enshrines the rights to health and education and prohibits torture or other cruel, inhuman, or degrading treatment or punishment of children and the abduction of children.<sup>57</sup> It also amends the Penal Law to specifically prohibit the killing of children for ritualistic purposes.<sup>58</sup>
43. In landmark decisions issued in 1916 and 1935, the Supreme Court of Liberia took a clear stance against *sassywood* and other forms of trial by ordeal, considering them as illegal. In 1935, the Court ruled that the use of *sassywood* was “equivalent to a trial by ordeal” and violated the Constitutional provision that “no person shall be compelled to furnish or give evidence against himself,”<sup>59</sup> by implication seeming to hold that all forms of trial by ordeal as unconstitutional. This interpretation was affirmed in 1940 through the *Tenteah v. RL* case, which directly held trial by ordeal unconstitutional, referencing the 1935 decision.<sup>60</sup> However, in 1949, the Legislature adopted the

<sup>49</sup> As amended by the Rape Law. An Act to Amend the New Penal Code Chapter 14, Sections 14.70 and 14.71, and to Provide for Gang Rape (29 December 2005).

<sup>50</sup> Act Adopting a New Penal Law and Repealing Sections 31.3 and 32.1 of the Criminal Procedure Law, L.C.L.R. vol. IV, 725 (19 July 1976) [hereinafter “Penal Law”], Sections 14.1-3, 14.20-23, 14.50-53, 14.70-71, 15.51, and 16.4.

<sup>51</sup> Penal Law, Section 1.5.1. N.B. The practice of witchcraft is not an offense recognized by any code of law in Liberia.

<sup>52</sup> *Ibid.*, Section 14.29.2.

<sup>53</sup> Act to Amend Sections 14, 16, 17, and 18 of the Penal Law, Title 26, Liberian Code of Laws Revised and to Add Thereto a New Section 20 (2011) [hereinafter “Children’s Law”], art. 3, para. 19.

<sup>54</sup> This provision is ambiguous with regard to the meaning of “uncultured” in this context. This may be a loophole for “cultural” practices that are harmful to the child.

<sup>55</sup> Children’s Law, article 6, para. 4(d).

<sup>56</sup> This interpretation is bolstered by the amendment that the Children’s Law brought to the Penal Law under the heading, “Subjecting a Child to Harmful Practices,” which provides that “[a] person commits a felony of [the] second degree if she or he subjects a child to... a practice that violate[s] or endanger[s] the bodily integrity, life, dignity, education, welfare, or holistic development of the child.” (Section 16.15(e)) Furthermore, a draft Domestic Violence Act currently under consideration by the Legislature includes a provision (Section 16(21) (l)) explicitly prohibiting FGM for children under 18 that, if adopted, would resolve the ambiguity in the Children’s Law.

<sup>57</sup> Children’s Law, art. 3, para. 8, art. 3, para. 9, and art. 7, paras. 7-8, respectively.

<sup>58</sup> Penal Law, Section 14.1.

<sup>59</sup> *Posum v. Pardee*, 4 L.L.R. 299 (1935).

<sup>60</sup> *Tenteah v. RL*, 7 L.L.R. 63 (1940).



Hinterland Regulations, which explicitly allow all forms of trial by ordeal, except for *sassywood*.<sup>61</sup>

44. The Legislature has consistently taken a clear stance against ritualistic killings. The Hinterland Regulations, which were adopted in 1949 and revised in 2001, prohibit societies known to have engaged in the practice,<sup>62</sup> and foresees severe punishments for membership, including the death penalty.<sup>63</sup>
45. In 2013, MIA issued guidelines for traditional practitioners to address the issue of forcible initiation. The guidelines warn that “no one is to compel, subject, or induct any other person into any cultural practice or ritual without the consent of the person being inducted or initiated,” and that “a person who uses any form of force or intimidation to compel another person to yield to, or to be initiated into, any tribal ritual or traditional practice is taking a risk and could be arrested, charged and prosecuted for violation of civil and human rights in Liberia.”<sup>64</sup> However, the guidelines do not refer to any particular laws, and, based on HRPS interactions with MIA, it is presumed that any “prosecution” would likely occur in the traditional justice system rather than the formal justice system. During a meeting with HRPS, MIA officials expressed the opinion that *Poro* leaders may not be prosecuted under statutory law and may only be tried under customary law (though there is no such exemption under the statutory law). HRPS has not received any information thus far about anyone held accountable under the Penal Law for forcible initiation.
46. Following two serious incidents in 2014,<sup>65</sup> MIA issued further guidelines<sup>66</sup> for traditional practitioners, which reiterate the ban on forcible initiation and include an additional provision that children shall not be taken into a *Poro* or *Sande* grove or “bush school”<sup>67</sup> for initiation during the regular school year, and that all bush schools must be located at least eight miles outside established city limits - to reduce their proximity to formal schools. The operation of *Poro* and *Sande* groves was also suspended as of 30 June 2014, for a period of 90 days, to allow the Bureau of Customs and Cultural Affairs of MIA and the National Council of Chiefs and Elders to conduct a comprehensive national inventory of *Poro* and *Sande* bush schools, and to review the licenses of all practitioners to identify those who may have engaged in abusive practices.<sup>68</sup> The additional guidelines provide that “no *Poro* or *Sande zoe* shall force any child/children [...] into initiation in the *Poro* or *Sande* society without the prior knowledge and consent” of parents or guardians. Although seeking to limit the negative impact of *Poro* and *Sande* practices on children, including on their education,

<sup>61</sup> The draft Domestic Violence Act, currently before the Legislature, includes a provision to criminalize trial by ordeal (16(21)(m)), which, if adopted, would finally bring the Penal Law into compliance with the Supreme Court’s case-law.

<sup>62</sup> These are the Leopard, *Neegee*, *Suska*, *Toya*, *Kala*, and *Uama-Yama* societies. Hinterland Regulations, art. 69.

<sup>63</sup> The Hinterland Regulations prescribe 20 years of imprisonment for membership in any of the illegal societies and the death penalty for members of the Leopard Society convicted of murder. 27 L.L.R. 365 (1975).

<sup>64</sup> MIA General Circular No. 12, 3-4 (15 January 2013).

<sup>65</sup> A gang rape occurred in Grand Cape Mount County, and the forcible initiation of a police officer took place in Gbarpolu County. See *infra* Sections 6.6.2 and 6.2, respectively, for a discussion of these cases.

<sup>66</sup> MIA General Circular No. 13 is signed by the chief *Poro zoe*, the Chairman of the National Council of Chiefs and Elders and other traditional leaders, approved by MIA.

<sup>67</sup> A grove or “bush school” is where initiation into secret societies takes place. Non-initiates are not allowed to enter any area devoted to this ritual, and transgressing grove boundaries can lead to forcible initiation or even death. Those undergoing initiation are taken to the grove or “bush school” for weeks or months at a time and must remain there until the initiation is complete.

<sup>68</sup> As noted, the practice of issuing licenses has since been suspended indefinitely.

these guidelines do not adequately address the many serious issues related to such practices.

47. Two key national policies highlight the negative human rights impact of traditional and cultural practices, and contain provisions aimed at abolishing some of them. The Agenda for Transformation (Aft) cites harmful traditional practices as a major human rights concern and highlights the need for the Government to address this issue.<sup>69</sup> The National Human Rights Action Plan (NHRAP) incorporates recommendations made during Liberia's first UPR cycle and calls for sensitization of traditional actors on human rights, support for the provision of alternative livelihoods for traditional practitioners, and the implementation of legal measures to combat harmful practices, including the complete abolition by law of FGM and trial by ordeal.<sup>70</sup>

### 5.3. Challenges in the legal and normative framework

48. While a number of domestic laws and policies promote and protect human rights, the adoption of international human rights in the domestic legal framework remains incomplete, which leaves ample room for violations within the ambit of traditional and cultural practices. Furthermore, as previously noted, some legal provisions have contributed to perpetuate harmful practices, notably the Hinterland Regulations and Article 5(b) of the Constitution promoting "positive culture."

#### 5.3.1. The Hinterland Regulations

49. The Hinterland Regulations have contributed significantly to the perpetuation of certain harmful traditional practices, and are among the root causes of the inequalities experienced by many in accessing justice. A relic of Liberia's divided past, the Hinterland Regulations created separate legal and administrative structures for "civilized" and "native" Liberians, placing the latter under customary or tribal law jurisdiction.<sup>71</sup> This provides wide latitude for the administration of customary or tribal law, with minimal guidance or intervention by the judicial and legislative branches of Government. For instance, while article 65 of the Constitution provides that "all courts shall apply both statutory and customary laws in accordance with the standards enacted by the Legislature," the latter has not yet enacted standards with regard to customary law and has not clarified what, if any, nexus exists between statutory and customary laws. The Hinterland Regulations were revised by the Legislature in 2001, but not significantly.

50. Moreover, all administrative courts, including tribal courts, were placed under MIA until such time as they might be properly established.<sup>72</sup> Because these courts have not

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<sup>69</sup> REP. LIBER., AGENDA FOR TRANSFORMATION, 138-39 (2012).

<sup>70</sup> REP. LIBER., NATIONAL HUMAN RIGHTS ACTION PLAN, 2013-2018 (2013). Recommendations that Liberia accepted are included as "required" actions, while those that were neither accepted nor rejected are included as "recommended" actions.

<sup>71</sup> Initially adopted in 1949 and revised in 2001, the Hinterland Regulations apportion justice in accordance with ethnic or cultural affiliation, employing pejorative terms such as "uncivilized natives" (as opposed to "civilized people") and "primitive social institutions" (a reference to the *Sande* and *Poro* societies) to convey the "otherness" of indigenous social structures. "Uncivilized" persons are subject to separate jurisdiction from "civilized" persons through the application of customary or tribal law in so-called "native courts." (art. 38)

<sup>72</sup> Hinterland Regulations, art. 38. The Ministry of the Interior (now MIA) was established with a mandate to oversee the orderly functioning of tribal courts, supervise the elections of clan, town, and paramount chiefs, and exercise administrative supervision over *Poro*, *Sande*, and other tribal societies. An Act Adopting a New Executive Law,



been established, MIA continues to function as the *de facto* final appellate jurisdiction on matters decided through customary or tribal mechanisms.<sup>73</sup> Executive branch officials thus make judicial decisions *in lieu* of the courts, in contravention of the Constitution's provisions for due process rights and the separation of powers with the clear determination that all judicial power must vest within the judiciary (art. 65), headed by a Supreme Court that acts as the final arbiter and appellate court (art. 66).

51. While article 73 of the Hinterland Regulations prohibits the use of *sassywood*,<sup>74</sup> it explicitly permits other forms of trial by ordeal, stipulating that "ordeal[s] [...] of a minor nature and which do not endanger the life of the individual shall be allowed and [are] hereby authorized." Moreover, that same article condones trial by ordeal by providing for the licensing of "ordeal doctors" through MIA.<sup>75</sup> The person subjected to a trial by ordeal may appeal for a second trial by ordeal but there is no clear provision for an appeal through the formal legal system, and the accused must bear all related costs.
52. Statutory law makes no reference to the Hinterland Regulations or to the relationship between the formal justice system and the traditional justice system that falls under MIA authority. In discussions with HRPS, senior Government officials acknowledged that the Hinterland Regulations were not in compliance with the statutory law, and stated that efforts were underway to harmonize them with the statutory law. They noted that there was resistance from traditional actors to such efforts. While there is a perception among many Government actors that the Hinterland Regulations are an antiquated and obsolete source of law, they are being used actively to regulate behavior at the community level, as they provide the basis upon which MIA operates and establishes local governance structures.

### 5.3.2. "Positive Culture" in Liberian law

53. Ambiguity surrounding the notion of "culture," and what may be qualified as "positive culture," has allowed the term to be used to prevent further inquiry into or discussion of activities that are said to fall within this scope. Article 5(b) of the Constitution calls for the preservation, protection and promotion of "positive Liberian culture" with the aim of "ensuring that traditional values which are compatible with public policy and national progress are adopted and developed as an integral part of the growing needs of the Liberian society." What may constitute "positive" culture is not clearly defined anywhere under Liberian law.<sup>76</sup>
54. Traditional and cultural practices that are not in line with international human rights law may not be construed as "positive." In this regard, practices such as FGM and trial

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Repealing the Present Executive Law and Public Welfare Law, and Amending or Repealing Other Acts in Relation Thereto, Section 25, Title 12, L.C.L.R. (1972).

<sup>73</sup> This has also been confirmed in discussions HRPS has held with senior MIA officials.

<sup>74</sup> Article 73 provides that "any person who shall administer [*sassywood*], or who shall authorize, permit, order, aid, promote, or otherwise participate in the administration" of *sassywood* shall be guilty of a misdemeanour. In cases where death occurs, such individuals "shall be held to answer criminally in any of the courts of this Republic of competent jurisdiction to try said crime."

<sup>75</sup> Article 73 provides that licensed ordeal doctors "shall be authorized to perform ordeal trials within the Republic and will be entitled to the fees which will be assessed by the Court or Authority granting it." As noted previously, however, MIA has ceased issuing these licenses.

<sup>76</sup> The Hinterland Regulations, for instance, do not make a distinction between positive and negative culture, stating only that "[t]he *Poro* and *Sande*, being cultural societies, are permitted." (art. 68(a))



by ordeal do not withstand scrutiny under Article 5(b) as, by their very nature, they deprive individuals of fundamental rights, including their rights to life, liberty, and security of the person.

### 5.3.3. Perceptions of human rights among traditional actors and communities

55. There is a wide difference in understanding among Liberians as to what is meant by “human rights,” and the term often carries negative connotations. During focus group discussions held by HRPS in 2012, many Liberians expressed the belief that “human rights” meant their children were free to disobey them and that parents would no longer be able to impose discipline. Others believed that human rights actors were too harshly critical of traditional and cultural practices and expected change too quickly. Participants, who included elders and traditional practitioners, particularly resented attempts at introducing change on the basis of human rights without involving traditional actors in the decision-making process. They also indicated their frustration with attempts by human rights actors to eliminate trial by ordeal, considering there was no viable alternative to prevent lawlessness and conflict in their communities.
56. HRPS has noted that many traditional actors strongly resist attempts to reform or eliminate some practices that violate human rights because they perceive such efforts as an encroachment on their culture as a whole.<sup>77</sup> In interviews with HRPS, Government officials acknowledged their reluctance to address harmful practices, due in part to the fear of backlash from traditional actors.<sup>78</sup>

## 6. Human Rights Abuses Emanating from Cultural and Traditional Practices

### 6.1. Female Genital Mutilation and initiation into *Sande* society

57. Around half of Liberia’s 17 ethnic groups practice FGM, primarily in the regions where the *Sande* society is present.<sup>79</sup> It is estimated that 58 per cent of Liberian women and girls have undergone FGM.<sup>80</sup> This practice significantly affects women and girls from the poorest households, who are twice as likely to have experienced it compared to those from the wealthiest households.<sup>81</sup>
58. FGM violates the rights of women and girls, including their right to be free from violence, right to life and physical integrity, right to non-discrimination, and right to be free from torture or other cruel, inhuman, or degrading treatment or punishment. FGM

<sup>77</sup> For instance, during a roundtable discussion on FGM organized by the NGO Women of Liberia Peace Network (WOLPNET), a member of the National Council of Chiefs and Elders reportedly stated: “we won’t leave the culture, even if they kill us for it, let them do so but we will not leave it. If there is a way to modernize it, we can do it, but we will not leave it...” See Mae Azango, *Liberia’s Culture Clash: Sande and Poro Society vs. Masonic Craft*, FRONT PAGE AFRICA, 14 January 2015.

<sup>78</sup> When Grace Kpaan, then-Superintendent of Montserrado County, publicly voiced criticism of FGM and *Sande* society, she became the subject of an intense backlash. See, e.g., Jerome Toe, *Confirmation Hurdle over FGM: Senators Demand Apology over “Evil” Talk*, FRONT PAGE AFRICA, 21 June 2012.

<sup>79</sup> See, e.g., LIBERIA INSTITUTE OF STATISTICS AND GEO-INFORMATION SERVICES (LISGIS) ET AL., LIBERIA DEMOGRAPHIC AND HEALTH SURVEY 2007, at 242 (2008) [hereinafter “DHS SURVEY”].

<sup>80</sup> DHS SURVEY, 241. 45 per cent of the women surveyed who were members of the *Sande* society considered the practice of FGM should be discontinued. *Ibid.*

<sup>81</sup> More than 80 per cent of women from the poorest quintile of the population have undergone FGM, as compared with less than 40 per cent of women from the wealthiest quintile. *Ibid.*, 242.

also severely compromises the right to health due to its damaging and irrevocable consequences. In addition to the extreme pain it causes (particularly as it is generally performed without anesthesia), the lack of medically sterilized equipment and facilities increases the likelihood of infection and lasting physical damage, and may even lead to death.<sup>82</sup> In January 2012, for instance, HRPS received a report that in Yourpea Town, Zoegeh District, Nimba County, a 17-year-old girl died reportedly as a result of complications from FGM. HRPS officers, accompanied by representatives from MIA, the Ministry of Gender and Development,<sup>83</sup> and the United Nations High Commissioner for Refugees, visited Yourpea Town to follow up the case. Despite this intervention, no investigation was carried out by the Liberia National Police (LNP).<sup>84</sup>

59. *Sande* society activities also affect the right to education. HRPS has found that young girls are often taken out of or abducted from school for initiation and may remain in the *Sande* grove for several weeks or months. Many are subjected to child and forced marriage and suffer health complications as a result of FGM, both of which may also prevent them from returning to school. HRPS has also observed that formal schools lose many students and some are forced to close their doors altogether when bush schools are in session. In April 2012 in Nimba County, for instance, HRPS confirmed that four schools were closed due to the concurrent operation of bush schools and the resulting absence of most female students.<sup>85</sup> Therefore, besides affecting the about 300 female students, this situation also deprived the male students of their right to education. In May 2012, a consultative meeting, chaired by the Assistant Minister of Culture of MIA and the chief *Sande zoe*, and supported by UNMIL, was convened to discuss the issue of bush schools with traditional practitioners and local authorities. Traditional practitioners agreed at that time to suspend their activities while formal school was in session.
60. In November 2012, girls and young women who joined the *Sande* bush school in nine villages in Voinjama District, Lofa County, missed most of the first semester of the formal school year and were forced to drop out of school for an entire year. In 2013, in Grand Bassa County, Lloydsville Elementary and Junior High School reported a drastic drop in attendance (i.e., more than 100 students, primarily girls) due to *Sande* society activities. In September 2013, during a visit to Suehn Mecca, Bomi County, HRPS was informed that close to 1,000 girls who were to graduate in November had been recruited into the *Sande* bush, thereby forced to abandon their formal education for a full year.<sup>86</sup> In January 2014, in Bomi County, a 16-year-old girl ran away from home to escape forcible initiation by her parents because she wanted to continue her

<sup>82</sup> For more information on the physical and psychological consequences of FGM, see, e.g., Special Rapporteur on violence against women, its causes and consequences, *Report submitted in accordance with Commission on Human Rights resolution 2001/49: Cultural practices in the family that are violent towards women*, 15, Human Rights Commission, UN Doc. E/CN.4/2002/83 (31 January 2002) (by Ms. Radhika Coomaraswamy).

<sup>83</sup> The Ministry has since been reconstituted as the Ministry of Gender, Children, and Social Protection.

<sup>84</sup> Because HRPS monitors were unable to observe initiation ceremonies, and as deaths resulting from FGM are rarely reported, it is not clear how many victims may have died. The number of fatalities from FGM during the reporting period is unknown.

<sup>85</sup> Zoepea Public School was closed due to the absence of its entire female student body. In Gbao-Gbalassonon Public School, enrollment decreased from 413 to 217, contributing to the closure of the school. At Darvoyee Public School, enrollment decreased from 178 to 78, and at Gehwee Public School, enrollment decreased from 78 to 48 students.

<sup>86</sup> HRPS monitors were accompanied by a child welfare officer from the Ministry of Gender, Children, and Social Protection.

education.<sup>87</sup> The principal of Zodee School, which the girl had been attending, confirmed that 75 per cent of the female students from the school had been recruited into the *Sande* bush during that academic year.

61. Between September and December 2014, at the height of the Ebola crisis, HRPS received reports that at least 250 girls from several counties were taken into the *Sande* bush for initiation, despite MIA directives to the *Sande* and *Poro* to suspend their activities to prevent the spread of the disease.<sup>88</sup> This raised serious public health concerns, in addition to the human rights abuses inherent to FGM, as Bomi and Grand Cape Mount were among the counties most affected by the Ebola outbreak.<sup>89</sup>
62. In August 2015, HRPS received reports that two new *Sande* bush schools had been opened in Torsor and Robertsport, Grand Cape Mount County. More than 40 girls were reportedly initiated in Torsor, at least 19 of whom were reportedly in the process of completing initiation that had been interrupted due to the Ebola crisis. It is not clear how many girls and women have been initiated in Robertsport. Both schools are located within eight miles of established city limits, and are therefore too close to formal schools, which is in violation of the MIA guidelines. Although informed by HRPS of the bush schools' operations, the county inspector failed to intervene.
63. During the reporting period, HRPS documented seven cases (involving 11 victims) of the *Sande* society forcibly initiating or attempting to forcibly initiate adult women. In at least five of these cases, FGM was used as a threat or as a punishment for perceived wrongs committed against *Sande* members. For example, in February 2012, in Tweh Town, Tappita District, Nimba County, five women were allegedly threatened with forcible initiation following an argument with two *zoes*. In January 2013, in Bacconee, District 5, Grand Bassa County, a woman and her three-month-old child were abducted, and the mother was allegedly subjected to FGM, allegedly in retaliation for insulting a *Sande* member. In July 2013, a 48-year-old nurse in Zuluyee Town, Nimba County, was threatened with forcible initiation and FGM for stating that traditional birth attendants should encourage pregnant women to use the local health facility in order to prevent maternal deaths. Her statement was reportedly considered an affront to *Sande* culture and tradition.<sup>90</sup> These examples of FGM being used as a punishment indicate that even practitioners may not always consider it as a "positive" cultural practice.<sup>91</sup>
64. During the reporting period, HRPS recorded three cases of *Sande* members attempting to perform or performing initiation rites, including FGM, on girls they had abducted. In December 2012, for instance, three girls aged between 10 and 13 were abducted from the Palm Bay LIBINCO School, Grand Bassa County, and taken to a *Sande* bush

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<sup>87</sup> Despite her strong resistance, her parents forced her to undergo initiation upon her return home. The current MIA guidelines do not protect children in such situations since they allow for initiation with parental consent.

<sup>88</sup> MIA Circular No. 13.

<sup>89</sup> See Ministry of Health and Social Welfare, Liberia Daily Sitrep No. 301, 12 March 2015, <http://www.mohsw.gov.lr/documents/Sitrep%20301%20March%2012th%202015%20Final.pdf> (last accessed on 30 November 2015).

<sup>90</sup> *Sande* members requested that the victim undergo initiation as a form of atonement, which she refused to do. Her house was subsequently vandalized and her 15-year-old son was held captive overnight by the *Sande*.

<sup>91</sup> In yet another case in Grand Bassa County in 2015, a woman who was not a member of the *Sande* society reportedly insulted a *Sande* member and was asked to be told that she must pay a fine of LD\$10,000 (or nearly USD\$120) to atone for her alleged insult against a *Sande* member, or she would be made to "feel the consequences" of her actions through forcible initiation including FGM.



school without their parents' knowledge. They were eventually released, but were unable to return to school for some time, fearing they would be abducted again.

65. In July 2013, in Buchanan, Grand Bassa County, a man reported that a large group of *Sande* members had surrounded his home and demanded that he hand over his daughters for initiation as well as money and other valuables. He was physically threatened for his refusal to comply and forced to flee his home to avoid mob violence. His daughters were abducted into the *Sande* bush.<sup>92</sup> In the midst of the Ebola crisis, in December 2014, three families in the Gbalasuah Community of Tubmanburg, Bomi County, reported that six of their children (all girls) had been abducted into the *Sande* bush for initiation. Such actions by *Sande* members amount to criminal offenses (including kidnapping, assault, and child endangerment) and deprive parents and guardians of their primary responsibility to determine the manner in which they wish to raise their children.<sup>93</sup>

## 6.2. Forcible initiation into *Poro* society

66. HRPS has documented cases of boys and men being abducted for forcible initiation into *Poro* society. In some cases, boys may be abducted and initiated without their parents' knowledge or consent. HRPS has observed that the *Poro* forcibly initiate non-members who are considered to have transgressed the society's rules, for instance by "trespassing" on sacred *Poro* ground or remaining outdoors while *Poro* activity is ongoing. HRPS has also noted a disturbing pattern of forcible initiation targeting Mandingos, an ethnic minority that has historically been subjected to discrimination.<sup>94</sup>
67. The authorities have consistently failed to bring the perpetrators of forcible initiation to justice. Abduction and forcible initiation constitute criminal offenses under Liberian law, including kidnapping and assault and, in the absence of State intervention, violate human rights, including the right to freedom of thought, conscience and religion, the right to freedom of movement, the right not to be illegally or arbitrarily detained, and the right not to be subjected to discrimination on account of religion or ethnic affiliation. One may consider that some forms of forcible initiation meet the definition of torture, due to the severe pain and suffering they inflict<sup>95</sup> and their discriminatory nature or punitive purpose, which the Government is either unable or unwilling to address adequately. If all those conditions are not met, it would still most likely constitute cruel, inhuman or degrading treatment or punishment.
68. In May 2014, in Gbarpolu County, an LNP officer was allegedly abducted and forcibly initiated by *Poro* members in the Jungle James Camp community when he refused to remain indoors while *Poro* activities were ongoing. This incident constituted a serious

<sup>92</sup> The girls were rescued shortly thereafter due to the prompt intervention of local authorities.

<sup>93</sup> Children's Law, art. IV, para. 2(b); ICCPR, art. 18(4); CRC, arts. 5, 14(2), and 18(2).

<sup>94</sup> Mandingos are primarily Muslim and do not typically join the *Poro* society. They are considered by many Liberians as outsiders, which has given rise to ethnic tension and discriminatory treatment of Mandingos. See, e.g., ELLIS, *supra* note 5, at 38-39.

<sup>95</sup> Due to the secret nature of these practices, HRPS cannot confirm the nature and extent of any pain or suffering they may entail. However, the accounts of those who were forcibly initiated indicate that they suffered physical and mental anguish, which the victims themselves in some instances have described as "torture," as noted in the cases cited in this section.

breach of the rule of law, indicating that some *Poros* members do not feel bound to comply with legitimate law enforcement mechanisms.

69. HRPS has also documented three cases of Mandingos being deliberately targeted for forcible initiation. In July 2013, *Poros* members reportedly abducted a Mandingo young man for forcible initiation in the Lofa Bridge area of Gola Konneh District, Grand Cape Mount County. The Mandingo community considered this as a direct affront and this incident inflamed religious and ethnic tensions in Lofa Bridge. In another incident, in June 2014, a Mandingo man was forcibly initiated in Diegai, Fuama District, Bong County. One MIA official, who came to the community to investigate the matter, insisted that the initiation was not forced, despite continued assertions by the victim that it was and that he was subjected to harm possibly amounting to torture.<sup>96</sup> The *Poros* society allegedly extracted more than 800 USD in cash and goods from the victim.<sup>97</sup> In another case that occurred in Gola Konneh District in August 2013, the *Poros* members allegedly abducted two Muslim clerics in an attempted forcible initiation. MIA intervened in this case and ordered the *Poros* to release the clerics before the initiation occurred.
70. The *Poros* have also reportedly initiated individuals who unknowingly entered the *Poros* bush. In April 2015, for instance, a man travelling on a motorcycle on the Sackie Town highway, Bomi County, was allegedly abducted and forcibly initiated when he accidentally strayed into *Poros* territory and interrupted their activities.<sup>98</sup>
71. *Poros* society activities also affect the right to education. Currently, the bush school may last anywhere from a few weeks to a few months. Boys have reportedly been abducted on the way to and from formal school. The fear of forcible initiation into the *Poros* society has also kept children out of school, impacting their rights to education and freedom of movement. In January 2014, HRPS monitors were informed that schools in Bentol City, Montserrado County, had experienced a significant decline in male student attendance. According to teachers, some students were virtually in hiding to avoid the risk of forcible initiation. In June 2015, a *Poros* *zoe* reportedly abducted eight male students from Momoh T. Kamara Public School in Gbaryama Town, Bopolu District, Gbarpolu County. At the time of publication of this document, the county authorities had not taken any action to intervene or hold him accountable.
72. While the MIA guidelines prohibit initiation during the school year and require bush schools to be located at least eight miles outside of established city limits, HRPS has observed that these provisions are frequently violated and that boys attending formal schools are at continued risk of abduction and forcible initiation into the *Poros* society. HRPS has brought these cases to the attention of MIA. While MIA has stated publicly that forcible initiation could lead to criminal prosecution, it has not clarified the statutory basis for such prosecution.<sup>99</sup> To date, no one has been held criminally accountable for forceful initiation, and the practice continues unabated.

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<sup>96</sup> The victim was still suffering from stomach pain and recurring nightmares many months later, according to a complaint submitted on his behalf by the Concerned Mandingo Society of Liberia to the Ministry of Justice.

<sup>97</sup> This is a substantial sum of money in Liberia, where GDP per capita is USD \$461, and 94.9 per cent of the population lives on less than USD \$2.00 a day. World Bank Development Indicators, <http://data.worldbank.org/country/liberia?display=graph> (last accessed on 30 November 2015).

<sup>98</sup> While the victim was Mandingo, it is not clear whether he was targeted due to his ethnicity.

<sup>99</sup> MIA Circular No. 12.



### 6.3. Trial by ordeal and accusations of witchcraft

73. Accusations of witchcraft are common in Liberia, and often have devastating consequences for the accused, who may be subjected to trial by ordeal, “cleansing” or “exorcism” rituals, expulsion,<sup>100</sup> ostracization, and even death.<sup>101</sup> These accusations and related practices disproportionately target children and women. During the reporting period, HRPS recorded 31 cases in which at least 214 individuals were accused of witchcraft. Of these, at least 132 were allegedly subjected to trial by ordeal and “cleansing” rituals. Of the accused, at least 86 were children, at least 59 were women, and at least five were elderly persons.<sup>102</sup> In one case, two older women accused of witchcraft were raped during their ordeal.
74. In Liberia, trial by ordeal (including *sassywood*) is considered by many as a means of criminal investigation or “fact-finding.” It is most commonly conducted in response to allegations of witchcraft, but may also be used to “investigate” crimes that are not alleged to have any connection with witchcraft.<sup>103</sup> HRPS has observed and confirmed that it has been practiced variously by chiefs, “ordeal” or “witch” doctors, and *zoes*. It may also be practiced by MIA officials through the office of the “cultural investigator” or by any chief or other cultural authority employed by MIA. In practice, the Minister of Internal Affairs may refer “cultural” cases to the National Council of Chiefs and Elders, which functions as the *de facto* court of final appellate jurisdiction in these cases.
75. Ordeal or witch doctors (also known as “cultural investigators”) typically charge a fee for their acts, often quite substantial, which is usually borne by the accused person.<sup>104</sup> The range of procedures varies by location and practitioner. In some instances, victims are subjected to physical and psychological harm that may involve additional elements of humiliation. HRPS has documented a variety of methods of trial by ordeal, including: hanging the accused from a tree by the arms or feet for a lengthy period of time; requiring the accused to hold a heavy stone for a lengthy period of time; requiring the accused to retrieve a pebble from a pot of hot oil; heating a knife or “cutlass” until it is red hot and then placing it against the accused’s skin; beating the accused severely, rubbing chili pepper and mud into wounds or the orifices of the accused’s body (particularly the vagina); depriving the accused of food or/and water; requiring the accused to sit in the sun or rain for a lengthy period of time; forcing the accused to sit on hot charcoals; and compelling the accused to consume salted water,

<sup>100</sup> In April 2014, in Hoffman Station, Maryland County, a 42-year-old woman was evicted from her home after being accused of witchcraft.

<sup>101</sup> In March 2013, a 45-year-old woman accused of witchcraft was taken away from her village in Maryland County and did not return, leading her relatives to fear she had been killed; HRPS monitors were directed to speak with the town chief, who, they were told, had the authority to say whether she was still alive. HRPS was unable to obtain further information on the woman’s fate.

<sup>102</sup> It was not possible to confirm the age and gender of all victims in these cases due to the secrecy surrounding such practices.

<sup>103</sup> In June 2012, for instance, three security guards working on the premises of the Saclepea, Nimba County office of the Liberian Refugee, Repatriation, and Resettlement Commission (LRRRC) were allegedly subjected to *sassywood* for their suspected involvement in the theft of a motorbike.

<sup>104</sup> Hence, there may be a substantial financial motive underpinning these cases. For example, in 2013, HRPS received a report from Whynor Town, Bain-Garr District, Nimba County, alleging that 19 women were “convicted” of witchcraft and fined USD \$26 each, for a total of nearly USD \$500. The ordeal doctor and the local chief reportedly shared the proceeds from these fines.

food and/or non-food substances (including food mixed with plants or gunpowder) that induce severe vomiting, diarrhea and other illnesses.

76. Moreover, HRPS monitoring has revealed that trial by ordeal is frequently carried out either by or upon instructions of public officials or other persons acting in an official capacity, including paramount, clan, and town chiefs. In two cases documented by HRPS, district commissioners have instructed LNP to detain individuals who had refused to undergo the practice. In June 2013, HRPS monitors were shown a written order from the Zoe-Gbao district commissioner in Nimba County to LNP in Bahn station, instructing police to arrest and detain a 75-year-old man “convicted” of being a member of a snake society (“*menlor*”), as a punishment for his refusal to undergo *sassywood*; and in June 2014, the Nyenbo district commissioner, River Gee County, allegedly ordered the illegal detention of a woman who had refused to undergo *sassywood*. In June 2015, a magistrate who was allegedly present at a trial by ordeal in Zwedru, Grand Gedeh County, did not intervene on behalf of the victim. In April 2012, the Wessah-Sasstown district commissioner in Grand Kru County reportedly detained three women accused of witchcraft for more than two months and subjected them to forced labour for his personal benefit, requiring them to cut the grass and farm his lands.
77. HRPS has documented many cases in which trial by ordeal amounted to torture, as it subjected individuals to severe pain and suffering, both physical and psychological, and in some cases even led to death. For instance, in April 2012 in Wokaken, Buah District, Grand Kru County, a woman in her fifties, accused of witchcraft, reportedly died after ingesting *sassywood*, which she had prepared for herself in a desperate attempt to prove her innocence to the community. HRPS has observed that victims have often required hospitalization for grievous injuries that were reportedly sustained during trial by ordeal. HRPS has also observed that trial by ordeal causes lasting psychological trauma, due in part to the ritual humiliation that is often a component of this practice. For example, in a case that occurred in January 2013 in Nyambo, Wissiken Town, Karluway District, Maryland County, a 62 year-old woman reported to HRPS that she had been beaten around her genital area. In another case, in June 2015, a man reported to HRPS that he was stripped naked and beaten publicly in Zwedru, Grand Gedeh County.
78. In June 2012, in Zuolay, Tappita District, Nimba County, a witch doctor was invited by local chiefs, with the alleged acquiescence of the county attorney, to perform a cleansing ritual on 55 people, including 14 children. The ritual reportedly involved humiliating elements, including the forcible shaving of heads and other body parts in public. In early 2014, in Butaw and Kpayan, Sinoe County, a witch doctor was brought in at the request of local authorities to conduct large-scale “cleansing” rituals. As part of the process, women (most of whom were elderly) were stripped naked and forcibly shaved in their genital areas in public. They were then taken away to an undisclosed location where they reported having been tortured and made to drink “magical” concoctions (possibly *sassywood*). Some of the women reportedly died after drinking this substance, while others developed severe health complications.
79. HRPS monitoring has found that the authorities often hesitate to investigate or prosecute cases involving trial by ordeal, due to the perceived cultural dimensions of the practice. As a result, criminal offenses committed during trial by ordeal - including homicide, aggravated assault, sexual assault, child endangerment, kidnapping, and theft



- go unpunished. This has generated a widespread culture of impunity among traditional actors.

#### 6.4. Accusations of witchcraft against children

80. During the period under review, HRPS documented nine cases in Nimba, River Gee, and Grand Cape Mount counties, in which at least 86 children were reportedly accused of practicing witchcraft. Children constitute a vulnerable group in need of special care and assistance.<sup>105</sup> However, HRPS has received reports of children as young as four who were allegedly accused of witchcraft and subjected to “cleansing” rituals.<sup>106</sup>
81. Cases documented by HRPS indicate that children accused of witchcraft “confessed” to their supposed wrongdoing under tremendous pressure by the community and without understanding the meaning of the accusations against them. The nature of these accusations is generally violent, and the experience can be both physically and psychologically traumatic. For instance, in 2014 in the Wissetoken Community of Tuobo District, River Gee County, a witch doctor was invited by local authorities to examine 14 children suspected of witchcraft. His alleged methods of detecting a witch were to place a fishhook in the victims’ throat and a hot machete on their skin.
82. In June 2012, 14 children aged between four and eight were accused of witchcraft in Zuolay, Tappita District, Nimba County. Their homes were forcibly entered and their heads were shaved in public. In this case, an HRPS monitor personally witnessed a seven-year-old girl being forcibly shaved as a punishment for her supposed witchcraft activities. In the Wissetoken case, two children were unable to return to school on account of the social stigma and rejection they experienced following a cleansing ritual. The failure of the State to protect these children from systemic violence and abuse by traditional practitioners is in violation of domestic and international law, even where such practitioners act in an entirely private function<sup>107</sup>
83. Children accused of witchcraft have been separated from their families on a temporary or permanent basis. In the Wissetoken case, the children were reportedly separated from their families and sent to live with a witch doctor or “prophet” to undergo ritual cleansing. Many were not returned to their families for an extended period of time, and in at least two cases, families abandoned the children altogether. Some children also appeared to be ill when under the prophet’s care.
84. In August 2015, HRPS learned that 11 children accused of witchcraft (seven girls and four boys), aged from five to 15, had been abandoned by their parents and were living with a woman in Fish Town, River Gee County who claimed to have “healing powers.” Some of the children had been in her care for five years. In September 2015, in Wissetoken, River Gee County, HRPS learned that 40 children (28 girls and 12 boys), aged between six and 17, were living with a “prophet” to whom they had been abandoned following accusations of witchcraft. The children were living in deplorable conditions, and many had not been attending school. HRPS took the matter to officers of the Women and Children Protection Section (WACPS) of LNP, who indicated they were aware of the situation but considered it was the role of the county social services

<sup>105</sup> Children’s Law (preamble); UDHR, art. 25(2); CRC (preamble); ACRWC (preamble).

<sup>106</sup> As occurred in Zuolay, Tappita District, Nimba County in June 2012.

<sup>107</sup> Children’s Law, art. 3, para. 20; CRC, art. 19(1); ACRCW, arts. 5(2), 16, and 17.



to intervene, not theirs. The WACPS officer also expressed the opinion that, even if the children were to be taken from the “prophet,” the county would not have the resources to care for them.

85. Such situation place children at serious risk for physical and sexual abuse and exploitation. Research indicates that many children accused of witchcraft and abandoned by their families and communities end up in the hands of traffickers or as street children in larger cities.<sup>108</sup> Under the Children’s Law, the Anti-Human Trafficking Law,<sup>109</sup> and CRC,<sup>110</sup> the Liberian authorities are obligated to take measures to protect children from situations such as those described above.

#### 6.5. Ritualistic killings

86. Ritualistic killings are committed for the political or physical strength they are believed to confer on the killer(s) or to “feed” a fetish object.<sup>111</sup> Very few cases have ever been conclusively investigated and prosecuted,<sup>112</sup> due in part to inadequate police and forensic capacity. Damage to the corpse, including missing body parts, is often the only *prima facie* evidence.<sup>113</sup> From August to September 2015, in a one-month period, in Nimba County, at least three alleged ritualistic killing cases have been documented by HRPS.
87. Authorities generally hesitate to investigate such cases due to perceptions that powerful politicians and traditional practitioners are involved. In some instances, communities investigate these cases through traditional means and do not allow the police to intervene. Conviction for ritualistic murder is therefore extremely rare and those responsible for such killings generally enjoy impunity.
88. Nine cases of suspected ritualistic killing were reported to HRPS during the period under review. In February 2012, in Bahn Johnson Town, Grand Bassa County, an 18-month-old girl child was found dead. Her neck had been broken and her rectum had been removed, which was a possible indication of ritualistic killing. Community members and traditional leaders cooperated with the police investigation, but no suspects were identified. In August 2012, two boys went missing from an orphanage in the Benson River Community of Buchanan, Grand Bassa County, and were the suspected victims of ritualistic killing when their mutilated bodies were later discovered. Advocacy by HRPS, civil society, and other partners brought the case to the attention of MIA and the Child Justice Section of the Ministry of Justice, but the subsequent police investigation was ineffective. Two individuals were arrested but were later released for lack of evidence, and no other suspects have ever been identified.

<sup>108</sup> See UNICEF WCARO REPORT, *supra* note 3, at 42-44.

<sup>109</sup> Act to Ban Trafficking in Persons Within the Republic of Liberia (2005).

<sup>110</sup> Having signed the Optional Protocol to CRC on the sale of children, Liberia must refrain from taking any actions that might violate the Protocol’s object and purpose.

<sup>111</sup> ELLIS, *supra* note 5, at 234.

<sup>112</sup> The only known prosecution for ritual murder during the period under review was the 2010 case of Dan Morias and Fulton Yancy, who were convicted but were later granted Presidential pardon.

<sup>113</sup> Evidence of suspected ritualistic killings in cases reported to HRPS included the partial or total removal of body parts such as the eyes, nose, tongue, genitals, anus or internal organs; peeling of the skin; and other damage to the corpse.



89. In August 2012, in Yarkpolar Town, Nimba County, an eight-year-old girl was reportedly abducted and later found dead with some body parts missing,<sup>114</sup> leading to suspicion of ritualistic killing. Two suspects were arrested and sent to court, but there was no conclusive investigation and the suspects were later released. In September 2012, ritualistic killing was suspected when the mutilated body of a 65-year-old woman was discovered in Woekpe Town, Grand Bassa County.<sup>115</sup> In September 2014, in Picnicess, Grand Kru County, a young fisherman's body was found and, according to the report of the county attorney, parts of the body had been excised. The community attributed this death to ritualistic killing. Two individuals allegedly confessed during a "traditional" interrogation. LNP assured the community that they would conduct a thorough investigation and that the case had the attention of the Ministry of Justice. However, the investigation was inconclusive. In June 2015, a three-year-old boy went missing in Tegbo Town, District No. 4, Grand Bassa County. Community members believe the boy was taken by the *Neegee* secret society for ritualistic killing. LNP in Buchanan complained that police were not allowed by the community to investigate the case. Instead, the traditional chief of Grand Bassa said that he would seek MIA support to send a *zoe* to perform a traditional ritual to locate the child. At the time of publication of this report, no further investigation had been made by LNP.
90. Between August and September 2015, three suspected ritualistic killings occurred in or near Ganta, Nimba County, within a very short time span. On 22 September, the mutilated body of a man was found a few kilometers outside of Ganta; on 27 September, the mutilated body of a seven-year-old girl who had gone missing on 7 August was also discovered; and on 29 September, a motorcycle driver was killed, allegedly for ritualistic purposes. This sparked riots on 30 September during which a man accused of the ritual murder of the motorcycle driver was killed by an angry mob. These events illustrate the lack of faith many Liberians have in the capacity and willingness of local authorities to take action in cases of ritualistic killing, and of the formal justice system to hold perpetrators accountable.
91. This situation raises serious concerns in view of the 2017 national elections (when the number of ritualistic killings is likely to increase) and the national security transition in June 2016.

## 6.6. Other human rights violations associated with traditional practices

92. In addition to the practices highlighted above, HRPS has observed that many crimes, including murder and rape, have been committed in the context of "cultural" or "traditional" practices. In the absence of State intervention, they also amount to human rights violations.

### 6.6.1. Murder

93. Besides ritual killings, other forms of murder have been carried out in the context of traditional practices. HRPS has observed that authorities often hesitate to investigate

<sup>114</sup> A 15-person, community-based jury headed by the county attorney examined the body and concluded that foul play was involved in the girl's death. The jury's report revealed that the girl's breasts, skin from the palm of her hands, and vagina were extracted from her corpse. Further examination revealed that her skull had been hit with an object.

<sup>115</sup> Her head was partially deformed, the tip of her tongue had been cut off, and her genitals and anus excised.

and prosecute such murders, again due to the involvement of traditional actors. Communities have also refused to cooperate with investigations into such crimes for the same reason. In one case documented by HRPS in July 2012, in Jakob Larteh Town, Grand Bassa County, the Government allowed traditional actors to investigate the murder of a 40-year-old man, rather than assigning this task to LNP, which has the legal authority to do so. The victim was allegedly attacked by a group of 25 to 30 *Poro* members and killed for disclosing cultural secrets pertaining to initiation practices. The presumed perpetrators prevented LNP from visiting the crime scene, claiming that it was a cultural taboo to allow outsiders to investigate a matter associated with their society. MIA reportedly later sent a representative to investigate the case, but LNP were reportedly not involved and the findings were never made public.

94. In October 2014, in Zuaplay, Tappita District, Nimba County, a *Poro* “devil”<sup>116</sup> was allegedly implicated in torturing to death a 57-year-old man, as a punishment for failing to cooperate with the traditional justice system. The “devil’s” associates were arrested and admitted to taking part in the torture and murder, but argued they had done so under “cultural duress,” claiming that no *Poro* member can defy an order of the *Poro* “devil” or challenge the *Poro* society hierarchy. Officials from the formal justice system refused to arrest or prosecute the *Poro* “devil.” One LNP officer admitted to HRPS monitors that he hesitated to get involved in the case for fear of physical and spiritual reprisals, and a county attorney told HRPS monitors that the *Poro* “devil” was a spirit and therefore could not be arrested.
95. It should be recalled that under the Hinterland Regulations, traditional authorities are prohibited from trying or adjudicating serious crimes. Their usurpation of the powers and functions of the police and courts therefore raises serious human rights concerns. More fundamentally, the authorities’ failure to investigate and/or prosecute crimes associated with such practices fosters impunity and notably violates the right to equality before the law, right to equal protection of the law, and access to justice and right to effective remedy.

#### 6.6.2. Rape

96. HRPS has documented two cases of gang rape allegedly perpetrated as a form of punishment on women accused of defying *Poro* rules. In April 2014, in Docubangoma, Tewor District, Grand Cape Mount County, a 38-year-old woman was reportedly gang raped by 13 *Poro* members in retaliation for her refusal to pay a fine imposed on her by the society. This case drew the attention of the President of Liberia and, through the intervention of senior officials from Monrovia, two suspects were arrested and formally charged. They are currently in detention awaiting trial. However, there has been no progress to date in bringing the 11 other suspects to justice. It was also reported that the leadership of the National Council of Chiefs and Elders wanted to take the case out of the formal justice system and handle the matter through traditional means. The county attorney refused to do so and transferred the case to the specialized court which has jurisdiction over cases of sexual and gender-based violence (Criminal

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<sup>116</sup> The *Poro* “devil” is a masked figure and is the spirit of the forest. The name “devil” was given to this figure by Christian missionaries, who viewed it as evil or dangerous. The “devil” is “simply powerful, and its power can be used to inflict punishments which are believed to be in the ultimate interest of the community of believers,” and is supposed to be “the guarantor of order.” ELLIS, *supra* note 5, at 220. The *Sande* also have their own “devils” with similar functions and characteristics.



Court E, in Monrovia) to avoid the bias of potential jurors loyal to the *Poro* society in Grand Cape Mount County.

97. The Government's response to the 2014 Grand Cape Mount case did not deter the *Poro* society from continuing to operate outside the law. In February 2015, in Gbola Village, Senjeh District, Bomi County, a woman was allegedly gang raped by *Poro* members as a "punishment" when they found her outside while their activities were ongoing.<sup>117</sup> Eleven men were accused of being involved in the rape, but only two were arrested. The survivor reportedly received threats of reprisal for taking the matter to court, and was placed under tremendous pressure to drop the case. She consequently did not pursue the matter in court and the two suspects were released from custody.
98. In November 2014, HRPS documented a case of rape reportedly used as a form of punishment against two women accused of practicing witchcraft in Wlegboken, River Gee County. Aged 63 and 67, the women were abducted by the "country devil"<sup>118</sup> and held in detention by traditional leaders. They "confessed" to possession of poisonous salt after being subjected to severe beatings and torture. Each woman reported having been raped twice. They also reported that their possessions and livestock had been looted by traditional leaders. Five suspects were initially arrested, including the paramount chief, but following local furor over their arrests, the county attorney requested that the case be moved to Grand Kru County to avoid security issues. The suspects have been released from prison on bail, although rape is a non-bailable offense under the Penal Law.

#### 6.6.3. Torture

99. HRPS documented a case in which *Poro* society members committed an act that may amount to torture, on individuals who supposedly violated *Poro* rules. In May 2015, in Barnplay, Nimba County, five members of the *Poro* society were charged with aggravated assault for torturing two men who were unable to pay a "fine" of \$85,995 Liberian Dollars (LD) (about 1,000 USD) and 10 live goats. The case had been proceeding through the formal justice system at the magistrates' court when a high-level *zoe* sent by MIA intervened to "resolve" the case through traditional means. The victims were reportedly pressured to drop the criminal case following threats that they would face "serious consequences." In this case, Government actors, through MIA, interfered with the judiciary and contributed to an act of torture due to the perceived "cultural" dimensions of the case.
100. In a case reported in May 2015, in Taar Town, Klay District, Bomi County, a *Poro zoe* allegedly ordered the torture of a 23-year-old man with whom he had argued after trying to extract money from him. The *zoe* allegedly directed *Poro* members to restrain the man and drive a four-inch long nail through his leg as punishment for his supposed demonstration of disrespect to the *zoe*. When the case was brought to the attention of the police, they reportedly claimed that they could not intervene. Following a meeting with HRPS, the district commissioner and county superintendent expressed their intention to investigate the case. Though they have no clear legal mandate to do this, as MIA's employees, they may investigate the case by virtue of MIA's broad

<sup>117</sup> Women and non-members are supposed to remain indoors when *Poro* activities are ongoing.

<sup>118</sup> The "country devil" has a role very similar to that of the *Poro* "devil." Each ethnic group and/or region is said to have its own variation of such "devils."



mandate to administer “cultural” affairs under the Executive Law. However, at the time of publication of this report, no investigation had been conducted.

#### **6.6.4. Restrictions on freedom of religion and freedom of movement**

101. HRPS received four reports of harassment and intimidation by *Poro* society members and other traditional actors that may amount to human rights violations in the absence of Government intervention. In some instances, these actors restricted the free exercise of religion and/or freedom of movement. For instance, in March 2014, HRPS received a report in Kabada, Sinoe County, that a “country devil” had allegedly disrupted a community meeting to locate a man who had reportedly offended him by converting to Islam. A group of approximately 50 community members were detained by the “country devil” for around three hours. The man who had allegedly offended the “country devil” was released following the intervention of the district commissioner and traditional leaders, but only on the condition that he pay a fine of two live goats and 1,000 LD. In another case in January 2014, a “country devil” disrupted a prayer service at the Zion Praise Baptist Church in Bentol City, Montserrado County, forcing members to flee.
102. In February 2013, in Grand Cape Mount County, the paramount chief of Porkpa District reported that *Poro* society members in Jenewonde town, Tewor District, had blocked the road leading to Porkpa District, restricting the free movement of people. This was allegedly done in retribution in relation to a land dispute. Member of the *Poro* society did not deny this allegation when questioned by HRPS monitors.
103. In May 2013, HRPS was informed that *Poro* members in Gola Konneh District, Grand Cape Mount County, had allegedly imposed a dress code on women in the area, forbidding them from wearing trousers and forcing them to cover their heads. At the time, the *Poro* members also allegedly restricted the freedom of movement of women and non-members, preventing some farmers from accessing their farms.
104. These reports raise concerns that some traditional actors may be abusing their positions to harass and intimidate individuals, and to restrict the exercise of freedom of religion and freedom of movement. In all of these instances, the Government failed to intervene to protect the rights of victims or to hold the perpetrators accountable, thus allowing the latter to usurp the powers and functions of the authorities.

### **7. Efforts made by the Government of Liberia to address HTP**

105. Due in part to the advocacy efforts of HRPS, there is growing consensus among Government officials and traditional leaders that certain traditional practices are harmful and in need of reform. As noted, MIA has ceased issuing licenses to traditional practitioners<sup>119</sup> and issued guidelines in an attempt to curtail abusive practices, particularly forcible initiation. It has taken steps to raise awareness about the guidelines among traditional practitioners.<sup>120</sup> In discussions with HRPS, senior MIA officials have

<sup>119</sup> While this is a positive development, MIA has informed HRPS that some practitioners have retained their licenses and continue to use them in violation of the directive.

<sup>120</sup> For instance, in August 2013, the Assistant Minister of Customs and Culture conducted a training session in Tieni, Tewor District, Grand Cape Mount County, on the guidelines regulating the establishment and operation of traditional

acknowledged that practices such as forcible initiation, trial by ordeal, and accusations of witchcraft, *inter alia*, constitute human rights violations and therefore need to be addressed. However, due to the lack of proper enforcement mechanisms and monitoring capacity, the MIA guidelines remain largely unenforced.

106. During a December 2011 workshop organized by HRPS for *zoes*, traditional leaders and local authorities held in Grand Cape Mount County,<sup>121</sup> the chief *Sande zoe* and representatives of MIA urged participants to respect human rights in the exercise of cultural practices, and informed them that forcible initiation could lead to criminal charges.<sup>122</sup> Additionally, at its forum in July 2012, the National Council of Chiefs and Elders unanimously identified forcible initiation of children and of non-practicing adults as a significant problem and recommended that this practice be abolished. The forum also recommended that *Sande* activities should not be conducted during the normal school session.<sup>123</sup>
107. In 2013, the Advisory Council on Cultures, Traditions, and Customs was established under MIA and mandated to oversee reform efforts in the areas of culture, tradition and customs. The Minister of Internal Affairs has repeatedly indicated his intention to “modernize” cultural and traditional practices and bring them in line with Liberia’s international human rights obligations. However, no steps have been taken to translate this commitment into reality.
108. The draft Domestic Violence Act submitted to the Liberian Legislature in September 2015 could mark a significant turning point regarding harmful traditional practices. If adopted in its current form, it would criminalize FGM on children (under 18), as well as on adults if it is practiced without their consent. It would also penalize individuals who engage in “any controlling or abusive behavior towards a person, where the conduct harms, or may cause imminent harm to the safety, health or wellbeing of the person in a domestic relationship including harmful traditional practices such as being forced to join a secret society prohibited or not prohibited by the Government, or being subjected to certain forms of torture, prohibited ‘*sassywood*’ as defined in local Government rules and regulations, or other trial by ordeal.”<sup>124</sup>
109. The Government has accepted all of the recommendations on FGM and harmful practices made during its second cycle UPR, including those calling for the full criminalization of FGM. The draft Domestic Violence Act provides an incomplete criminalization of the practice and, if adopted as such, would need to be complemented with a comprehensive criminalization of FGM and other harmful traditional practices to meet Liberia’s human rights obligations including most recent and accepted UPR recommendations.

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societies. The chief *Poro zoe*, the district commissioner and the paramount chief of Gola Konneh, Grand Cape Mount County, were also invited to MIA to discuss concerns about forcible initiation in their area.

<sup>121</sup> The workshop was organized by HRPS and facilitated by the national chief *Sande zoe* and MIA. Workshops of this kind are very rare due to the secrecy surrounding cultural societies and practices. It was the last significant gathering of traditional authorities organized for the purpose of discussing harmful practices.

<sup>122</sup> Presumably, under the Penal Law, offenses of assault and kidnapping, among others, or possibly the Children’s Law (though, as noted, the latter contains substantial ambiguity with reference to cultural practices).

<sup>123</sup> REPORT OF THE SPECIAL FORUM FOR NATIONAL TRADITIONAL CHIEFS AND ELDERS, JULY 5-11, 2012, 14-16 (2012).

<sup>124</sup> Draft Domestic Violence Act of Liberia, 2014, Section 16(21)(i)-(m).

## 8. Activities and interventions of UNMIL on harmful traditional practices

110. During the period under review, HPRS has continually engaged in human rights monitoring in all 15 counties of Liberia. Because harmful traditional practices particularly affect women and children (boys and girls alike), and have a widespread and significant impact on human rights and the rule of law, they have been a priority for HRPS. HRPS has also collaborated with and provided technical support to MIA county inspectors to conduct sensitization activities on human rights in the counties targeting traditional actors, including *zoes*, practitioners, and local communities. HRPS has consistently brought human rights issues to the attention of MIA authorities in Monrovia and in the counties, and regularly met with MIA officials to report on cases from the field and encourage the authorities' intervention. HRPS has also continued to advocate for the harmonization of Liberian laws with international human rights instruments in general and with regard to harmful traditional practices.

111. UNMIL has provided support and training to justice and law enforcement officials on human rights, and to the Independent National Commission on Human Rights (INCHR) and civil society to strengthen their capacity in human rights monitoring, reporting and advocacy with regard to traditional and cultural practices.

## 9. Conclusion

112. The Government of Liberia has repeatedly expressed its support for the implementation of its human rights obligations and translating them into law and in practice. Indeed, Liberia has taken important steps towards the fulfillment of its human rights obligations since the end of the conflict. However, the continued prevalence of certain traditional and cultural practices that negatively impact human rights is of major concern. UNMIL therefore encourages the Government of Liberia and other key stakeholders to take more resolute and concrete steps to sensitize traditional actors, including traditional leaders, about the breaches of human rights law of some traditional and cultural practices; reform, repeal or harmonize relevant laws, particularly customary laws and the Hinterland Regulations, in accordance with international human rights law and standards; fully criminalize harmful traditional practices with adequate punishment; and establish and strengthen mechanisms for accountability. Such steps are critical for the compliance of international human rights obligations and to enhance the protection of human rights and strengthen the rule of law.

## 10. Recommendations

### To the Government:

#### *To the Government of Liberia in general:*

- Reform the Hinterland Regulations to harmonize them with Liberia's international human rights obligations without delay.



- Adopt legislation, including the draft Domestic Violence Act, to criminalize all forms of FGM, forcible initiation, harmful traditional practices related to accusations of witchcraft, and trial by ordeal.
- Ensure prompt, thorough and independent investigations into allegations of harmful traditional practices and ensure that perpetrators of human rights violations arising from harmful traditional practices, regardless of their status are brought to justice.
- Enhance the national protection system to prevent and respond to human rights violations arising from harmful traditional practices, and to protect and assist victims. This includes ensuring victims' access to justice, medical and psychosocial services, and, when necessary, relocation from their communities if there are protection concerns.
- Undertake comprehensive public information campaigns to raise awareness of the causes and consequences of harmful traditional practices, including through dialogue with relevant stakeholders. This might include debates, talk shows, documentary films, theatre plays and educational programmes.
- Harness the positive potential of culture considering, for example, ways of supporting or institutionalizing values and practices taught by societies such as the *Sande* and *Poro* that do not infringe on human rights, and collaborate with traditional actors to foster these aspects of culture.
- Adopt a human rights-based approach to changing social and cultural norms that nurture harmful traditional practices; empower women and girls; build the capacity of all relevant professionals who are in regular contact with victims, potential victims, and perpetrators of harmful traditional practices, at all levels.
- Enhance the national protection system to prevent and respond to human rights violations arising from harmful traditional practices including through the strengthening of the legal framework and access to justice. Such steps should ensure access to justice for women by removing social, economic, institutional and cultural barriers to women and girls accessing formal justice system.
- Seek technical assistance for the implementation of these recommendations.

***To the Ministry of Internal Affairs:***

- Pending the adoption of relevant legislation, issue a directive to all cultural societies informing them that forcible initiation is prohibited and that all crimes associated with cultural practices shall be investigated by LNP and prosecuted under the Penal Law. Such a directive should also clarify that it is the duty of community members to cooperate with law enforcement officials in the investigation of allegations.
- Reform the office of "cultural investigator" and institute a clear human rights based policy compelling MIA officials to transmit all investigation requests to LNP and the formal justice system. They should not work in a judicial capacity as the *de facto* appellate jurisdiction in cultural "trials."
- Enhance the capacity of county inspectors to supervise cultural activities, including any activities of secret societies involving forcible initiation, extortion, and/or physical or mental harm.
- Engage and sensitize traditional practitioners, district commissioners, employees of MIA and other actors, at the national, local and grassroots levels, concerning the harmful effects of FGM, trial by ordeal, and accusations of witchcraft.
- Provide training for alternative sources of livelihood for traditional practitioners to weaken the financial incentive behind such practices.
- Strengthen the department of culture so that it may work more closely with the Ministry of Justice, and develop mechanisms to enhance collaboration with the latter to hold perpetrators accountable under the Penal Law.

- Collaborate with the Ministry of Justice to conduct periodic training of cultural actors and MIA officials on the rule of law and human rights.

***To the Ministry of Justice:***

- Train law enforcement officials, district commissioners, county attorneys, magistrates and other officials to investigate, prosecute and adjudicate all cases of human rights violations and criminal offences arising from harmful traditional practices, irrespective of whether they involve traditional actors and other “cultural” dimensions.
- Develop mechanisms to enhance collaboration with MIA to hold perpetrators accountable under the Penal Law.
- Collaborate with MIA to train its officials and cultural actors on the rule of law and human rights.

***To the Ministry of Gender, Children, and Social Protection:***

- Collaborate with MIA to engage and sensitize traditional practitioners, district commissioners, and other actors, at the national, local and grassroots levels, on the harmful effects of FGM, trial by ordeal and accusations of witchcraft.
- Cooperate with MIA to provide training for alternative sources of livelihood for traditional practitioners, in particular, *Sande zoes*, to empower them and weaken the financial incentive behind traditional practices.
- Oversee protection services for victims and potential victims of harmful traditional practices, including relocating them from their immediate communities if there are protection concerns.
- Ensure that women and adolescent girls have access to accurate information about sexual and reproductive health and rights, and on the impact of FGM on their health, and benefit from adequate and confidential sexual and reproductive health services.

***To the Ministry of Information, Cultural Affairs, and Tourism:***

- Collaborate with other ministries to undertake comprehensive public information and awareness raising campaigns to challenge socio-cultural norms and attitudes that underlie harmful traditional practices and sex and gender based discrimination.
- Strengthen the Ministry’s cultural affairs section to support and promote Liberian culture and traditions that do not violate human rights, and create opportunities for children to participate in these positive aspects of culture, as mandated by the Children’s Law.

**To national institutions:**

***To the Independent National Commission on Human Rights:***

- Maintain the human rights implications of harmful traditional practices as a priority in its strategies, and integrate into its public reports cases of human rights violations arising from harmful traditional practices.
- Where relevant, lead national efforts to advocate for the reform of the Hinterland Regulations and other pertinent laws with relevant Government actors. Cooperate with the Government and civil society to draft legislation criminalizing FGM, trial by ordeal, harmful acts in addressing allegations of witchcraft, and other harmful traditional practices.
- Collaborate with the Government and civil society to conduct sensitization and public awareness on the harmful effects of certain traditional practices, and to improve and

clarify the understanding of human rights among traditional leaders and practitioners and local communities.

***To the Law Reform Commission:***

- Assist the Government in proposing reforms of the Hinterland Regulations and other laws that are not in compliance with human rights standards in relation to traditional and cultural practices, if needed with technical assistance from international organizations

**To non-governmental partners:**

***To civil society:***

- Include the human rights implications of harmful traditional practices in their strategies and regularly monitor human rights violations related to harmful traditional practices in their public reports.
- Collaborate with the Independent National Commission on Human Rights to advocate for the reform of legislation, including the Hinterland Regulations.
- Engage with the Government and the Independent National Commission on Human Rights to develop and conduct sensitization and public awareness on the harmful effects of certain traditional practices.
- Contribute to the improvement and clarification of the understanding of human rights among traditional leaders and practitioners and local communities.

***To the United Nations and other international partners:***

- Continue to provide technical support to the Government, the Independent National Commission on Human Rights and civil society to support initiatives aimed at addressing human rights issues pertaining to harmful traditional and cultural practices; and support them in networking with international human rights monitoring mechanisms for appropriate assistance.
- Ensure that any efforts undertaken to address harmful traditional practices are founded on a human rights based approach, with the active participation of all relevant stakeholders, especially women, children, and persons with disabilities.
- Use good offices and advocacy to remind the Government of Liberia of its international human rights commitments, including through UPR, Special Procedures, and United Nations treaty body mechanisms.