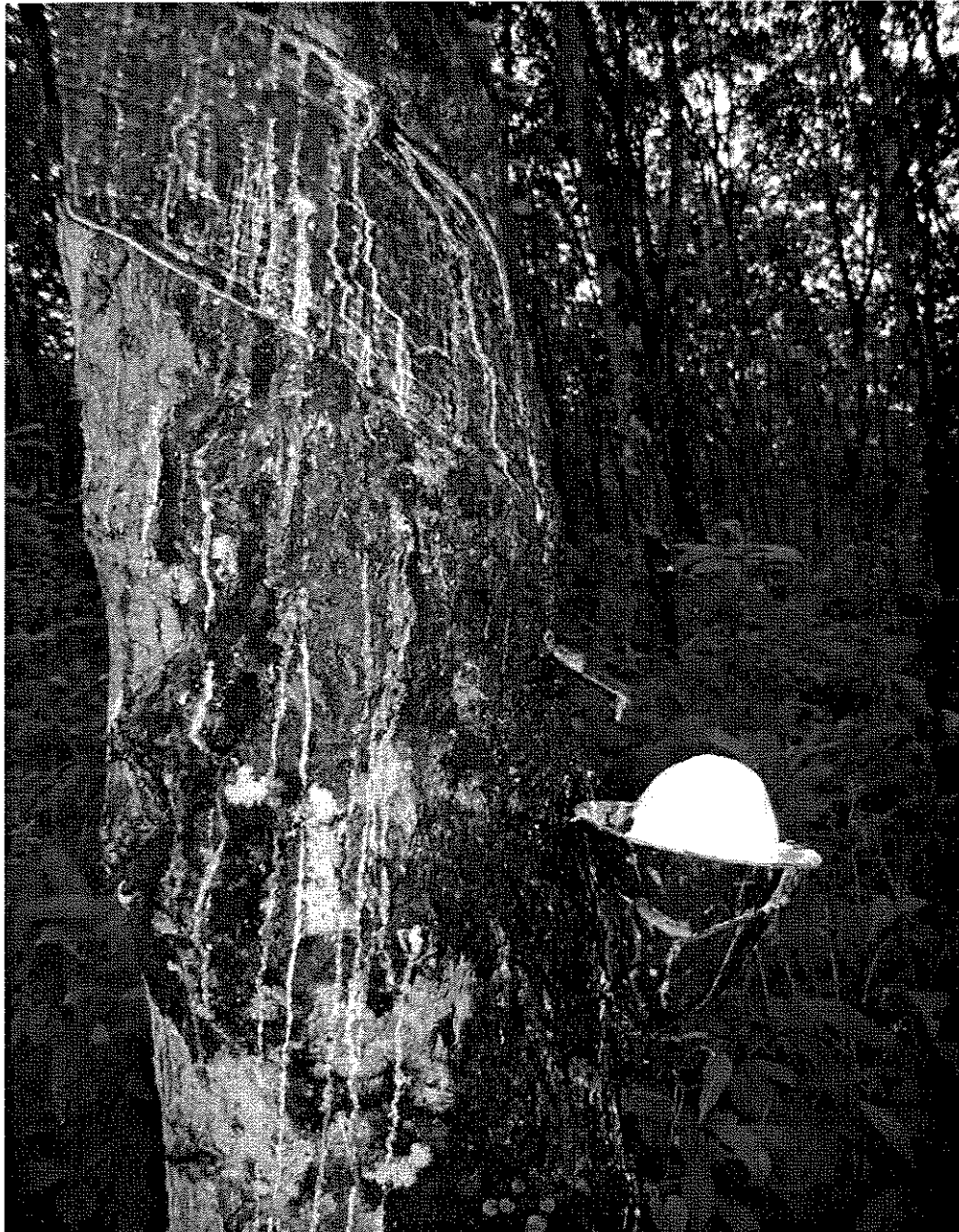


Human Rights in Liberia's Rubber Plantations: Tapping into the Future



May 2006

UNMIL HQ, Tubman Boulevard, Sinkor, Monrovia, Liberia

“Business groups, trades unions and other non-governmental organisations (NGOs) can often speak for a community, especially where individuals can find it difficult to make their voice heard or are unwilling to speak out.”

“Support should be provided, including by their counterparts outside Africa, to develop their human resources and institutional capacity. 66 Trades unions in Africa have a particularly important role to play in both helping those in work and seeking work to access their rights and in creating a thriving civil society in which citizens are able to take part in decisions about economic life. People in Africa aspire to decent jobs in the same way as do people everywhere, with fair rates of pay and good health and safety. Core labour standards can help to achieve this.”

“Clearly, the responsibility for managing resources lies with the state. But the international community also has a role to play in maintaining high standards of governance. If it does so in its own activities – and demands it in the activities of private sector agents, like the multinational companies active in developing countries – then it will be better positioned to encourage similar high standards in the way African countries manage the cash from their natural resources.”

“Developed country governments, company shareholders and consumers should pressure on companies to be more transparent in their activities in developing countries, and to adhere to international codes and standards for behaviour.”

Our Common Interest, Report of the Commission for Africa, March 2005

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Acronyms

ACHPR	African Charter on Human and Peoples' Rights
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
AU	African Union
CAC	Coalition against Corruption
CAT	Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
[REDACTED]	[REDACTED]
CEDAW	International Convention on the Elimination of All Forms of Discrimination against Women
CESCR	Committee on Economic, Social and Cultural Rights
CID	Criminal Investigation Division
CMC	Contract and Monopolies Commission
CPA	Comprehensive Peace Agreement
CRC	Convention on the Rights of the Child
DDRR	Disarmament, Demobilization, Rehabilitation and Reintegration
ECOWAS	Economic Community of West African States
ENRA	UNMIL Environment and Natural Resources Advisor
[REDACTED]	[REDACTED]
GOL	Government of Liberia
[REDACTED]	[REDACTED]
HRO	UNMIL Human Rights Officer
HRPS	UNMIL Human Rights and Protection Section
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labor Organization
IPPPP	Interim Public Procurement Policy and Procedure
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
LNP	Liberian National Police
LURD	Liberians United for Reconciliation and Democracy
MODEL	Movement for Democracy in Liberia
MoU	Memorandum of Understanding
NGO	Non-Governmental Organisation
NTGL	National Transitional Government of Liberia
NTLA	National Transitional Legislative Assembly
OHCHR	Office of the High Commissioner for Human Rights
OP	Optional Protocol
PPD	Plant Protection Department
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNMIL	United Nations Mission in Liberia
UNPOL	United Nations Police

Preface

According to the United Nations (UN) Security Council Resolution 1509 of 2003, the United Nations Mission in Liberia (UNMIL) is given a mandate, among other things, “to contribute towards international efforts to protect and promote human rights in Liberia, with particular attention to vulnerable groups including refugees, returning refugees and internally displaced persons, women, children, and demobilized child soldiers, within UNMIL’s capabilities and under acceptable security conditions, in close cooperation with other United Nations agencies, related organizations, governmental organizations, and non-governmental organizations”.

With this in mind, the UNMIL Human Rights and Protection Section (HRPS) conducted a study of the human rights situation in Liberia’s rubber plantations. This report contains the findings that were made as a result of the study. The report is being published by UNMIL in circumstances which offer an unprecedented opportunity to undertake serious reform in areas requiring immediate, mid-term and long-term attention. First, in recent months, conditions on the rubber plantations in Liberia have been the subject of intense international and national scrutiny, particularly in the media. Second, since the launch of the UN Secretary-General’s Global Compact in July 2000, more companies are becoming aware of their human rights responsibilities in conducting their operations and activities, with increasing commercial and moral pressure to do so in order to remain competitive. Third, and perhaps most importantly, with the inauguration of the new Government in Liberia on 16 January, 2006 comes a significant moment in Liberia’s history to address human rights concerns in a stable environment, with renewed political will and expectation of reform.

Plantations: A Priority for UNMIL and Human Rights

In the context of Liberia’s post-conflict rehabilitation, the situation in the rubber plantations presented significant security, political, economic and human rights challenges for the Government which have not yet been resolved. These challenges are summarised below:

Concession agreements concluded with the Government, even as recently as 2005, impose very limited or only vague obligations on corporations to protect the human rights of workers. Obligations that are provided for under national law were not monitored by the NTGL. NTLA involvement in the placement of interim management on some of the plantations exceeded its authority and influenced the management of Liberia’s natural resources.

Many workers lack effective trade union representation. Living and working conditions on the plantations violate fundamental human rights standards. The situation is particular poor in relation to child; child labour is indirectly encouraged by work practices and lack of access to education. Health care facilities are scarce and poorly equipped. Living conditions, hazardous working conditions and the impact of industry upon the local environment exacerbate health concerns.

There is a marked disparity between private security officers and the LNP, which undermines the rule of law. There is a recurring problem on the plantations concerning illegal detention and arrest by private security officers. Guidelines issued by the Ministry of Justice fail to define the limitations on the authority of private security firms.

In those plantations where legitimate management has not been able to commence operations because of the continued presence of ex-combatants, the lack of vital roads makes access through the plantations, and therefore monitoring of the human rights situation, very difficult. The forest canopy is impenetrable, rendering air surveillance impracticable. There are persistent reports of weapons caches. Many of the inhabitants living in the concession areas are former employees of management companies in place before the invasion of the plantations by fighters. The revenue derived from the rubber is not subjected to taxation, and no licence is obtained for the business to be conducted. Workers live in quasi-slave conditions where the employee has no power to bargain for reasonable terms and conditions.

Given these factors, it is hoped that this report will assist the new Government to adopt legislative reform and a national plan of action to ensure that all agro-business plantations are managed in conformity with human rights standards and good business practices. There has never been a better time to transform all rubber plantations in Liberia into a “success story” – that is, models of good management and gainful employment, where the wealth generated from Liberia’s natural rubber resources is utilised to make acceptable living and working conditions on the plantations a reality.

HRPS wishes to thank the National Transitional Government of Liberia (NTGL) for its assistance in providing information used to compile this study. HRPS is also grateful to colleagues working in other units within UNMIL, UN organisations in Liberia, as well as those Liberian non-governmental organisations (NGOs) which assisted HRPS’ research, for the invaluable advice and support given in the production of this report.

Executive Summary

The management and use of natural resources in Liberia has been and continues to be a pressing problem, especially when viewed from a human rights perspective. This is particularly evident in Liberia's rubber plantations where individuals and communities living and working on the plantations not only suffer violations of their human rights in the course of producing rubber, but the profit generated from the sale of rubber is not redistributed to improve conditions on the plantations. This has affected every aspect of the lives of Liberians on the plantations: ranging from the denial of workers' rights; child labour; the failure to protect the human rights of communities; the negative effect of rubber production on the environment; absence of the rule of law on the plantations; and corruption in business practices and management.

The UNMIL Human Rights and Protection Section (HRPS) has produced this report in order to highlight these problems as part of a nationwide survey of human rights violations in the agricultural sector, which was referred to by the UN Secretary-General in his Eighth Progress Report to the Security Council on UNMIL in September 2005. The HRPS report also deals with aspects of extreme poverty, which has been a primary focus for the international community in the Millennium Development Goals drawn from the UN Millennium Declaration.

The aim of this report is to review the international human rights norms, as well as Liberian legislation, which are relevant to the rubber plantations to assess the compliance of the State and plantation management with those international and national legal obligations. In this regard, the key findings made in this report are:

- Concession agreements concluded with the Government of Liberia (GOL) impose very limited and vague obligations on plantation management to protect the human rights of individuals and communities living and working on the rubber plantations;
- There is a marked disparity between private security officers employed by the plantations and the Liberian National Police (LNP), which undermines the rule of law. A recurring problem on the plantations is the illegal detentions and arrests by private security officers without the knowledge of the LNP;
- National Transitional Legislative Assembly (NTLA) involvement in the placement of interim management on some of the plantations has exceeded its authority and impacted negatively on Liberia's enjoyment of this resource;
- Plantation workers are exposed to hazardous working conditions without adequate training or safety equipment.
- Many workers are not represented by trade unions, they do not receive fair wages or equal remuneration, and do not have the right to strike;
- Child labour is frequently used on the plantations. Also many children are not registered at birth by plantation health facilities and cannot thus benefit from free education and health care;

- Plantations that provide health care facilities do not provide services to all employees, or the facilities are not adequately equipped. Deplorable living conditions and poor sanitation often lead to dire health conditions; and
- Successive Governments, including the National Transitional Government of Liberia and plantation management have disregarded environmental protection laws and potentially dangerous agricultural waste products have been discharged into local communities.

These findings are the basis of recommendations made in this report to assist the Government, plantation management, civil society and international organisations to address human rights violations on the rubber plantations. The recommendations include practical steps for immediate implementation, which can be periodically monitored to ensure that progress is being made. The key recommendations addressed to the Government for immediate action include:

- The Government should ratify all international and regional human rights treaties, as well as International Labour Organization (ILO) Conventions, which are relevant to the human rights situation on Liberia's rubber plantations (these treaties and conventions are listed on page 13 and Annex II).
- The Ministry of Labour should ensure that trade unions, local leaders and traditional authorities and communities are invited to, and have every opportunity to participate in negotiations prior to the conclusion of new concession agreements.
- The Bureau of Concessions of the Ministry of Finance should clarify the existing draft guidelines on the awarding of concession agreements. These guidelines should be published widely and subjected to public scrutiny;
- The Ministry of Labour should undertake a nationwide investigation into occupational health and safety practices on the rubber plantations and should establish national regulations with minimum safety requirements.
- The Ministry of Labour should recommence the monitoring of child labour in the plantations, in coordination with the National Commission on Child Labour.
- The Environmental Protection Agency should, in collaboration with environmental Non-Governmental Organisations (NGOs), undertake an immediate assessment of the environmental impact of rubber production and processing and should establish national regulations with minimum environmental protections.
- The Ministry of Justice should review the operation of all private security firms working on the plantations to ensure that they fully comply with the Ministry's 'Guidelines to Organize and Operate Private Security Agencies'.
- The Government should enter into immediate negotiations with ex-combatants on [REDACTED] Rubber Plantations for their withdrawal from these plantations and their rehabilitation and reintegration into the community.

Methodology

This study concentrated on five of Liberia's seven major rubber plantations – [REDACTED] Rubber Plantations. Conditions in the five respective plantations investigated reflected the problems present in all the plantations in Liberia. The area which each of these plantations occupies in Liberia is found in the Map of Liberia below, and the background to each plantation is found in Annex I of this report. Several factors contributed to the selection of these five plantations. HRPS had received regular reports from its field staff about the serious nature of human rights violations occurring at these plantations. Other UNMIL sections reported the presence of ex-combatants on the plantations and the possible threat to peace and security. The plantations investigated were accessible to HRPS staff.

The project took place between 15 June, 2005 and 15 January, 2006. The principal field assessment of the human rights situation on the plantations was conducted between June and August 2005. Two members of the UNMIL HRPS staff carried out field research with the assistance of Human Rights Officers (HROs) in the respective counties.

After the initial investigations, a desk review was undertaken by a three-person team composed of two international staff members and a national officer who advised on Liberian law and those issues relating to traditional justice and other informal dispute resolution mechanisms. The team analysed international and national norms, concession and management agreements, and other literature pertaining to the rubber plantations to assess gaps in protection of those living on the plantations.

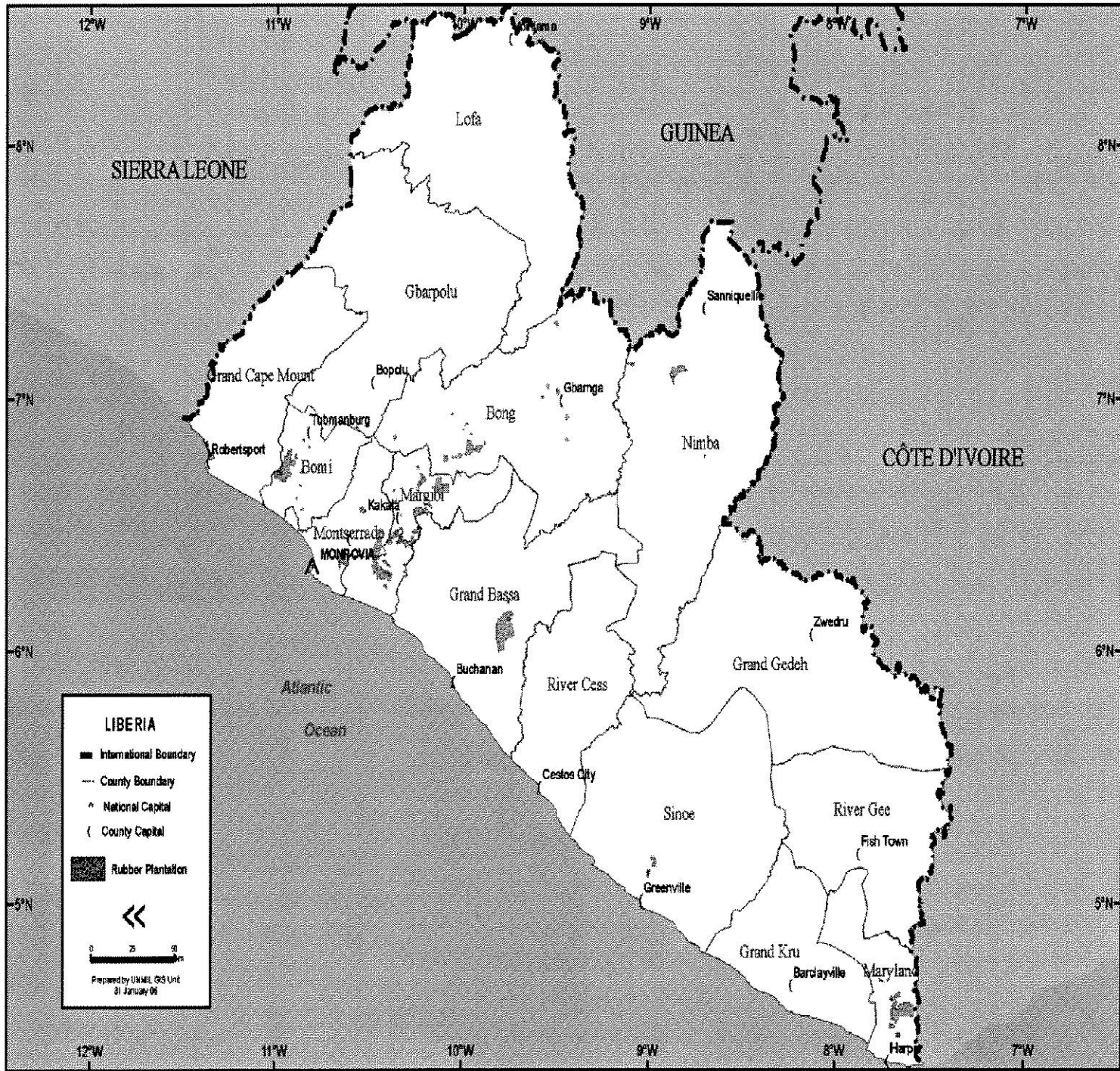
HRPS continued to systematically monitor developments affecting this study through its presence in Liberia's counties and through internal consultations within UNMIL, as well as by verifying the data contained in this report against information currently being produced by members of civil society and other partners working to improve the enjoyment of human rights on the plantations. HRPS has conducted follow-up visits to the plantations and interviews with relevant stakeholders.

HRPS also met with several government officials whose responsibilities included or related to the operation of Liberia's rubber plantations during the period of the National Transitional Government of Liberia (NTGL). These included the Ministers of Agriculture and Labour. The meetings gave the Ministers the opportunity to discuss human rights issues on the plantations, and allowed HRPS to ascertain whether the Ministers had the opportunity to review agreements and documentation pertaining to the plantations. The Ministers provided their insights into the human rights concerns on the rubber plantations, including on child labour and collective bargaining, as well as the current status of concession and management agreements for the plantations discussed in this report. The former Minister of Agriculture provided HRPS with copies of all of the concession and management agreements relating to the plantations under review.

The draft of the report was shared with the newly elected Government (Ministers of Agriculture and Labour), as well as with the relevant UNMIL sections, UN Country Team and the office of the Deputy Special Representative of the Secretary General for the Rule of Law and Operations.

HRPS encountered several limitations in producing this report. Many relevant records, such as birth registrations, pension benefits, and statistics related to the plantations under review are no longer available as they were destroyed during Liberia's 14 year civil conflict. Poor roads and infrastructure in Liberia also made it difficult to easily access the plantations.

Map of Liberia and the five plantations investigated in this report



I. Human Rights: “A business for all”

Ensuring that business practices at the domestic level are respectful of human rights is primarily a matter of State action and compliance by business enterprises. This is an automatic reflection of the Government’s obligation of ensuring that the rights of individuals and groups of individuals are respected against violations by third parties, e.g. multinational corporations or other non-state actors.

Legal Framework: Liberia’s International Obligations Relevant to Business

States are bound by customary international law and international treaties, which include the obligation to ensure that the human rights of individuals and groups of individuals are respected and protected against abuses by third parties, such as corporations or other non-state actors. Like many countries that have experienced prolonged periods of conflict and extreme poverty, Liberia also possesses rich natural resources which have been used to generate profit at the expense of a low-cost workforce whose rights are protected by minimal national labour and environmental regulations.

Although the nature and scope of companies’ human rights responsibilities is still developing, it is generally accepted that the State and the business enterprise have a mutual responsibility to respect and protect human rights.¹ Companies are also expected to comply with the Constitution and legislation of the country in which they are conducting their operations and with the contractual terms agreed with the Government. This duty remains valid even when the State is unwilling or unable to ensure compliance.² As Amnesty International has noted, “[Companies] have a broad responsibility, embodied in the expectations of civilised society and in international protocols, to use their influence to mitigate the violation of human rights. This applies whether these violations are committed by governments, by the forces of law and order, or by opposition groups in the countries where companies have a presence.”³

a. Customary International Law

According to Article 38(1)(b) of the Statute of the International Court of Justice, one of the principal sources of international law is to be found in “international custom, as evidence of a general practice accepted as law”. This means that where there is a consistent practice of States, for example to uphold a particular human right, supported by the general belief by States that the practice is required by law, that human right (and the practice of upholding it) is regarded as part of the large body of customary international law.

¹ See *Beyond Voluntarism: Human Rights and the Developing International Legal Obligations of Companies*, International Council on Human Rights Policy, 2002, p. 11.

² “We must also move towards embracing and acting on the “responsibility to protect” potential and actual victims of massive atrocities. The time has come for Governments to be held to account, both to their citizens and to each other, for respect of the dignity of the individual, to which they too often pay only lip service. (...) It would be a mistake to treat human rights as though there were a trade-off to be made between human rights and such goals as security or development.” Report of the UN Secretary-General, In Larger Freedom: Towards Development, Security and Human Rights for All, UN Doc. A/59/2005 (2005).

³ See *The UN Human Rights Norms for Business: Towards Legal Accountability*, Amnesty International, AI Index: IOR 42/002/2004, 2004.

A notable example of a group of human rights which are widely regarded as part of customary international law, are the human rights stated in the Universal Declaration of Human Rights (UDHR). Many of these human rights are pertinent to the situation on Liberia's rubber plantations, such as the right to just and favourable conditions of work; the right to an adequate standard of living; and the right to education. Liberia is, therefore, obliged to uphold these rights given their status as customary international law. Additionally, as will be seen below, many of the same human rights obligations are also enshrined in the international and regional human rights treaties to which Liberia is a State Party.

Liberia was a member of the League of Nations and consequently a founding member of the United Nations. On 10 December 1948, it was amongst the 48 Member States – at the time the General Assembly counted 58 States only - that approved the adoption of the UDHR. The UDHR is a universally recognised instrument to address the rights of the individual, either alone or in a community.

b. International Human Rights Instruments

Liberia is a State Party to six of the seven United Nations core human rights treaties. The country ratified the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC). It also acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and its Optional Protocol.⁴

These treaties represent a range of internationally recognised human rights, which are at the foundation of a life in dignity for all human beings and a greater protection for vulnerable groups.⁵ The act of ratification (or accession) entails that Liberia voluntarily committed itself to respect, fulfil and protect all the provisions contained in the above-mentioned texts. Each treaty is monitored by a specific expert monitoring body (“treaty body”) that is convened to examine the mandatory reports of the State Party to the convention. Like all States Parties, Liberia is expected to submit an initial report one year after the treaty's entry into force and subsequent periodic reports every four to five years depending on the treaty for each of the treaties it has ratified. State's reports are expected to objectively identify successes and challenges experienced in the implementation of the treaty's provisions. In practice, this procedure is not always followed. In the case of Liberia, reporting deadlines have not been met. While the chronic state of war that characterised the last fifteen years has to be taken into account, the new Government will need to make greater commitment towards the fulfilment of its international legal obligations. Human rights groups and other civil organisations have the dual responsibility of advocacy to ensure that the Government fulfils

⁴ See Annex II. In this report all international legal instruments are referred to by their date of entry into force, unless otherwise specified.

⁵ Other “soft law” instruments such as the Guiding Principles on Internal Displacement do not create direct legal obligations on the part of the State but they must be considered as exhortative provisions intended to guide the State towards an effective protection of specific groups (the IDPs in this case).

its reporting obligations and preparing 'shadow' reports for consideration by the treaty bodies.⁶

As for the two Covenants, and the Convention against Torture and its Optional Protocol, the ratification (and accession) process by Liberia has been very recent (September 2004).⁷ The initial report on the ICCPR was due at the end of 2005, while the report for the CESCR is due by mid 2006.⁸ The importance of taking into account the provisions of the Covenants while dealing with good business practices is also confirmed by some recent authoritative source of interpretation of those treaties.⁹

Furthermore, in September 2004 Liberia signed a series of optional protocols and an additional Convention, thereby demonstrating its commitment in taking steps towards a wider protection of specific human rights and, very importantly, allowing the possibility of individual complaints ("communications") and inquiry procedures. The international community expects countries to fully adhere to all provisions contained in treaties which it has already ratified. Each country is also obliged to refrain from acts that defeat the objectives of any instrument which it has signed but not yet ratified.¹⁰ Even if not addressing specifically human rights, commitment to implementing the United Nations Convention on Corruption would also have an impact on addressing complicity in bad business practices. Liberia is also a member of the African Union and has ratified the African Charter of Human

⁶ See *supra* note 2. In the case of the CRC, for example, the initial report was delivered in May 2003. With regard to the examination of the State's report by the treaty body, "the Committee considered the initial report of Liberia (CRC/C/28/Add.21) at its 957th and 958th meetings (see CRC/C/SR.957-958), held on 25 May 2004, and adopted at the 971st meeting (CRC/C/SR.971), held on 4 June 2004, the following concluding observations.(...) The Committee is also concerned about the fact that a majority of children do not have access to adequate health services, the high level of malnutrition among children, the lack of access to safe drinking water and proper sanitation, and inadequate breastfeeding practices among women.(...) While welcoming the State party's ratification of ILO Conventions Nos. 138 and 182 in 2001, the Committee is concerned that many children below the legal age for employment work in the State party, mostly in family farms and in the informal sector, and that the work of these children is not monitored, although it is known that children are vulnerable to exploitation in employment.(...)

The Committee recommends that the State party:

- (a) Strengthen its efforts to prevent children under the legal age for employment from working;
- (b) Seek innovative strategies whereby children who have completed their primary education who choose to work can combine working with continued education;
- (c) Establish an inspection system in order to ensure that work performed by children is light work and not exploitative; (...) CRC/C/15/Add.236 (2004)

⁷ On 22 September 2004, the NTGL undertook 16 treaty actions, which includes 5 signatures, 8 accessions and 3 ratifications. On the nature of the States Parties' obligations see: CESCR General Comment 3 (1990) for the ICESCR and Human Rights Committee General Comment 31 (replacing General Comment 3) (2004) for the ICCPR.

⁸ Precisely no later than 22/12/2005 for the ICCPR and no later than 30/06/2006 for the CESCR.

⁹ See General Comment 14 on the right to health (UN Doc. E/C.12/2000/4), General Comment 12 on the right to adequate food (UN Doc. E/C.12/1999/5), and General Comment 15 on the right to water (UN Doc. E/C.12/2002/13) by the CESCR. The Committee states that the treaty applies directly to businesses in the area including, food, water and health.

¹⁰ See also § 74 of the recommendations in UN Doc E/CN.4/2005/119 Report of the Independent Expert on the Promotion and Protection of Human Rights in Liberia, [REDACTED] "There is need to establish a national law reform commission to, among other things, ensure that domestic laws are brought in line with international instruments to which Liberia is a party. The Government of Liberia should be assisted through the various line ministries to properly understand its obligations under international instruments that it had ratified. OHCHR could design and conduct training workshops on reporting procedures of CEDAW, CRC, ICCPR, and ICESCR. Assistance could also be provided on follow-up or implementation of the recommendations of treaty bodies."

and Peoples' Rights in 1982 and signed, but has not ratified, the African Charter of the Welfare of the Child in 1992.¹¹

Since 1930, Liberia has ratified twenty-four ILO instruments¹² and it is party to most of the fundamental ILO Conventions,¹³ which demonstrates an important commitment to the cause of workers and labour rights. In 1959, Liberia ratified the Plantations Convention (C110), but later denounced it in 1971.¹⁴ The country also did not ratify two fundamental ILO Conventions: the Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, 1953 (C100) and the Convention on Minimum Age for Admission to Employment, 1976 (C138).¹⁵ Although the Government has not ratified the Minimum Age Convention, Liberia is a State Party to the CRC which prohibits exploitative child labour and defines the child as anyone below 18 years of age.

The application of Conventions and Recommendations, which are legally binding obligations for the States, is supervised by the ILO Committee of Experts on the Application of Conventions and Recommendations and the Committee on the Application of Standards of the International Labour Conference. The ILO's supervisory mechanisms include two constitutional complaint procedures, as well as a special complaint procedure concerning freedom of association under the ILO Governing Body (Committee on Freedom of Association).

c. Global Trends in Business and Human Rights: Soft International Law

When dealing with business and human rights, most of the discussion centres on the level of responsibility shared between States and business enterprises. In the case of post-conflict situations, the circumstances are even more complicated due to inability or unwillingness of States to ensure compliance with human rights standards. A mutual 'complicity' between the State and business actors characterises the lack of transparency typical of practices in a nation emerging from conflict.

¹¹ Human rights protection was acknowledged in the Comprehensive Peace Agreement (CPA) as central to Liberia's post-conflict social, political and economic recovery. Part Six of the CPA binds parties to respect and guarantee fully the civil and political rights provided in the declarations and principles of human rights adopted by the UN, AU and the Economic Community of West African States (ECOWAS). This includes, in particular, the UDHR, the African Charter on Human and Peoples' Rights and provisions of the Liberian Constitution.

¹² Source: ILOLEX - March 2006. See <http://www.ilo.org/ilolex/english/newratframeE.htm>.

¹³ See Annex II.

¹⁴ Article 94 of the ILO Plantations Convention (C110) stipulates that denunciation is foreseen at the expiration of ten years after ratification. The Preamble of the Convention states: "Having considered the question of conditions of employment of plantation workers (...), and Having decided that, as an exceptional measure, in order to expedite the application to plantations of certain provisions of existing Conventions, pending the more general ratification of these Conventions and the application of their provisions to all persons within their scope, and to provide for the application to plantations of certain Conventions not at present applicable thereto, it is desirable to adopt an instrument for these purposes (...)". The ILO Plantations Convention has been ratified by twelve countries, two of which later denounced it – Liberia (22 January, 1971) and Brazil (28 August, 1970).

¹⁵ Liberia signed instead the C112 on Minimum Age (for Fishermen). Note that the Worst Forms of Child Labor Convention of 2000 (C182) in the Preamble considers "the need to adopt new instruments for the prohibition and elimination of the worst forms of child labour, as the main priority for national and international action, including international cooperation and assistance, to complement the Convention and the Recommendation concerning Minimum Age for Admission to Employment, 1976, which remain fundamental instruments on child labour (...)"

The State and the transnational corporation (or business enterprise), both have precise obligations in terms of respect and promotion of human rights:¹⁶

- 1) Companies are expected to comply with the national constitutions and national legislation of the country where they are performing (this includes also concession agreements between the State and the company). This 'duty' remains valid even if effective governance is absent due to a State's unwillingness or inability to ensure compliance with laws.
- 2) States are bound by international treaties and customary laws and this includes the obligation of ensuring the enjoyment of human rights by all citizens against third parties (including non-state actors, particularly corporations and business entities).
- 3) Finally, human rights initiatives towards business are characterized by their non-binding or voluntary nature. However, there is a growing international trend towards assigning greater human rights accountability to corporations.

Today, the importance of corporate responsibility enjoys unprecedented international consensus. The Report of the United Nations High Commissioner for Human Rights on the responsibilities of transnational corporations and related business enterprises sets out the scope and legal status of the existing human rights initiatives and standards.¹⁷ The Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights ('UN Norms for Business') have been adopted, together with a 'Commentary',¹⁸ by the UN Sub-Commission on the Promotion and Protection of Human Rights, and represent a minimum standard calling upon transnational corporations and other business enterprises to refrain from activities that directly or indirectly violate human rights, or benefit from human rights violations. The ILO Conventions and principles cited in the UN Norms for Business impose duties on States to ensure that businesses operating in their territory comply with these standards.

The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (adopted on 1977 and revised in 2001)¹⁹ refers specifically to workers' rights and provides guidance to multinational enterprises as well as to domestic business, Governments and workers' organisations on labour-related aspects of corporate social responsibility. This includes freedom of association and the right to organise, collective bargaining, equality of opportunity and treatment, security of employment, conditions of work, wages, safety and health working environments.²⁰ The Declaration is voluntary for business.

¹⁶ See *supra* note 2, p. 11.

¹⁷ See UN Doc. E/CN.4./2005/91. See also *Business Leaders Initiative on Human Rights: A Guide for Integrating Human Rights into Business Management*, a consultation draft produced by The Business Leaders Initiative on Human Rights, the UN Global Compact Office and OHCHR, available at <http://www.ohchr.org/english/issues/globalization/docs/draft-gihrbm-business.pdf>. The consultation draft offers practical guidance to companies in taking a proactive approach to human rights protection within their business operations.

¹⁸ See the *Commentary on the Norms of Responsibility of Transnational Corporations and Other Business Entities Enterprises with Regard to Human Rights* UN Doc. E/CN.4/Sub.2/2003/12/Rev.2 (2003).

¹⁹ See ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (C144), adopted November 1977.

²⁰ "Its interdependent aims are, on the one hand, to encourage the positive contribution that investment by multinational enterprises can make to economic and social progress and, on the other hand, to minimize and resolve the difficulties to which such investment may give rise. It is important to note that this Declaration was adopted on a tripartite basis and thus constitutes the only international instrument in this area that has the full support of governments, employers and workers." Information with regard to decision 2004/116 of the

The ILO Declaration on Fundamental Principles and Rights at Work, adopted by the International Labour Conference in 1998, invites all ILO Member States to respect, promote and realise the fundamental principles and rights at work, regardless of whether the State has ratified the underlying Conventions.²¹

The UN Global Compact is a “learning forum revolving around ten principles derived from key international instruments”. It is voluntary for business while the human rights principles it refers to are binding for States. The UN Global Compact challenges companies to embrace, support and enact, within their sphere of influence, a set of core values in the areas of human rights, labour standards, the environment, and anti-corruption.²²

In terms of corporate responsibility, two main duties, one ‘positive’ and one ‘negative’ are expected of business entities with regard to human rights protection:

- Businesses should support and respect the protection of internationally proclaimed human rights;
- Businesses should make sure they are not complicit in human rights abuses.

‘Support’ and ‘respect’ can be achieved through the observance of national and local laws and agreements (e.g. concession or management agreements) by companies performing in a specific territory and with the respect of international norms and principles recognised at the international level. Support could also be the result of voluntary adherence of companies to specific initiatives, codes of conduct, meetings and conferences.²³

Commission on Human Rights concerning the responsibilities of transnational corporations and related business enterprises with regard to human rights. Comments by ILO, ESC 1005-21-00, 2 August 2004

²¹This in effect creates an implicit moral obligation on countries to ensure that enterprises follow practices consistent with the obligation on countries to ensure that enterprises follow practices consistent with the Declaration, especially given the fact that the Declaration was supported by both employers’ and workers’ representatives in the International Labour Conference.

²² See *Embedding Human Rights in Business Practice*, UN Global Compact Office and UN OHCHR Joint Publication, New York 2004.

Human Rights

Principle 1) Businesses should support and respect the protection of internationally proclaimed human rights; and

Principle 2) make sure that they are not complicit in human rights abuses.

Labour Standards

Principle 3) Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;

Principle 4) the elimination of all forms of forced and compulsory labour;

Principle 5) the effective abolition of child labour; and

Principle 6) the elimination of discrimination in respect of employment and occupation.

Environment

Principle 7) Businesses should support a precautionary approach to environmental challenges;

Principle 8) undertake initiatives to promote greater environmental responsibility; and

Principle 9) encourage the development and diffusion of environmentally friendly technologies

Anti-Corruption

Principle 10) Businesses should work against all forms of corruption, including extortion and bribery.

²³ *Supra* note 17. The Report contains a list of the main international and regional initiatives going on at present.

Under national and international criminal laws, complicity in violations of law attracts criminal liability.²⁴ In States where the rule of law has broken down due to conflict, complicity may involve third party intermediaries between business and State.²⁵ For example, in Liberia, the presence of ex-combatants in some rubber plantations has led to human rights abuses and hinders implementation of responsible business practices. At the same time, the weak rule of law has prevented the Government from asserting its responsibilities for security and human rights protection on these plantations. In a world where interdependency does not only relate to business, but also to human rights, it is an alliance between the two that would enable business to widen its goals and include the needs and aspirations of the populations in the affected countries.²⁶

Finally, on 15 April 2005, the Commission on Human Rights requested the UN Secretary-General to appoint a special representative on the issue of human rights and transnational corporations and other business enterprises. The Special Representative was subsequently appointed in July 2005. According to the mandate, he or she should, among other things, “identify and clarify standards of corporate responsibility and accountability for transnational corporations and other business enterprises with regard to human rights.”²⁷

d. Liberian National Law

Liberia was founded in 1822 by freed slaves from the United States. Following independence in 1847, Liberia’s founding Constitution included institutions of parliamentary democracy and an adversarial legal system, vis-à-vis the indigenous population. However, from 1847 to 1986, when the old Constitution was abrogated and the new Constitution adopted, many Liberians were denied their rights to political participation, association, assembly, non-discrimination, and various other fundamental rights.

Chapter III (Articles 11-26) of the 1986 Constitution makes provision for fundamental rights, such as the right to equal protection before the law, freedom of expression, liberty and security, and equality. The doctrine of separation of powers (Article 3) and the structure and responsibilities of the various branches (Chapters V – VI) are also provided.

Throughout this report, references to rights stipulated in the Liberian Constitution have been cited along with detailed analysis of statutes adopted by the Legislature. The report also examines areas in which national law fails to meet international human rights standards. Specific statutes such as the Labour Law, Public Health Law, Education Law and the Penal Code have been analysed. The Labour Law provides for the workers’ rights, such as, the right to strike, form trade unions, prohibition of child labour, remuneration and benefits. The

²⁴ Interesting developments are occurring in the United States concerning corporate accountability. Legislation including The Alien Tort Claims Act makes companies accountable for their activities abroad. This includes the possibility that aggrieved individuals may file a legal claim with national courts in the State where the company is registered. On the other hand, this also raises issues regarding the extra-territoriality of the courts’ decisions which have clear repercussions for State sovereignty.

²⁵ Demobilised former combatants, hybrid elements between State individuals and non-State actors, currently represent a challenge in Liberian ‘business areas’ such as rubber plantations.

²⁶ For an analysis of the ways in which business can make a positive contribution to conflict prevention and resolution, see *The Business of Peace: Executive summary*, an initiative by International Alert, Council of Economic priorities and the Prince of Wales Business leaders forum, 1999; see also Bennet, Juliette, *Multinational Corporations, Social Responsibility and Conflict*, Journal of International Affairs, Spring 2002, Vol. 55, No. 2, New York.

²⁷ See UN Doc. E/CN.4/2005/L.87, 15 April, 2005.

Public Health Law provides for administration of hospitals and clinics, birth registration and, water and sanitation. The Education Law provides for the administration of education and provisions for free and compulsory education. Provisions of the Penal Code are relevant insofar as they are applicable to private security firms operating on the plantations.

II. Rubber plantations in Liberia: Background

Liberia has always had within its domain a potential economic source of natural wealth, (i.e. both mining and agriculture). Rubber was introduced into Liberia from South America in the early 1900s and at that time operated on a smaller scale. However, the industry has become important commercially at a much larger level.

Rubber is one of the main exports of Liberia. The first plantation was established in 1906. [REDACTED], the parent company of [REDACTED], owns the world's largest industrial rubber plantation which is located in Liberia. The plantation was established in 1926 in Harbel and covers an estimated 30 per cent of the total area under rubber cultivation. From 1997 to 2002, the IMF has reported that rubber exports have increased rapidly from 19,4 million USD to an estimated 57,4 million USD, despite falling international rubber prices during this period. Rubber production accounted for an estimated 99,569 tonnes in 2002.²⁸ Most of the rubber produced is exported and only limited rubber processing (in [REDACTED]) is undertaken in Liberia. However, the sector is reportedly on the verge of collapse as many of the plantations are coming to the end of their productive life and replanting has not been conducted.²⁹

a. Historical Background of Rubber Plantations

Five plantations were investigated in the preparation of this report, each with distinct characteristics. Below is a summary of the management information and location of each plantation. For further background information on each of the plantations, refer to Annex I.

-
- Headquarters – Harbel, Margibi County
 - The [REDACTED] plantation is the largest rubber plantation in Liberia. Although owned by [REDACTED] a Japanese company, [REDACTED] has its company headquarters in Nashville, Tennessee in the United States. The concession agreement between the Government and [REDACTED], was renewed in April 2005.
 - [REDACTED] plantation has a processing plant in which latex is produced for export overseas.

-
- Grand Bassa County
 - The [REDACTED] plantation is the second largest rubber plantation. The concession agreement between the Government and [REDACTED] was signed and enacted in 1959. In 1998, a Luxembourg company known as [REDACTED] bought the rights to [REDACTED]
 - [REDACTED] plantation also has a processing plant in which latex is produced for export.

-
- Headquarters - Gedetargbo, Maryland County

²⁸ See *Desk Study on the Environment in Liberia*, United Nations Environment Programme, Switzerland, February 2004, p. 33.

²⁹ *Ibid.*, p. 33.

- [REDACTED] is Government-owned. It was part of [REDACTED] plantation, but was partitioned off in 1981 by the Government. In 1926, a 99-year concession agreement was signed between the Government and [REDACTED] and in 1983 the plantation was acquired by a Belgian company, [REDACTED]. During the civil conflict, [REDACTED] was forcibly removed (*force majeure*) from the plantation by the rebel group, Movement for Democracy in Liberia (MODEL), and has yet to return. The plantation was managed by [REDACTED] pursuant to a management agreement with the [REDACTED] of 14 August, 2004. On 18 August 2005, the NTGL and [REDACTED] signed a MoU valid for three years. This agreement supersedes [REDACTED] management agreement and [REDACTED] commenced management of the plantation at the end of October 2005. [REDACTED] (the investor/manager) also has a separate agreement signed on October 2005 with [REDACTED] under which the latter is the exclusive buyer, supplier and assistant.

-
- Bomi and Grand Cape Mount Counties
 - [REDACTED] is a Government-owned plantation. In 1981, the Government contracted a Malaysian Company, [REDACTED] to manage the plantation. [REDACTED] managed the concession area until December 2000 when the former rebel group, Liberians United for Reconciliation and Democracy (LURD), forcibly removed the company. In March 2003, the Government signed a management agreement with [REDACTED]. [REDACTED] was unable to operate the plantation due to the [REDACTED] occupation. On 8 September 2005, the GOL signed a management agreement with [REDACTED] [REDACTED] valid for 45 years.

-
- Sinoe County
 - [REDACTED] has a concession agreement between [REDACTED] [REDACTED], a Liberian company, and the GOL which was signed in 1953. [REDACTED] also entered into a management agreement with [REDACTED] [REDACTED] which was terminated on 2 July, 2005. [REDACTED] has not been able to commence operations on the plantation because of former LURD combatants who occupy and illegally manage the concession area.

III. Post-Conflict Business Practices and Corruption

“Conflict is endemic to failed states, where violence becomes the predominant means to express grievances and to secure control over wealth and key economic goods.”³⁰

During the mandate of the NTGL, many reports from UNMIL, and other observers, have raised concern over the lack of transparency and accountability within the Government.³¹ This is important given the history of past misuse by Government officials of Liberia’s abundant natural resources including rubber, timber, gold and diamonds, to fuel armed conflict in Liberia and the sub-region. Since the signing of the CPA, two incidents involving political interference in the management of Liberia’s rubber resources have perpetuated civil instability on the plantations. The Legislative Caucuses of both Maryland and Sinoe Counties have gone beyond their powers provided in the Constitution or the CPA to ‘express interest’ in the management of Liberia’s economic resources. Members of the NTGL are alleged to have been involved in violent conflict and to have used natural resources, such as timber, rubber, gold, and diamonds, to fund their activities.

Rubber is an immense source of wealth for Liberia, as seen by the large operations in [REDACTED] and an additional 500 private farms. However, corruption by misdirects this wealth, undermining the rule of law and diverting resources that could be used to fulfil human rights obligations, such as schools, hospitals, etc. Corruption thus reinforces poverty, economic instability and inequality and has detrimental effects on national security. A human rights-based approach to management of natural resources, including transparency and accountability in business and governance, would narrow the oversight gaps that permit corruption to flourish.

Legal Framework

Several international conventions and initiatives exist to curtail corruption. These include the Organisation for Economic Co-operation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1999) (the ‘OECD Anti-Bribery Convention’); the UN Declaration against Corruption and Bribery in International Commercial Transactions (1997); and the UN Convention Against Corruption (2003). However, the persistence of the problem suggests that conventions alone do not curb the phenomenon and are not always efficiently enforced. As the African Commission noted:

“African governments, together with their development partners, should broaden their investigation of means to address corruption at all levels. This should include the use of coalitions for change and the involvement of non-state actors. The initial focus should be on tackling corruption in those sectors where it is most pervasive, such as in the lucrative natural resource sector... and in the area of procurement.”³²

³⁰ See *supra* note 26, Bennet, Juliette, p. 393.

³¹ Global Witness noted that the NTGL had a “small window of opportunity,...in which to use their positions to misappropriate revenue in the short term or to establish longer-term business interests to serve them out of office. See *Liberia: Back to the Future, What is the Future of Liberia’s Forests and its Effects on Regional Peace?*, Global Witness, Washington D.C., May 2004, p. 29.

³² See Report of the African Commission, *Our Common Interest*, March 2005, p. 149, available at <http://www.commissionforafrica.org/english/report/introduction.html#report>.

The Liberian constitutional protection against corruption is provided in Article 5(c), which states that the Republic shall “take steps, by appropriate legislation and executive orders, to eliminate sectionalism and tribalism, and such abuses of power as the misuse of government resources, nepotism and all other corrupt practices.” A campaign has been established by the Liberian Coalition against Corruption (CAC), to petition the NTLA to sign and ratify the UN Convention against Corruption. The campaign is part of a global strategy geared towards creating an atmosphere of transparency and accountability for the national resources of individual UN Member States. On 20 July 2005, the CAC presented a petition of 15,000 signatures to the NTLA. The campaign by CAC was successful, as Liberia acceded to the UN Convention against Corruption on 16 September, 2005.

a. Illegitimate Government Interference in Plantation Management

Corruption stems from the lack of a transparent and accountable governance system. It may result in Government’s loss of control and revenue, leading to institutional breakdown and conflict. Consequently, it is important that the private sector is brought into the global initiative against corruption in order to encourage good governance and conflict prevention.

As already noted the NTLA Legislative Caucus of Maryland County and Sinoe County have been involved in the placement of interim management at [REDACTED] and [REDACTED]. These actions were beyond the powers of the caucus members and contravened accountability and transparency norms in business and governance.

i. [REDACTED]

The Minister of Agriculture confirmed to the HROs that NTLA members had absolutely no authority to place interim management on either privately-owned or Government-owned plantations.³³ However, a letter from the then Chairman of the Sinoe Legislative Caucus, Mr. [REDACTED], on 21 July 2004 stated that:

“in an effort to prevent the outbreak of hostilities in the area of [REDACTED] [the Legislative Caucus] has taken the following decision. That all groups involved organize themselves under the leadership of [REDACTED], General Manager...The group will harvest the Rubber and same will be transported to Monrovia for sale to the [REDACTED] in Harbel, Margibi County. The proceeds of the sales will be paid directly to the Sinoe Legislative Caucus. Payments relating to the wages of workers as well as other expenses will be made from funds generated from the sales.”

During this period of interim management, profits from sales were not recorded and wages were not paid to plantation staff.³⁴

[REDACTED] holds the concession to [REDACTED] and at the time of the caucus’s interference, they had already contracted a company called

³³ Information obtained in an interview on 20 July, 2005. The Minister further stated that he believed that money was being paid to the Caucus members.

³⁴ In an interview with [REDACTED] on 6 July 2005, he claimed that the Caucus owed him 30,000 USD for rubber sent to Monrovia for which no payment was made. See Letter dated 21 July, 2004 from [REDACTED], Chairman, Sinoe Legislative Caucus to [REDACTED], Deputy Chief of Civil Affairs Section, UNMIL.

██████████ to manage the plantation. After communication from ██████████ to Mr. ██████████ concerning the illegal action taken by the Caucus in relation to the plantation, representatives of the Ministry of Agriculture and the Ministry of Justice visited the plantation on 2 January, 2005. The Ministries ordered the suspension of all operations. There is suggestion that the order was issued at the request of ██████████ or ██████████. It is clear that the Caucus had no constitutional power to place interim management on the plantation, nor to collect profits from harvesting rubber on a privately-owned plantation.

On 14 January 2005, the Ministries further communicated that ██████████ is the legitimate owner, and ██████████ the legitimate management, of the plantation. However, when ██████████ entered the plantation to start operations on 22 January 2005, violence erupted and the ex-combatants, under the control of ██████████, prevented ██████████ from starting operations. On 26 January 2005, the Sinoe Legislative Caucus wrote to the county authorities purporting to rescind the decision of the Ministry of Agriculture. The letter was delivered personally to county authorities by ██████████.³⁵ It is not clear on what legal basis the Caucus took this step.

██████████ still manages the plantation without any legal basis, despite the existence of a warrant for his arrest in relation to violent episodes on the plantation. Local authorities lack sufficient logistic support or facilities to detain high-risk prisoners such as ██████████. The limited operation of the Courts in Sinoe County to date also raises the likelihood that if he were arrested, the case would not proceed in accordance with the law and human rights standards, leading to impunity for these serious offences.

ii. ██████████

The Supreme Court ruled on some of the legal issues raised by the involvement of the Maryland Legislative Caucus relating to the placement of interim management in the ██████████. Following the award of the contract to ██████████, NTLA member ██████████ (of The Concerned Citizens of Maryland, Maryland Legislative Caucus, represented by ██████████) and ██████████ initiated proceedings in the Supreme Court to obtain a writ of prohibition to prevent ██████████ from managing the plantation. The writ of prohibition was granted on the basis of the alleged failure of the Minister of Agriculture to implement the recommendations of a bidding committee, which had declared ██████████ the top bidder for ██████████.

During this legal process, the Ministry of Agriculture and the Maryland Legislative Caucus, in a letter dated 6 December 2004, appointed ██████████ as interim manager “pending the official appointment from the Ministry of Agriculture”. Under ██████████ management, employees of the plantation were not paid wages for six months, and profits for the period of September 2004 to February 2005 were not accounted for by ██████████, the Legislative Caucus or the Ministry of Agriculture. However, the writ was lifted by the Supreme Court on 2 February, 2005 when it was found that ██████████ had illegally entered the bidding process after the bid was officially closed³⁶ and that the

³⁵ See Note to File, 6 February 2005 by the Civil Affairs Expert in Sinoe County.

³⁶ See official document of the Ministry of Agriculture naming three companies that had entered the bidding process before the committee. ██████████ is not included on the list. This information was verified in an interview on 20 July 2005 with the former Minister of Agriculture, ██████████.

Maryland Legislative Caucus had gone beyond its authority. This paved the way for [REDACTED] to recommence operations on the plantation.³⁷

The above events had a very negative impact on the plantation. Repeated failure to pay salaries and arrears to workers further destabilised the plantation workers' community and encouraged corruption. According to a [REDACTED] report:

“the period October and November [2005] recorded a huge liability to the [REDACTED] [REDACTED] as a result of inherited outstanding salary payments, low production and therefore income, theft of rubber, poor administrative supervision and workers strike due to the non-payment of their salaries for many months, lack of financial control system to check expenditures and a bloated wage bill due to a good number of ghost workers, significant salary increase for the farm management and over-staffing of the non productive sector are the main reasons for the poor state of affairs of the farm.”³⁸

According to the MoU of 18 August 2005, [REDACTED], the current manager, is a “domestic corporation engaged in (the) business of buying and selling rubber, managing farms/plantations” that “has expressed its desire to finance and manage the operations of the plantation satisfactorily and effectively”. The continuing negotiation of payment of salary arrears offers hope that the management of [REDACTED] has stabilised. However, the need to improve productivity is challenged by prevailing conditions and security must be improved in order to encourage legitimate and ethical investment.

³⁷ See Petition for a Writ of Prohibition, dated 2 February 2005 by the Judicial Branch of the Republic of Liberia (Supreme Court Associate Judge presiding in Chambers, Honorable John L. Greaves). See also Annex I to this report for background information on [REDACTED].

³⁸ See [REDACTED], *Report on the [REDACTED] October-November 2005*. Between 300 (unofficial source) and 20 (management team source) ‘ghost names’ had been added to the company’s payroll in the months prior to October 2005. The management team “should also investigate and make report available of those found to be involved in the malpractice. This instrument authorizes the Management to penalize those caught in the havoc with dismissal. Failure on the part of the Management Team to institute these measures, will compel the Ministry to take necessary administrative action(s) against the Management Team of [REDACTED]” See also Letter to the Manager of the [REDACTED], 3 October 2005.

IV. Concession and Management Agreements

This chapter examines rubber plantation concession and management agreements signed by the Government and the extent to which these agreements provide economic and social rights to plantation workers. A concession agreement is a contract between the Government and a corporation or individual for a lease of Government land. Concession agreements are long-term contracts and usually require considerable investment on the part of the concessionaire. A management agreement, on the other hand, is limited to management of the plantation and may be executed with either the Government or the concessionaire. These agreements are of limited duration and impose minimal investment obligations on the contracted management.

Legal and Institutional Framework

In light of the direct link between natural resources and human rights abuses during the civil conflict, the CPA established a Contract and Monopolies Commission (CMC) with the authority to ensure that all “public financial and budgetary commitments entered into by the NTGL are transparent, non-monopolistic and in accordance with the laws of Liberia and internationally accepted norms of commercial practice”.³⁹ On 3 May 2005 the CMC implemented the Interim Public Procurement Policy and Procedure (IPPPP) to monitor all contracts awarded by the NTGL, as well as all concession agreements.⁴⁰ The first task of the CMC and IPPPP was to create guidelines on the awarding of concessions which contain procedures to identify qualified bidders prior to the submission of bids. However, the draft guidelines do not disqualify bidders that are or have been complicit in human rights abuses.

Under a similar procedure, the Forest Concession Review Committee (FCRC), mandated by the Transitional Chairman ██████████ reviewed the legality and status of each forest concession because of timber’s role in the past conflict. The FCRC was mandated to undertake the following tasks:⁴¹

- A. Verify if concession holder is a bona fide legal business entity authorized to operate in Liberia
- B. Verify authenticity of the concession contract.
- C. Examine if the concessionaire acquired other legitimate concession(s).
- D. Examine UN Security Council Resolution violations (Arms trade, timber for arms, or aiding and abetting toward civil instability).
- E. Review concession contract for compliance with rule of law.
- F. Examine concessionaire compliance with community obligations under the concession contract (mainly accounting evidence of compliance with education and health obligations)
- G. Examine concessionaire compliance with financial obligations
- H. Examine concessionaire compliance with applicable labor laws (mainly payroll as per accounting books)

³⁹ See Part 8, Article. XVII of the Comprehensive Peace Agreement Between the Government of Liberia and the Liberians United for Reconciliation and Democracy (LURD) and the Movement for Democracy in Liberia (MODEL) and Political Parties, signed on 18 August 2003 in Accra, Ghana.

⁴⁰ See Executive Order No. 3 of the Transitional Chairman, ██████████ on 3 May, 2005.

⁴¹ See Forest Concession Review, Phase 3, Report of the Technical Secretariat Submitted to the Forest Concession Review Committee on 20 May 2005.

The adoption of a similar procedure to review the rubber plantation concession and management agreements could assist in ensuring compliance with international human rights treaties and national law.

The principal concern with concession agreements in Liberia is the date in which the concessions were signed and ratified.⁴² Many concession agreements are over 40 years old and fail to provide rights that are now obligatory on the part of the Government through signature and ratification of international human rights instruments, such as the ICESCR.⁴³ The former Minister of Agriculture complained to HROs that in drafting comprehensive concession agreements, the Government walks a fine line between being seen as anti-development on the one hand and on the other hand neglectful of citizens' rights if not enough pressure is placed on companies to protect human rights.⁴⁴ However, the difficulty in finding the right balance cannot be used to justify agreements that fail to protect fundamental human rights.

"States parties to the present Charter shall undertake to eliminate all forms of foreign economic exploitation particularly that practiced by international monopolies so as to enable their peoples to fully benefit from the advantages derived from their national resources."

Article 21 of the African Charter on Human and Peoples' Rights

Below two aspects of concession and management agreements are discussed.

a. Power of NTGL to Sign Concessions

Article 34(§§f, g) of the Liberian Constitution provides for the powers of the Legislature to approve treaties, conventions and other international agreements on the behalf of the Republic and to regulate trade and commerce between Liberia and other nations. However, the CPA stipulates that:

"the present Constitution of the Republic of Liberia, the Statutes and all other Liberian laws, which relate to the establishment, composition and powers of the Executive, the Legislature and Judicial branches of the Government, are hereby suspended."⁴⁵

It could be argued that the legal authority of the NTGL to sign concession agreements for terms longer than those provided in the CPA, goes beyond the powers provided to the Legislature in the CPA (*ultra vires*). The CPA specifies that any "relevant provisions of the Constitution, statutes and other laws of Liberia which are inconsistent with the provisions of this Agreement are also hereby suspended."⁴⁶ Therefore, if concession or management agreements ratified by the NTLA were inconsistent with the human rights provisions of the

⁴² [REDACTED] concession signed in 1926 and renewed on 11 April, 2005; [REDACTED] concession signed in 1959; [REDACTED] concession signed in 1953; [REDACTED] management and tax agreement signed in 1949; and [REDACTED] concession signed in 1959.

⁴³ Signed 22 September 2004 with entry into force on 22 December, 2004.

⁴⁴ Information obtained on 20 July 2005 in an interview with the former Minister of Agriculture.

⁴⁵ See Part Ten, Article XXXV Special Provisions § b.

⁴⁶ Ibid., § c.

CPA, the agreements are also arguably suspended (pending approval by the elected Legislature) or invalid. However, this argument was not tested in the courts.

b. Human Rights Embodied in Concession and Management Agreements

The ICESCR obliges governments to ensure compliance by third parties with human rights laws.⁴⁷ This entails that enforcement measures should be included in concession agreements in order to ensure compliance by management. Such measures should include clauses on monitoring and redress for non-compliance. However, such human rights protection is absent from the agreements and their implementation in the plantations investigated. A full review of all current concession agreements is required, together with the establishment of guidelines for further concession agreements, which clarify the human rights obligations owed by management to the State and to inhabitants of the plantation.

Below, each concession agreement is examined to determine the extent to which it provides for the protection and monitoring of human rights.

i. ██████████ Concession Agreement

The ██████████ concession agreement was renewed on 28 January, 2005 and ratified by the NTGL on 11 April, 2005. The preamble of the Act to ratify the Concession Agreement, states that ██████████ is committed to improving benefits of employees:

“such as housing units, electricity, health, such as the renovation and reactivation of ██████████ pipe borne water, the management and maintenance of ██████████ ██████████ with an additional high school constructed within the rehabilitation period, and minimizing the damaging effects to biodiversity by production chemicals;...”

It states further that ██████████ “[b]eing fully aware of the provision of international instruments such as the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child,...on account of the subject Agreement, respect the rights of the child under 18 years”. However, in mid-2005 ██████████ management informed HROs that they have not received information on international human rights instruments or how to meet their obligations to implement these standards.⁴⁸

Other obligations towards ██████████ that are to take immediate effect, concern the “environmental pollution of all rivers within its Concession area including the Farmington River.”⁴⁹ According to Section 15 (Environmental Measures), ██████████ must compile an environmental impact assessment report and its corresponding environmental management plan by 11 April, 2006 and submit it to the Environmental Protection Agency (EPA). Furthermore, ██████████ must then comply with the EPA’s recommendations on modifications

⁴⁷ See e.g., the CESCR’s General Comments 14 (§51) and 15 (§23) on the right to health and the right to water, respectively, under the ICESCR.

⁴⁸ Information obtained in an interview on 25 July, 2005 with the Public Relations Manager and Industrial Relations Manager of ██████████.

⁴⁹ See Section 4 of the Act to Ratify the Concession Agreement between the Government of Liberia and the ██████████ 11 April 2005. See also Chapter X on Human Rights and the Environment.

to be made and may be subject to civil or criminal penalties or to mandatory mitigation measures for a violation either of the Agreement or National Law.⁵⁰

Concerns are raised by Section 8 of the concession agreement which states that the “Plant Protection Force shall have the power of apprehension and detention.”⁵¹ This authority is not provided for in the ‘Guidelines to Organize and Operate Private Security Agencies’ issued by the Ministry of Justice. The powers provided in the guidelines refer *only* to temporary arrest and immediate hand over of all individuals to the nearest police authority.⁵²

The NTGL did not invite the [REDACTED] to participate in the negotiations concerning workers rights and community benefits when discussions for renewal of [REDACTED] concession agreement. Community engagement and the involvement of the trade unions are important to ensure that operations do not have a negative impact on the enjoyment of human rights.

Although not entirely satisfactory, some provisions in the [REDACTED] agreement do represent a significant step forward in establishing a human rights-based approach for doing business in Liberia. Unfortunately, the [REDACTED] agreement is the only one that includes any reference to the promotion and protection of human rights.

ii. [REDACTED] *Concession Agreement*

[REDACTED] concession agreement entered into force on 23 March 1959 and contains very weak obligations to provide social and economic rights to employees and communities living in the concession area. The agreement states that the [REDACTED] shall:

“install such safety devices and observe such adequate precautions as are provided and observed under comparable conditions and in similar regions for operations of a similar nature and size. It likewise shall take adequate measures for the protection of the health and safety of employees.”⁵³

This latter responsibility was to be considered met merely by the establishment of a dispensary with commonly used medicines.⁵⁴

iii. [REDACTED] *Memorandum of Understanding* ([REDACTED])

[REDACTED] is Government-owned, thus the NTGL was explicitly obliged to respect, protect and promote international human rights standards in the plantation. These include occupational health and safety, rights to health and education, the rights to fair wages and equal remuneration and adequate housing, observance of the rule of law, and accountability for all human rights in the concession area.

⁵⁰ Ibid., Section 15.

⁵¹ Ibid., Section 8 §8.2.

⁵² See §7 of the Ministry of Justice, Republic of Liberia, ‘Guidelines to Organize and Operate Private Security Agencies’, 15 April 2005 issued by the Director of Public Safety, Insp. Varmuyan S. Sherif. See also Chapter IX Rule of Law for further analysis on the use of private security firms on the plantations.

⁵³ See Article VI of the Concession Agreement between the Government of Liberia and the [REDACTED] of 23 March 1959.

⁵⁴ Ibid.

The management agreement with ██████ which entered into force on 14 August 2004, did not refer specifically to human rights standards. However, it did provide that ██████ “shall install and utilize such internationally-recognized modern safety precautions”. ██████ also provided free education and medical care for all employees, and, beyond the terms of the agreement, provided all residents of the concession area (the township of Gedetargbo) with free education and medical care. However, ██████ was a ‘caretaker’ for the plantation and not an investor, which meant that renovations and improvements to community infrastructure were minimal.⁵⁵

Finally, according to the MoU between the Government and ██████, which was signed on 18 August 2005, ██████ “shall pay all salary arrears of the employees for the months of December 2004, June and July 2005 and thereafter, salary/wages of the employees should be made current”. Moreover, ██████ “shall renovate the employees’ residence and public schools for the employees’ children and dependants and also rehabilitate the hospital/clinic to standards within one year from the date of the signing of this document to cater to the health needs of the employees and their immediate dependants”.

iv. ██████ *Management Agreement* (██████)

The management agreement between ██████ and the former Government entered into force on 14 March 2003, but ██████ was unable to commence operations on the plantation due to the continued occupation by ex-combatants. The agreement only specified that ██████ must manage the plantation in accordance with national laws.⁵⁶ No reference was made to economic or social benefits. The former Minister of Agriculture informed the HROs that ██████ is in breach of contract relating to required capital investment and that the NTGL had commenced the process of terminating the agreement.⁵⁷ As far as HRPS is aware, this matter is still being litigated.

According to a letter dated 27 November 2005 from the Director of Communication of the National Commission on Disarmament, Demobilisation, Rehabilitation and Reintegration (NCDDRR), on 8 September 2005, the NTGL signed a management agreement with ██████ which stipulates that ██████ “subsidizes the ‘Owner/GOL DDDR obligations to 529 former combatants occupying the plantation..., with the proviso that the aforementioned number of ex-combatants enrol in ██████ Agro Vocational Training program and successfully complete the Manager’s training program.” This clause was an attempt to promote the socio-economic development and reintegration of ex-combatants currently residing in the plantation. However, as of January 2006, ██████ had yet to enter the plantation and had reportedly already been subjected to an incident of violent intimidation by

⁵⁵ Information obtained in an interview on 28 June 2005 with the General Manager of ██████

⁵⁶ See Article II of the Management Contract between the Government of Liberia, Owner and ██████ Manager of 14 March 2003.

⁵⁷ Information obtained in an interview on 20 July 2005 with the Minister of Agriculture. See also the Management Contract between the Government of Liberia, Owner and ██████, Manager of 14 March 2003.

ex-combatants when an [REDACTED] vehicle with office materials was seized and an individual was assaulted.⁵⁸

v. [REDACTED] *Concession Agreement* ([REDACTED])
[REDACTED]

The concession agreement of 1953 between the Government and the [REDACTED] [REDACTED] is still in force. In 1973, [REDACTED] [REDACTED], which is owned by [REDACTED] purchased a majority of the shares of [REDACTED]. The agreement only refers to the right to compensation of workers upon the adoption of a national compensation law.⁵⁹ No other reference is made to economic or social benefits.

On 1 October 2001, [REDACTED] executed a five-year management agreement with [REDACTED], which is owned by [REDACTED] the National Patriotic Party presidential candidate in the 2005 elections and Minister of Agriculture during [REDACTED] regime. In March 2005, a MoU was negotiated between the Wedjah community, management and the NTGL following several incidents of violence on the plantation related to the failure to distribute sales of profits back to the community. The MoU included significant benefits for the community in the areas of education, health, workers' rights, and contributions towards development projects in the Wedjah District. However, the MoU was fatally weakened by the fact that it had been signed by the management, [REDACTED] and the Wedjah, without including the owner of the plantation, [REDACTED].⁶⁰ [REDACTED] could not enter the plantation due to the ex-combatant occupation and [REDACTED] subsequently terminated the agreement, effective 2 July, 2005. Following the termination of the management agreement, the MoU is also inoperative, resulting in denial of the anticipated benefits to the Wedjah community. Ex-LURD combatants currently occupy and illegally manage the plantation.

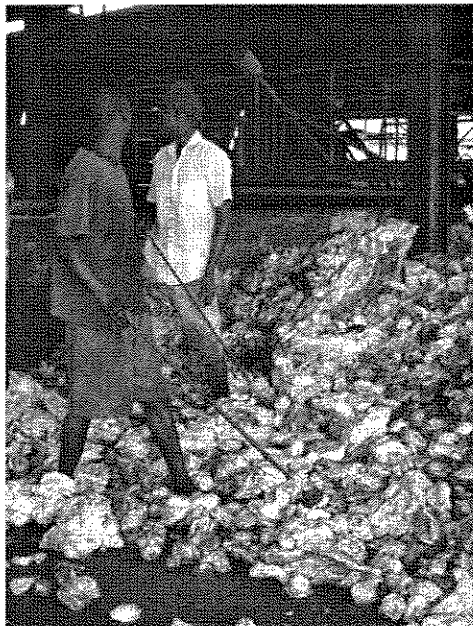
⁵⁸ Information obtained in an interview with the former Minister of Agriculture, [REDACTED], on 30 January 2006.

⁵⁹ The Labour Law as amended.

⁶⁰ See the Memorandum of Understanding of 31 March 2005 between the Citizens of Wedjah District and [REDACTED] a subsidiary of [REDACTED]

V. Workers' Rights

Corporations and managers of rubber plantations must ensure a safe and healthy working environment as provided in the relevant international human rights instruments and national legislation. However, it has been observed in every plantation that corporations and management do not meet international or national standards for the protection of workers from hazardous materials and do not ensure safety standards are in place in the production of rubber, from tapping to processing, to packaging and shipping. However, national law is lacking in the fundamental protection of many workers, especially agriculture workers and tappers on the plantations. Monitoring of requirements stipulated in national and international law by the Ministry of Labour is absent in many plantations.



Legal and Institutional Framework

One of the primary sources of workers' rights in international law is the ICESCR, ratified by Liberia in 2004. Articles 7 and 12 of ICESCR stipulates that States Parties must provide favourable conditions of work which include “[s]afe and healthy working conditions;” and “the improvement of all aspects of environmental and industrial hygiene”. Furthermore, Article 7 emphasises the requirement of “rest, leisure and reasonable limitation of working hours and periodic holidays with pay...”.

Liberia is party to several ILO Conventions on the protection of workers. However, many of the ILO Conventions have not been incorporated into national law. The Labour Law was amended in 1962 (with subsequent amendments) following a complaint filed by the Government of Portugal with the ILO concerning forced recruitment of labourers for [REDACTED]. This practice was found to be in contravention of the ILO Forced Labour Convention (C39) of 1932.

Workers' rights are also found in Articles 8 and 18 of the Liberian Constitution. Article 8 states that “the Republic shall direct its policy towards ensuring for all citizens, without discrimination, opportunities for employment and livelihood under just and humane conditions, and towards promoting safety, health and welfare facilities in employment.” Article 18 places a prohibition on discrimination in the workforce: “[a]ll Liberian citizens shall have equal opportunity for work and employment regardless of sex, creed, religion, ethnic background, place or origin or political affiliation, and all shall be entitled to equal pay for equal work.” The Labour Law and Public Health Law do not make explicit provision for the prohibition of discrimination. The Penal Law states that any act of prejudice of another person because of his or his spouse's race, colour, clan, tribe, national origin or religion, is

guilty of a first-degree misdemeanour.⁶¹ Remarkably, no statutory or administrative law prohibits discrimination against children and women.⁶²

Under §1508(3) of the Labour Law, workers can be subject to summary dismissal by plantation management without cause and for discriminatory reasons. The consequence is that there is no legislative protection against the exploitation of the majority of persons labouring on plantations. It was reported by the President of the [REDACTED] that it is not unknown that individuals are dismissed based on ethnicity.⁶³ In the absence of a strong employment tribunal, arbitrary dismissals are rarely challenged. Agricultural workers, who have a high rate of illiteracy, are frequently unaware of their rights and those who do attempt to seek justice are likely to face obstacles such as excessive fees, prolonged and inefficient court proceedings and courts that are functioning on only a part-time basis.

The former Minister of Labour, Cllr. Lavalla Supewood, made some efforts to amend the law, especially §1508(3). The Minister noted that the summary dismissal provision in §1508(3) of the Labour Law permitted plantation management to dismiss workers without cause in order to avoid payment of pensions. According to information provided by the Ministry of Labour, in the case of [REDACTED] v. [REDACTED] October Term, 1983, the Supreme Court of Liberia stated that §1508(3) of the Labour Law was no longer of relevance. However, in 1989, in the case of [REDACTED] v. [REDACTED], March Term, 1989, the Supreme Court acknowledged that §1508(3) is harsh, but that it was the duty of the Legislature, and not the Court, to amend it. The Ministry of Labour attempted unsuccessfully to have this provision amended by the NTLA. The current Minister of Labour, Atty. Samuel Kofi Woods, has publicly stated in a press release on 27 February 2006 that the repeal of provision §1508(3) is high on his agenda.

Conditions of employment are provided for under Part II, in Title 18-A, of the Labour Law, which embodies provisions on minimum wage, maximum hours, rest and holidays, retirement pensions, schools for employees' children living in camps and workmen's compensation. Chapter 8, §f, states that rubber-tree tappers and other agricultural workers whose work is defined by an assigned task and not by hours, are not afforded the guarantees stipulated in Chapter 8 of the Labour Law on maximum hours of work. There is no other provision in the Labour Law providing protection for those who were found exempt (Chapter 8, §700), such as how long an assigned task should take per day, exemption from prescribed maximum of hours worked, remuneration for overtime work, rest periods, etc.

The Ministry of Labour is the national institution responsible for the coordination, regulation and monitoring of workers' rights throughout Liberia. The Labour Law requires Labour Agents to be appointed in the various counties with the duty to "secure the general welfare of the labouring classes as to sanitation, health, and safety in the work at which they are

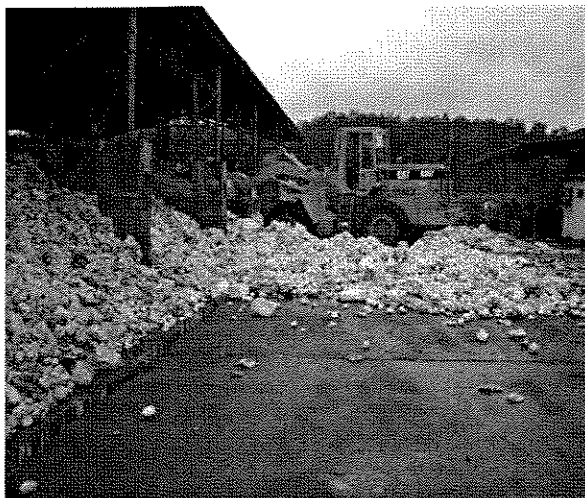
⁶¹ See Penal Law, Chapter 13, Offenses Against Civil Right, §13.1 (1).

⁶² See §67 UN Doc. CRC/C/28/Add.21, 22 September 2003. The concluding observations of the CERD Committee stated "that national legislation does not contain explicit provisions prohibiting discrimination on the grounds of race or ethnic or national origin, in conformity with the requirements of the Convention." In its observations, the Committee of the Rights of the Child stated that there is a need for further policies to ensure non-discrimination in all aspects relating to the child and their families. See §§23 UN Doc. CRC/C/15/Add.236.

⁶³ Information obtained in an interview on 30 June 2005 with the [REDACTED] President.

employed”.⁶⁴ All disputes are brought to the attention of the Labour Court or the Commissioner by the Labour Agents.

a. The Right to a Safe and Healthy Working Environment



From the beginning of production to the end product ready for export at [REDACTED]. Photos taken during a visit by HRO on 14 July, 2005.

Under Article 7(b) of the ICESCR, States Parties recognise the right of everyone to the enjoyment of “just and favourable conditions of work”, which ensure, among other things, “safe and healthy working conditions”. In addition, the “improvement of all aspects of environmental and industrial hygiene” must be undertaken by States Parties to realise the right to health under Article 12 of the ICESCR.⁶⁵ Article 12(2)(b) of the ICESCR has been interpreted by the CESCR in its General Comment 14, to comprise:

“*inter alia*, preventive measures in respect of occupational accidents and diseases;...the prevention and reduction of the population’s exposure to harmful substances such as radiation and harmful chemicals or other detrimental environmental conditions that directly or indirectly impact upon human health.”⁶⁶

The two key areas of concern regarding workers’ health and safety are the lack of safety equipment and training for tappers using caustic acids in the extraction of rubber, and for staff working in the processing plants. Of the five plantations covered in this report, only two have processing plants: [REDACTED] and [REDACTED]. HROs were able to visit the [REDACTED] processing plant, accompanied by the Plant Manager. Firestone declined two requests from HROs to visit its processing plant, thus information was obtained through interviews with tappers, top officials of the trade union, and the plantation management.

As noted above, the concession agreement between the Government and [REDACTED] includes explicit provision for the installation of safety devices and the observance of adequate precautions as are provided and observed under comparable conditions and in similar regions

⁶⁴ See Chapter 3 §100 – 101 of the Labour Law.

⁶⁵ See Article 12 §2(b) of the ICESCR.

⁶⁶ See § 15 of General Comment 14 on Article 12, The right to the highest attainable standard of health, UN Doc. E/C.12/2000/04 (2000).

for operations of a similar nature and size. It also provides that [REDACTED] shall take adequate measures for the protection of the health and safety of employees.⁶⁷ However, during visits to the [REDACTED] plantation HROs observed several occupational health and safety concerns regarding the use of hazardous materials in the production and processing of rubber. The [REDACTED] agreement contains no provision requiring the protection of workers from harmful materials.

The processing of rubber consists of cleaning the rubber of impurities from tapping to storage. The chemicals used in tapping, depending on the desired consistency of the rubber, include, *formic acid*, *sulphuric acid* and *ammonia*. *Lye*, or white wash, is used to separate the rubber for packing. In the final process for shipping of the rubber overseas, [REDACTED] uses *methyl bromide*, a gas used for pesticide control on wood pallets for shipping.⁶⁸ Liberia is not party to the ILO Convention on Occupational Safety and Health (C155).⁶⁹ In addition, national regulations regarding the handling of hazardous materials and requirements in occupational safety and health for workers are weak.⁷⁰

Plantation workers may experience health problems related to the handling of caustic acids used in the production of rubber which include, ammonia (to prevent coagulation during transportation and storage),⁷¹ formic acid (used as a coagulant for natural rubber latex and form making),⁷² and sulphuric acid (used in a process called vulcanization).⁷³ Each of these

⁶⁷ *Supra* note 53, Article VI.

⁶⁸ Information obtained in an interview on 14 July, 2005 with Plant Manager of [REDACTED] [REDACTED] does not use methyl bromide because it uses metal containers for shipping. Although this method is much more expensive, it reduces exposure to hazardous materials. [REDACTED] do not have processing plants and all rubber is tapped and then sold to [REDACTED] the Ivory Coast.

⁶⁹ See ILO Convention on Occupational Safety and Health (C155), 1983.

⁷⁰ In September 2004, Liberia acceded to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade. "The Convention is a multilateral environmental agreement designed to promote shared responsibility and cooperative efforts among Parties in the international trade of certain hazardous chemicals, in order to protect human health and the environment from potential harm. It is not a recommendation to ban the global trade or use of specific chemicals it is rather an instrument to provide importing Parties with the power to make informed decisions on which of these chemicals they want to receive and to exclude those they cannot manage safely." See "What is the Rotterdam Convention?", http://www.pic.int/en/viewpage.asp?id_cat=0.

⁷¹ Ammonia is used in the rubber industry for the stabilization of raw latex to prevent coagulation during transportation and storage. Guidelines on the handling and exposure of ammonia were taken from the Occupational Health and Safety Administration Guidelines of the United States, www.osha.gov. "Exposure to ammonia can cause lacrimation, burning sensation, swelling of larynx, spasm of glottis, asphyxia, conjunctivitis, laryngitis, severe pulmonary and gastrointestinal irritation, nausea, vomiting, diarrhea, abdominal pains, pulmonary edema, dyspnea, bronchospasm, chest pain, vesiculation, wheezing, cold and clammy skin, convulsions, collapse, coma, and even death from acute laryngeal edema. Milder exposure may predispose to bronchopneumonia following a chemical pneumonitis. Anhydrous liquid ammonia produces second-degree burns on the skin and extensive destruction of the anterior chamber in the eye. If extensive, these lesions can cause edema and sloughing of the airway epithelia, which result in acute upper airway obstruction. Massive exposures can override the absorptive surface area of the upper respiratory tract and result in extensive injury to the lower airways and alveoli. Liquid ammonia can freeze the surface of the skin, causes thrombosis of surface vessels, ischemia, and necrosis."

⁷² Formic acid is used as a coagulant for natural rubber latex and form making, and as a preservative of latex. Guidelines on the handling and exposure of formic acid were taken from the Occupational Health and Safety Administration Guidelines of the United States, www.osha.gov. "Formic acid is dangerously irritating to the skin, eyes, and mucous membranes and may also be toxic to the kidneys. Acute, overexposure to formic acid causes corrosion of the skin, eyes, and mucous membrane of the mouth, throat, and esophagus and may be associated with complications such as cardiovascular collapse and ischemic damage to the heart, liver and kidneys, swelling of the airway, and respiratory distress. A worker splashed in the face with formic acid

chemicals has serious consequences to one's health if exposed to it. Tappers in [REDACTED] [REDACTED] plantations have no access to training due to the current management situation, therefore increasing their likelihood of exposure to hazardous working environments. [REDACTED] plantations do not have the health facilities to administer treatment to those exposed to caustic acids.⁷⁴

Lastly, regulations require that the wood pallets used in shipping overseas must be free from pesticides. The [REDACTED] uses methyl bromide as a pesticide gas on wooden shipping pallets.⁷⁵ *Methyl bromide*⁷⁶ is a highly toxic gas that is being progressively phased out by the Montreal Protocol on Substances that Deplete the Ozone Layer (1989).⁷⁷ [REDACTED] management advised the HROs that it had not started using the fumigation facility because of the possible contact with methyl bromide and the proximity of the facility to residents. In addition, before the fumigation facility could be used, the Ministry of Agriculture needed to train those operating the facility. The training was scheduled for October 2005, but was not conducted. [REDACTED] also advised that the use of methyl bromide would not begin until the hospital had medical supplies to deal with any occupational injuries arising from the use of that substance. However, upon inspection of the plant and discussions with workers in the fumigation facility (which is beside the plant), it was clear that the [REDACTED] began using methyl bromide on

developed respiratory distress and difficulty in swallowing, and died within 6 hours. Other reports indicate that splashes of formic acid in the eye have caused permanent clouding of the cornea, with loss of visual acuity.”

⁷³ Sulphuric acid is used in a process called vulcanization to increase the ‘hardness’ of rubber. Guidelines on the handling and exposure of sulphuric acid were taken from the Occupational Health and Safety Administration Guidelines of the United States, www.osha.gov. “Sulphuric acid is injurious to the skin, mucous and eyes. Dangerous amounts of hydrogen may develop due to reaction between weak acid and metals. At high concentration sulphuric acid reacts vigorously with water, organic compounds and reducing agents. Avoid contact with the eyes, skin and clothing. Wear goggles, face shield, rubber gloves and full protective clothing whenever there is a danger of exposure. Immediately flush eyes or skin with plenty of water in the case of contact and continue for at least 15 minutes. Remove contaminated clothing and shoes and summon medical assistance.”

⁷⁴ Information obtained on 4 January 2006 from the Director of the [REDACTED] [REDACTED] and the Assistant Director, [REDACTED]. “Approximately ten cases per month” (reference was made to December 2005) required treatment for conjunctivitis caused by contact with acids. Workers tapping at higher tree levels were more exposed. Training and adequate equipment (special glasses) could help in addressing this problem.

⁷⁵ Information obtained in an interview on 14 July, 2005 with the [REDACTED] Plant Manager. In January 2006, the [REDACTED] Factory Manager provided the HRO with a copy of a certificate issued by the Ministry of Agriculture on 24 October, 2005 stating that [REDACTED] treatment of wooden packaging material meets established standards. Moreover, according to the Factory Manager, a blood sample is taken every six months from employees working in the facility and is sent abroad for analysis. Firestone does not use methyl bromide because it uses metal containers for shipping. Although this method is much more expensive, it reduces exposure to hazardous materials. [REDACTED] plantations do not have processing plants and all rubber is tapped and then sold to [REDACTED] or the Ivory Coast.

⁷⁶ Methyl bromide is used as a fumigant for soil and foodstuffs, for termite control, as a nematocide, in ionization chambers, to degrease wool, as a selective solvent in aniline dyes, as a methylating agent, and to extract oil from flowers, nuts, and seeds. Methyl bromide was once used as a refrigerant and in fire extinguishers, but these uses have been discontinued due to serious injuries and/or deaths. Guidelines on the handling and exposure of formic acid were taken from the Occupational Health and Safety Administration Guidelines of the United States, www.osha.gov. “Potential symptoms: Irritation, eyes, skin, respiratory system; blurred or double vision; slurred speech; dizziness; loss of appetite, nausea, vomiting, abdominal pain; headache; malaise; hand tremor; confusion; numbness of the arms and legs; paralysis; convulsions; unconsciousness; coughing, chest pain, dyspnea, pulmonary edema; oliguria, anuria, kidney hemorrhage; skin vesiculation (burns and blistering); frostbite, corneal burns (from liquid); (potential occupational carcinogen).”

⁷⁷ Liberia acceded to the Montreal Protocol in 1996. However, Article 2 H(6) of the Montreal Protocol states that the calculated levels of consumption and production of methyl bromide shall not include the amounts used for quarantine and pre-shipment applications.

2 July 2005, without any formal training for facility operators, nor proper medical assistance if an injury did occur.

b. The Right to Strike

Under Article 8(d) of the ICESCR, the Government must ensure that everyone has “the right to strike, provided that it is exercised in conformity with the laws of the particular country.” Freedom of assembly is also guaranteed by Article 21 of the ICCPR. Liberian Labour Law provides that the right to strike shall be unlawful for any person, including any labour organisation, unless:

“a) A majority of the members of the labor organization engaged therein, or in the absence of a labor organization, of the employees of an employer or employers against whom such acts are primarily directed, have voted by secret ballot, subject to the supervision of the Ministry, a labor inspector or the Ministry of Labor, to strike; and;

b) Except as otherwise provided in Chapter 43, at least seven days’ written notice of the intention to strike has been sent to the employer or employers or their representatives or association of which such employers are members and to the labor inspector, the Ministry of Labor or the Minister, and the period of such notice has expired.”⁷⁸

Trade unions are present in all plantations investigated that have legitimate management structures, i.e. [REDACTED] ([REDACTED]). The General Agriculture and Allied Workers’ Union of Liberia is the umbrella organisation. [REDACTED] do not have trade unions to advocate for the promotion and protection of the economic and social rights of workers.

The trade union’s independence from the corporation and capacity to advocate for their members’ rights is dramatically weakened when union officials are appointed to those positions by the plantation management itself. Trade union officials from [REDACTED] and [REDACTED] are paid by the corporation. In addition, the collective bargaining agreement between [REDACTED] and [REDACTED] purports to circumvent the legal protections by providing that disputes are to be settled without resort to lock-outs, slow-downs, picketing and strikes. This severely limits workers’ leverage to negotiate for improved terms and conditions.⁷⁹ Trade union officials informed the HROs that all strikes, whether instigated by company employees or subcontracted employees, are at the liability of the trade union. In practice, this means that the company holds trade union officials responsible for strikes, terminating their employment even in those cases when the strike was instigated by employees not represented under their union.

Most strikes are reportedly led by subcontractors who are not represented by the trade union and receive significantly lower benefits than employees.⁸⁰ At [REDACTED] subcontractors make

⁷⁸ See PRC Decree No. 12, §4503 of the Labour Law.

⁷⁹ See Article 7 of the Collective Bargaining Agreement between [REDACTED] of 31 May 2004.

⁸⁰ Information obtained in an interview on 25 July 2005 with the President, Vice-President, Secretary and Treasurer of [REDACTED].

up approximately 3,800 members of the workforce, while company contracted workers number approximately 6,500. On the [REDACTED] plantation, the number of subcontractors is higher than company workers (1,500 subcontractors to 1,300 employees). At [REDACTED] there is no leasing out of parcels of land for tapping. [REDACTED] plantations only sublease illegally.

In April 2004, a small number of dissatisfied company employees and a larger group of subcontracted personnel from the [REDACTED] initiated a strike that turned violent, clashing with the PPD, LNP, UNPOL, and the Bangladeshi Battalion. A PPD officer later died of his injuries. Subsequently, [REDACTED] management dismissed the union leader from his employment and his position as Staff Union leader, on the grounds that he had called the strike. The absence of an investigation and administrative hearing of the allegations against the man suggests that the dismissal was arbitrary. The union official himself claimed that responsibility for the strike and subsequent violence rested with subcontractors, who are not members of the union.

Unpaid salaries and arrears have been the main cause of repeated strike activity for the period of October and November 2005 at [REDACTED]. The [REDACTED] announcement at the beginning of October 2005 that 1,300 workers would strike on 8 October and would boycott the presidential elections of 11 October, prompted a reconciliation meeting between county local authorities, the Labour Commissioner, management, labour representatives and UNMIL. The workers agreed to participate in the national vote but shortly thereafter another strike was provoked by ongoing delays in the payment of salary arrears, escalating tension between management and employees. At the end of November 2005, more than 1,000 workers gathered outside the plantation management office and threatened to restrain [REDACTED] representatives in their office until payment was made. UNMIL peacekeepers intervened to calm the situation.

c. The Right to Fair and Equal Remuneration

All workers have the right to fair and equal remuneration that would provide an adequate standard of living, as stipulated in Articles 7 and 11 of the ICESCR. Under Article 11(1) of the ICESCR, States Parties recognise the “right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing...”. The UN Norms for Business also state in relation to workers, that “remuneration shall take due account of their needs for adequate living conditions with a view towards progressive improvement.”⁸¹ Remuneration must be fair, reasonable and paid at regular intervals to permit an adequate standard of living.

At [REDACTED] two issues were identified which impinged upon the protection of this right of plantation workers. These were the appointment by the Maryland Legislative Caucus of illegitimate interim management and related alleged misappropriation of funds (see Part III of this report), and the agreement between [REDACTED] and the Government concerning the payment of salary arrears.⁸² Legal disputes and conflicts between [REDACTED] and

⁸¹ See supra note 18, § 8. See also Annex III.

⁸² [REDACTED] agreed to pay all legitimate salary arrears owed to workers by the former management imposed by the Maryland Legislative Caucus. The agreement required 35 per cent of net profits to be paid to the Government on a semi-annual basis, ten per cent of which was to be reserved and provided to the local authorities for development purposes, free education (primary and secondary), and free health services for employees and their dependants. See Management Agreement between the Government of Liberia and [REDACTED] of 14 August 2004.

the previous management prolonged and heightened the insecure working environment at the plantation for months and [REDACTED] failed to ensure regular payment of salaries and acceptable productivity.⁸³

According to the new MoU between the Government and [REDACTED] of 18 August 2005, the latter is defined as a “domestic corporation engaged in (the) business of buying and selling rubber, managing farms/plantations” that “has expressed its desire to finance and manage the operations of the plantation satisfactorily and effectively” and which, “shall pay all salary arrears of the employees for the months of December 2004, June and July 2005 and thereafter, salary/wages of the employees should be made current.” However, prior to [REDACTED] management, the interim management team led by [REDACTED] owed salary arrears for the months of August to November 2004 (for tappers and non-tappers) which have never been paid. Payment for those months is not contemplated by the current MoU.⁸⁴ In addition, as of March 2006, workers were also expecting salary arrears for the months of December 2005, January and February 2006.⁸⁵

Lastly, the UN Norms for Business and the Commentary thereon emphasise that transnational corporations and other business enterprises shall keep detailed written records on each worker’s hours of work and wages paid.⁸⁶ However, during the war records of entitlements were not kept. Workers’ benefits including pension contributions are not accounted for at the [REDACTED].⁸⁷ Furthermore, in [REDACTED] plantations, which are currently occupied and under the control of ex-LURD generals, records are not kept and workers are not afforded their rights under national labour law.

d. The Right to Adequate Housing

Workers at [REDACTED] plantations are provided with free housing as prescribed in the concession agreements, on the basis of one house per family, regardless of the number of family members employed. In [REDACTED] plantations, the houses provided have apparently not been renovated since they were built in the 1920s and 1930s.⁸⁸

⁸³ [REDACTED] could only take over in mid-February 2005 and the former manager refused to leave the plantation until the end of May 2005. There were reportedly threats to kill the [REDACTED] General Manager.

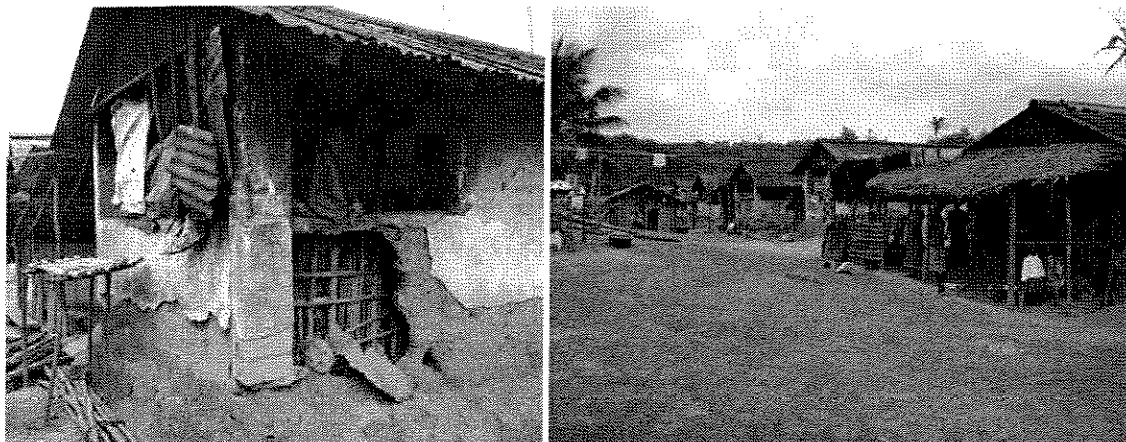
⁸⁴ According to the [REDACTED] General Manager, a verbal ‘gentlemen’s agreement’ made in August 2005 in Monrovia between the Minister of Agriculture and [REDACTED], anticipates further ‘negotiations’ on the remaining arrears once the payment of the salaries mentioned in the MoU have been honoured. Information obtained in an interview with General Manager Mercal Sayeh on 4 January 2006. [REDACTED] confirmed this, stating that it was prepared to assume the arrears left by [REDACTED] but not those of the previous interim management. Interview with [REDACTED], Vice-President, [REDACTED], 11 January 2006.

⁸⁵ Workers had received their November salary in mid-December 2005. Lack of salary slips and cases of workers who complained of having been paid less than the amount they had actually signed for, are reported.

⁸⁶ *Supra* note 18, §8(c).

⁸⁷ In a letter sent to the [REDACTED] management team by the Acting Minister of Agriculture and attested by the President of [REDACTED] the management team was required to take immediate action to increase productivity. This included the review of the salary structure of all employees on the plantation and the submission of same to the Board/CEO for immediate action; provision of a daily attendance to ensure productivity and efficiency; review and implementation of salary advances; regular supply of food and timely payment of salaries/wages, and provision of identification cards for all workers to avoid payroll padding and false representation by their superiors and supervisors. Management was required to take all of these actions by the end of October 2005. *See* Letter to the Manager of the [REDACTED], 3 October 2005.

⁸⁸ Information obtained through interviews with top trade union officials at Firestone and Cavalla plantations, management of [REDACTED] and workers at both [REDACTED] and [REDACTED] plantations.



██████████, Camp 1, Division 3. The photos were taken by the HRO during a visit on 27 June, 2005. Workers and management stated that the houses had not been renovated since they were initially built by ██████████ over 70 years ago.

██████████ has started housing renovations on the concession area, as stipulated in the 2005 concession agreement. However, the renovations will need to go beyond repairs in order to bring the housing situation in line with the requirements defined by the CESCR in its General Comment 4 on Article 11(1) of the ICESCR, i.e. the right to live in security, peace and dignity. Although housing is under continuous improvement in three of the 45 divisions in ██████████ plantation, the remainder of labourers (excluding management and their families) live in deplorable conditions, with inadequate space, lighting and ventilation, and other health risks. Representatives of ██████████ stated that workers live in very small houses that are in desperate need of renovation. To illustrate, a tapper for ██████████ complained to the HROs that the housing provided, being a single room of roughly ten square metres, was insufficient for his family of ten. Labourers live in dwellings of approximately this size in each ██████████ division visited by HROs and in the ██████████ camp. However, housing for skilled labourers differs, depending on the position held in the company.

By the end of 2005, no progress has been observed in the various divisions of the ██████████. As noted above, according to the MoU of August 2005, ██████████ “shall renovate the employees’ residence and public schools for the employees’ children and dependants ... within one year from the date of the signing of this document.”⁸⁹

⁸⁹ The General Manager told HRPS that the renovation of houses was included in a ‘development package’ which was being finalised at the time of HRPS’ visit on 4 January, 2006.



Division 41, photo taken by HRO on visit of 25 July, 2005. started renovations in 1990 but stopped due to the war. Renovations in three camps began in 2005.

e. The Right to a Pension under Liberian Law

Part V of the Labour Law provides that “[e]very employer...shall pay retirement pensions to employees in undertakings in which ten or more employees are employed.”⁹⁰ Chapter 26, §2501 states:

“[t]he amount of pension paid annually to an employee shall be at least forty per cent of the average monthly earnings for the last five years immediately preceding his retirement. One-twelfth of such amount shall be paid each month from the time of retirement until the death of the employee.”

In many cases, this sum leaves pensioners with only 20 USD per month. Furthermore, in and plantations, pensioners do not receive the economic and social benefits due to an employee, such as a rice subsidy, access to health care, education for dependants and housing. In addition, those receiving benefits from but who worked in the plantation in before it was turned over, must travel to Monrovia (an average return trip of 1,500 – 2,000 LD = 15-20 USD) to receive a pension of less than 1 USD a day. During a recent HRPS visit to , the management team admitted that the pension system had not been implemented, noting that the social security office in Harper was still closed. It appears that no attempt was made to contact social security authorities in Monrovia.⁹¹ Ex-combatants now managing and plantations admitted that they do not keep records of employment or of payment of taxes.⁹²

⁹⁰ See Chapter 26 Retirement Pensions §2500.

⁹¹ Interview with , General Manager and Labour Relations Manager at , 4 January 2006.

⁹² In an interview with HRPS on 30 January 2006, the new Minister of Labour, and the Director-General for International Labour Affairs, stated that the Ministry had not received regular reports from management of any of the rubber plantations.

VI. The Rights of the Child

Four areas of concern are discussed in this section: the right to preservation of identity; the right to education; the right to health, particularly maternal and child health; and the prohibition of child labour according to provisions found in national law.

Legal and Institutional Framework



Liberia has ratified the CRC and ILO Convention on the Worst Forms of Child Labour (C182). As noted above, Liberia has also signed the African Charter on the Rights and Welfare of the Child. In addition, the UDHR (Article 26) and the African Charter on Human and Peoples' Rights (Article 18) contain provisions relating to child rights. Liberian legislation does not explicitly define who is a child, but Liberia is bound by the international standard of any person below 18 years, as provided by the CRC.

The legal recognition of the status of children is fundamental in protecting child rights. The most important child rights include the preservation of the child's identity, the right to education, the right to health (particularly maternal and paediatric health care essential for physical development) and freedom from exploitative child labour.

The right to preservation of identity is guaranteed by Article 8 of the CRC, while a comparable provision is found in Article 27 (b) of the Liberian Constitution. Articles 27 and 28 of the Liberian Constitution provide for the legal right of the child to nationality, though they are much narrower in scope than the CRC. The Public Health Law requires that all births be recorded within 14 days. Birth registration is critical to the recognition of the child's existence and facilitates fulfilment of the duties owed by the State to that child.

The Labour Law prohibits employment of children below 16 years of age: "The age of working under the labour law is not less than 16 years; work is defined as employment of services for fixed wages or salaries over a period of output".⁹³ Chapter 2, §74 of the Labour Law prohibits child labour for children below the age of sixteen during school hours.

Article 6 of the Liberian Constitution recognises the impact that education has on improving the well-being of the State. The Education Law of 1912 provided for free and compulsory primary education. The 1973 amendment to the Law extended these rights to junior high and high school. However, inadequate allocation of State resources has led to a denial of the right to education and a corresponding use of child labour. Only two of the five concession and management agreements require the corporation or management to provide education

⁹³ See Consideration of the Report submitted by Liberia to the Committee on the Rights of the Child, UN Doc. CRC/C/28/Add.21, 22 September 2003, p. 15, §63. See also Liberian Labour Law.

facilities in accordance with the Education Law and standards established by the Ministry of Education.⁹⁴

a. The Right to Preservation of Identity

“Birth registration is the community’s first recognition of a child’s legal existence.”⁹⁵

Children have a right to a birth certificate under international human rights law and under national law. The State is therefore responsible for facilitating that registration by ensuring adequate provision of registration offices across the country. In the context of rubber plantations, birth registration is not only denied to many children, thereby violating their fundamental right to a recorded identity; its absence becomes an obstacle to access to basic services provided by a company under its obligations in the concession agreements and human rights standards.

In many plantations, registration of birth is a requirement before a child can access basic services such as education and health care. “In simple terms, birth recording and certification are the *sine qua non* for guaranteeing the fundamental rights of children”.⁹⁶ From interviews with the [REDACTED] Management and the President and Vice-President of [REDACTED] ([REDACTED]), HROs observed several problems preventing the full enjoyment of this right. During most of the 14 years of conflict, hospitals, such as [REDACTED] were not issuing birth certificates.⁹⁷ The right to services on some plantations ([REDACTED] such as free education and health care are dependent on possession of a birth certificate. The Ministry of Health charges 25 USD⁹⁸ for a birth certificate if one was not provided 14 days after birth, as required in the Public Health Law.⁹⁹ With monthly salaries of less than 2 USD a day for labourers on most plantations, families cannot afford the fees to obtain a birth certificate for their child from the Ministry of Health.

[REDACTED] estimates that 60-65 per cent of children are not in school because they were not registered with the company by their parents.¹⁰⁰ In [REDACTED] plantations, subcontractors, who comprise a large part of the workforce, are not considered employees within the scope of the respective collective bargaining agreements.¹⁰¹ As a result, their dependants are not registered and are thus not entitled to social benefits provided by the company, although they live within the concession area and make up a sizeable portion of the workforce.

⁹⁴ See Section 10 of the Concession Agreement between the Government of Liberia and [REDACTED] of 28 January, 2005 and Article VI of the Management Agreement between the Government of Liberia and the [REDACTED] of 14 August 2004.

⁹⁵ See Consideration of the Report submitted by Liberia by the Committee on the Rights of the Child, UN Doc. CRC/C/28/Add.21, 22 September 2003, p. 18, §81.

⁹⁶ Ibid.

⁹⁷ See also § 34 of the Report Submitted in accordance to Article 44 CRC, to the Committee on the Rights of the Child, UN Doc. CRC/C/15/Add.236, 1 July 2004. The Committee expressed concern over the number of children, especially in rural areas, whose birth is not registered.

⁹⁸ Information obtained in an interview on 25 July 2005 with FAWUL.

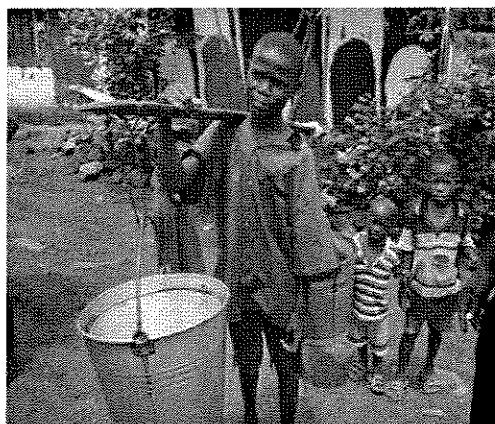
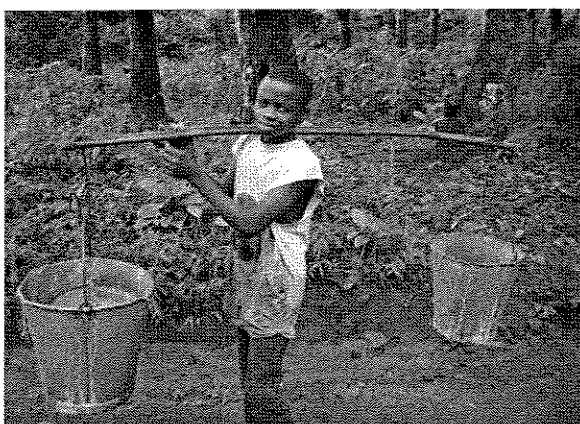
⁹⁹ See Section 51.21 of the Public Health Law, 1975.

¹⁰⁰ Information obtained in an interview on 25 July 2005 with FAWUL.

¹⁰¹ See Article 3 of the Collective Bargaining Agreement between [REDACTED] and [REDACTED], signed 31 May 2004, and information obtained in an interview on 14 July 2005 with the Administration Manager for the [REDACTED]

b. The Right to Education

Protection of the right to education, as interpreted by the CESCR, requires States to ensure that services are in sufficient quantity to meet the needs of the population, are economically and physically accessible, and are adaptable to local needs.¹⁰² In the [REDACTED] Plantations, educational facilities provided by the corporation are inaccessible to many children due to the excessive distance of the facilities from their settlements. Information available to HRPS indicates that there are some schools on [REDACTED] plantation, most of which are organised by the community itself or NGO-rehabilitated, while there are no schools in [REDACTED] plantation. Many families cannot afford to send children to private schools. The lack of available or accessible public schools or schools provided in concession areas, lead children to assist parents in the plantation to increase the family income.¹⁰³



Photos (a) and (b) taken by HRO during visits to [REDACTED] (14 July, 2005) and [REDACTED] (25 July, 2005). (a) a 'helper' age 12 years who said he was assisting his brother for 10.00 USD a month at [REDACTED] (b) a 12 year old boy helping his father who is ill and cannot make his monthly quota at [REDACTED]

c. The Right to Maternal and Child Health

The registration process for [REDACTED] Plantations also dictates access to clinics and the plantation hospital, with the same consequences as are noted in relation to access to education services.

In [REDACTED], a hospital for the employees and the township of Gedetargbo is operational – the [REDACTED] - though there are limited medical supplies and the hospital is in deplorable condition. The MoU of 18 August 2005 requires the [REDACTED] to “rehabilitate the hospital/clinic to standards within one year from the date of the signing of this document to cater to the health needs of the employees and their immediate dependants”. This implies the provision of health services for employees as well as their spouses and children. However, more than six months into the life of the MoU, the [REDACTED] hospital does not have a physician; only two registered nurses and a student midwife support an estimated 20,000 inhabitants.¹⁰⁴ No cases of children affected by rubber-

¹⁰² See the CESCR’s General Comment No. 13 on the Right to Education under Article 13 of the ICESCR, UN Doc. E/C.12/1999/10 (1999).

¹⁰³ Information obtained in interviews on 28 June 2005 with the [REDACTED] General Manager; 1 July 2005 with the President and Secretary and 25 July 2005 with the [REDACTED] President and Vice-President.

¹⁰⁴ Information obtained in an interview on 30 June 2005 with the [REDACTED] Hospital Director.

related activities have been reported by the nurses. However, cases of diarrhoea are frequent and adequate treatment is not always available due to lack of medicines. The pharmacy has a very limited range of medication. At the time of HROs' visit, only three open bottles of tablets to treat fever, malaria and worms were available to meet patient need until the end of the month. The very basic hospital laboratory could only analyse stool and urine samples.¹⁰⁵ The management team emphasised the precarious condition of the hospital facilities to HRO, but reported that some improvements had been carried out in the three months prior to the visit. However, according to medical staff, no measures had been implemented in the previous year.

In [redacted] plantations, no health care facilities are available in the concession area for an estimated combined population of 45,000 people.

d. Child Labour



“The worst forms of child labour comprises...work which, by its very nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.”

ILO Convention of the Worst Forms of Child Labour

A 12 year old ‘helper’ at [redacted] who complained that the rubber, when left on his skin, caused burns. Photo taken by HRO on 14 July, 2005.

Although management of [redacted] plantations all stated that child labour is prohibited within their concession areas, the HROs spoke with a number of children working on each plantation, aged between 10 and 14 years.¹⁰⁶ At the time this study was undertaken, both [redacted] management admitted that neither they nor the NTGL effectively monitored the policy against child labour. Concession and management agreements do not specifically mention the prohibition on child labour, but oblige corporations and management companies to abide by national labour law. Reports of child

¹⁰⁵ Information obtained in an interview with [redacted] Pharmacist and during a visit to the pharmacy and laboratory on 4 January 2006.

¹⁰⁶ Information obtained in interviews on 30 June 2005 at [redacted] (male child 12 years old); 13 and 15 July, 2005 at [redacted] (male children 12 and 14 years old); and 14 July 2005 at the [redacted] plantation (male children 10 and 12 years old).

labour on [REDACTED] plantation have also been documented in a report by the NGO, Save My Future Foundation, in March 2005.¹⁰⁷

It is likely that the use of exploitative child labour is encouraged in [REDACTED] plantations because no employment records are kept and the policies of the illegitimate management are directed towards high-level exploitation of the resources and available workforce.

There are several factors which contribute to the occurrence of child labour in the plantations. First, the work load of tappers has increased over the years due to the diminishing productivity of rubber trees, thus obliging all members of the family to assist in meeting the tapper's designated workload. Second, the location of schools is too far for some children to reach on foot and parents rather have their children follow them to work than stay idle in the camps. Third, sub-contractors and their dependents do not receive social benefits from the corporations or management companies and therefore cannot afford to pay school fees. Fourth, the financial incentive for tapping more rubber trees drives children to assist their family members in the plantation rather than go to school.

According to Article 3 (d) of the ILO Convention on the Worst Forms of Child Labour (C182), the worst forms of child labour comprise, "work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children." The Convention requires the establishment of monitoring mechanisms in consultation with employers' and workers' organisations to ensure the prohibition of the worst forms of child labour. One child labourer in the LAC Plantation showed HROs the burns he had allegedly sustained from exposure to formic acid. He stated that he had not received training on the handling of the chemical, nor was he provided with gloves or other protective equipment.¹⁰⁸

In May 2004, the Ministry of Labour established a National Commission on Child Labour to monitor child labour in Liberia. Government representatives, including the Minister of Labour, plantation management and workers were members of the Commission, which was to be assisted by child advocacy groups. However, due to the lack of an adequate operational budget and the absence of political will among certain government officials, the Commission has been unable to fulfil its mandate.¹⁰⁹

¹⁰⁷ See [REDACTED] *The Mark of Slavery*, Save My Future Foundation, March 2005. In November 2005, it was reported that Firestone issued a memorandum prohibiting child labour within [REDACTED] plantation. The memorandum reportedly emphasized a zero tolerance policy, regardless of whether the child was paid or not, and stated that school attendance records would be monitored and truancy investigated. It remains to be seen whether this policy will be implemented on the plantation, though it is a positive step in the right direction.

¹⁰⁸ Information obtained in an interview on 14 July 2005 with a child labourer aged 12 years.

¹⁰⁹ Information obtained in an interview on 30 January 2006 with the Minister of Labour, [REDACTED]

VII. Human Rights of Communities

Corporations and management are required to take steps to ensure that their operations do not have a negative impact on the enjoyment of human rights in the concession area in which they operate. This includes involving community leaders, local authorities and trade unions in negotiations concerning the company's role in the economic and social development of the community. The involvement of the community in the operation of rubber plantations can ensure the enjoyment of the collective rights of peoples. Furthermore, the availability and quality of health care affects the communities on and around the plantation. Each of these elements is considered in this section.

Legal and Institutional Framework

Liberia has ratified two major human rights treaties that specifically recognise that some human rights are enjoyed by social, cultural or other groupings of human beings. The ACHPR recognises a number of collective rights of peoples such as the right to equality, self-determination, development, peace and a satisfactory environment.¹¹⁰ Article 27 of the ICCPR, the right of ethnic, religious or linguistic minorities to enjoyment of their own culture, religion or language, has been interpreted by the Human Rights Committee as guaranteeing collective rights that belong to an entire group.¹¹¹

To ensure community rights are protected in areas of commercial activity, the UN Norms for Business state that corporations and other business entities “shall particularly respect the rights of indigenous peoples and similar communities to own, occupy, develop, control, protect and use their lands, other natural resources, and cultural and intellectual property. They shall also respect the principles of free, prior and informed consent of the indigenous peoples and communities to be affected by their development projects.” Communities “shall not be deprived of their means of subsistence, nor shall they be removed from lands which they occupy...”¹¹²

Additionally, Liberia is obligated under Article 12 of the ICESCR and Article 16 of the ACHPR to ensure enjoyment by all persons of the best attainable state of physical and mental health, conducive to living a life in dignity.¹¹³ This has an important impact on the community's abilities to access quality health care in and around the plantations. The elements of the right to health include: a) availability – functioning public health care facilities in a sufficient quantity; b) accessibility – facilities, goods and services must be physically and economically accessible to everyone without discrimination; c) acceptability – respectful of medical ethics and culturally appropriate; and d) quality – scientifically and medically appropriate with skilled medical personnel, safe and potable water and adequate sanitation.

¹¹⁰ See Articles 19-24, African Charter on Human and Peoples' Rights. See also Chapter 7, Nowak, Manfred, *Introduction to the International Human Rights Regime*, Raoul Wallenberg Institute for Human Rights Publication Series, Brill/Kluwer International, 2003.

¹¹¹ See § 7 of General Comment No. 23 on Article 27 of the ICCPR, UN Doc. CCPR/C/21/Rev.1/Add.5 (1994).

¹¹² See *supra* note 18, §10 (c).

¹¹³ See General Comment 14 on Article 12 of the ICESCR, UN Doc. E/C.12/2000/4 (2000).

a. The Poverty Gap and the Right to Development

“The United Nations Millennium Declaration opens with an affirmation that freedom and equality are fundamental values essential to international relations in the twenty-first century. It pledges Member States to respect, protect and promote all human rights for all people, to defend the vulnerable and to strengthen the rule of law. In affirming the right to development, the Declaration recognizes that States have both an individual and a collective responsibility to uphold the principles of human dignity, equality and equity at the national and the global levels. The Millennium Development Goals require rich countries to assist poor countries in meeting mutually agreed targets for poverty reduction, and all States pledged themselves to respect human rights in pursuing these targets. Properly understood, the Millennium Development Goals are themselves human rights aspirations.”¹¹⁴

The situation on the plantations shows an excessive socio-economic gap between the management/owners and the labourers. In [REDACTED] management enjoys running water, electricity, rehabilitated schools and guarantees for the protection of rights embodied in collective bargaining agreements. Almost two centuries of institutional discrimination against indigenous communities has left the majority without the education and opportunities needed to establish businesses in their traditional lands, leaving the way clear for large-scale agro-businesses to develop without deference to community sensitivities. When corporations take control of natural resources in countries under conflict, they can become complicit in human rights abuses, such as ethnic discrimination and the denial of the population’s right to the enjoyment of natural resources and traditional lands. Therefore, the poverty gap increases in times of civil instability. Even after the cessation of hostilities, these inequalities are perpetuated if steps are not taken to address the causes. On Sinoe Rubber Plantation, the exploitation of the Wedjah community to the benefit of past management companies precipitated episodes of violence and disruption of production in 2005.

b. Community Engagement

During the signing of concession agreements, the people living in the concession areas were not informed or consulted on issues that affected them directly or indirectly, and this omission gives rise to the problems that persist today. Engaging the community on issues such as the use of natural resources and/or lands used for subsistence, can prevent future human rights violations and promote development. It is evident that Liberia is in need of land reform to protect the rights of peoples to the full enjoyment of their culture, which includes access to natural resources and lands.

The importance of community involvement is also expressed in the UN Norms for Business and the Commentary thereon, which state that transnational corporations and other business enterprises:

“...shall particularly respect the rights of indigenous peoples and similar communities to own, occupy, develop, control, protect and use their lands, other natural resources, and cultural and intellectual property. They shall also respect the principle of free,

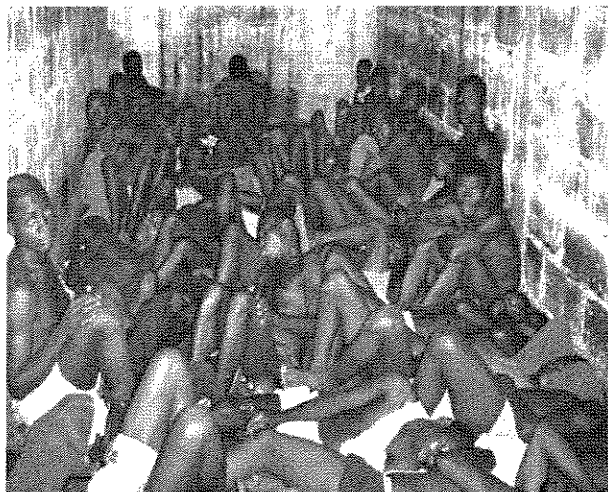
¹¹⁴ See *supra* note 2.

prior and informed consent of the indigenous peoples and communities to be affected by their development projects...”

Indigenous peoples and communities “shall not be deprived of their means of subsistence, nor shall they be removed from lands which they occupy...”¹¹⁵

i. The ██████████ Expansion

The ██████████ expansion project has had a significant impact on the rights of people living in the expansion zone to enjoy their own culture, as stipulated in Article 27 of the ICCPR. The expansion began in 1992 and will ultimately increase the plantation by 10,000 acres. However, the development area, District No.4 and District No.5, is considered an exclusive tribal reserve by the Bassa people and approximately 400,000 people are already affected. At least 75 villages have already been evicted from the expansion area.



Under the terms of the concession agreement, those living on the development area are considered squatters, although the expansion had not been conceived when the original agreement was signed in 1959. According to the management of the ██████████ those living in the expansion area are illegal squatters and must be removed and relocated by the Government.¹¹⁶ Systematic monitoring of the village eviction process by HRPS indicates that ██████████ failed to consult adequately with the Bassa people and that the Ministry of Internal Affairs frequently

provided villagers with only verbal warnings of the evictions and at very short notice. Assessments to determine due compensation for the loss of crops and homes were conducted irregularly. In January 2005, 89 men and boys demonstrated against the ██████████ failure to wait for the Ministry to conduct an assessment for compensation before beginning to burn crops and destroy housing. Poor planning of evictions can also undermine civil stability; it was reported that the group of 89 looted other villages *en route* to the protest site. All 89 were arrested, but no charges were laid. They were held in inhumane conditions (see photograph above taken by Green Advocates) in the cell of the Plant Protection Department.

The Minister of Agriculture informed HROs that it was “clear that ██████████ did not give sufficient notice and did not go through the proper Ministry.” In an effort to calm the situation and address the concerns of all parties, NTGL Chairman Bryant formed a 17-member committee from five different ministries to assess the impact of the expansion. In April 2005, the delegation suspended the operation until assessment and compensation procedures were complete. However, the ██████████ Administrative Manager informed HROs that an order to suspend the expansion was never issued and they had resolved the issue by negotiating with the traditional leaders to determine compensation for villagers. This resolution process lacks transparency and it would be difficult to ensure accountability on the

¹¹⁵ See *supra* note 18, §10 (c). See also Annex III.

¹¹⁶ Information obtained in an interview on 14 July 2005 with Administration Manager, ██████████ of the ██████████

part of ██████ in the event of a breach of the agreement. As far as HRPS is aware, ██████ has not suffered any legal consequences for its failure to follow correct procedure in the expansion project.

ii. ██████ and the *Wedjah People*

Following many years of discrimination by various management bodies against local residents and exploitation of the environment without adequate compensation to communities, during 2005, ██████ personnel were frequently confronted by violence and intimidation when they attempted to enter ██████. In an effort to end this civil instability, the management, local authorities, *Wedjah* community and UNMIL established a negotiation process which would ensure that ██████ would gain the confidence of the community by acknowledging and fulfilling its duties to the people living on the plantation. This led to the execution of a MoU which had far reaching economic, social and cultural benefits for the *Wedjah* people.

The MoU process, which involved actors at most levels, was a good initiative. Unfortunately, those who represented the *Wedjah* failed to inform the community of the agreements contained in the MoU for over three months, which led to further conflict on the plantation. Moreover, the plantation concessionaire, ██████ told HROs that she had refrained from participating in the MoU negotiations due to her belief that the President and Managing Director of ██████ ██████, was using the MoU to promote his candidacy for President of Liberia in the October 2005 elections. Before any of the provisions of the MoU could be implemented by the management, the concessionaire terminated ██████ management contract and, therefore, the process must begin afresh.

c. *The Right to Health*

The Ministry of Health and Social Welfare is responsible for the coordination, regulation and monitoring of health and welfare services in Liberia. Each county is furnished with a County Health Officer and a Health Inspector, as provided in the Public Health Law, to efficiently administer the laws relating to health and sanitation and, if found to be a danger to the public health, to bring them to the attention of the Minister of Health.¹¹⁷ The Liberian Public Health Law, enacted in 1975, provides guidelines on the administration and regulation of health standards of public and private institutions, and regulation and supervision of medical and allied health professions. The law also regulates water and sanitation and includes provisions on water and air pollution.

i. *Availability*

The availability of health facilities is a nation wide problem. The Ministry of Health does not have the resources to fund hospitals and clinics throughout the country. In accordance with concession and management agreements corporations have a responsibility to provide health services to employees. Hospitals with clinical posts in several divisions are operating in ██████, as stipulated in the concession agreements. However, the hospital in ██████ although operating, cannot treat patients with serious illnesses, which require them to travel over 40 kilometres to Harper for treatment. In ██████

¹¹⁷ See Chapter 4 §4.2 and §4.5 of the 1975 Public Health Law of Liberia.

Rubber Plantations, there are no facilities operating in the plantations and inhabitants have no access to governmental health care but only traditional 'bone setter' and herbalists.

ii. Accessibility

Over half the workers on [REDACTED] plantations are sub-contractors and as such do not receive the same benefits as company employees represented under the collective bargaining agreement (such as health care). The dependants of sub-contractors are also not considered 'official employee dependants' and do not have access to the free health care on the plantations.

iii. Quality

[REDACTED] both provide hospitals with well trained medical personnel, available medicine and potable water. However, in [REDACTED] the hospital has been downsized to a clinic due to the conflict and lack of State and management resources. The clinic does not have sufficient medical personnel or medical supplies to offer services for the population of the plantation (approx. 20,000). The Hospital Administrator informed HROs that a doctor has not been employed since 1997 and that medicine is only sporadically supplied by management.¹¹⁸ Furthermore, potable water is not available on the premises and the hospital relies on water taken from the creek. Management confirmed that 1 USD was deducted every month from employee wages to subsidise medical care. The General Manager told the HRO that the decision to continue levying workers was under discussion. The lifting of the tax might have serious implications in terms of the right to health, especially if it affects the prompt supply of medicines and continuity of the health service. On the other hand, the levy does not appear to be spent on medical supplies and equipment, judging from the condition of the facility. The new MoU anticipates rehabilitation of the hospital/clinic by [REDACTED] "to cater to the health needs of the employees and their immediate dependants". This provision indicates the direct relationship between rehabilitation of hospital facilities and employees' health needs.¹¹⁹

¹¹⁸ Information obtained in an interview on 30 June 2005 at the [REDACTED] hospital.

¹¹⁹ The [REDACTED] Hospital Director stated that, due to lack of supplies, workers often purchase medicines and seek treatment outside the plantation, thereby confronting higher costs. Transfer to the Hospital in Harper is often necessary, but no vehicle is available. In-patients at the Harper J.J. Memorial Hospital are expected to pay 10 USD for food. According to the Director, workers and dependants should be reimbursed for such expenses by the [REDACTED] Medical Administration, but funds are not always available. [REDACTED] has tentatively scheduled rehabilitation of the plantation hospital and schools for March 2006. Information obtained in an interview on 11 January 2006 with [REDACTED] Vice-President.

VIII. Human Rights and the Environment

The UN Environment Programme released a report in February 2004 after an extensive desk study on the impact of 14 years of conflict on Liberia's rich natural resources. The study lays emphasis on the importance of sound management of natural resources as a prerequisite for the safe return of refugees, an adequate standard of living and successful reconstruction of the country.¹²⁰ The environmental impact of rubber production is related to "the clearance of primary rainforest and human settlements including roads, housing, water supply, sewage treatment and waste management."¹²¹ The sustainability of the plantation is reduced if rubber is not properly managed so as to limit excessive or 'slaughter' tapping. High daily quotas and inadequate training contribute to unsustainable tapping practices. Environmental damage is also caused by the inappropriate disposal of chemicals used in the treatment process.

Monitoring visits to the plantations indicate that there is a serious failure on the part of the Government to enforce environmental laws and protection provisions contained in

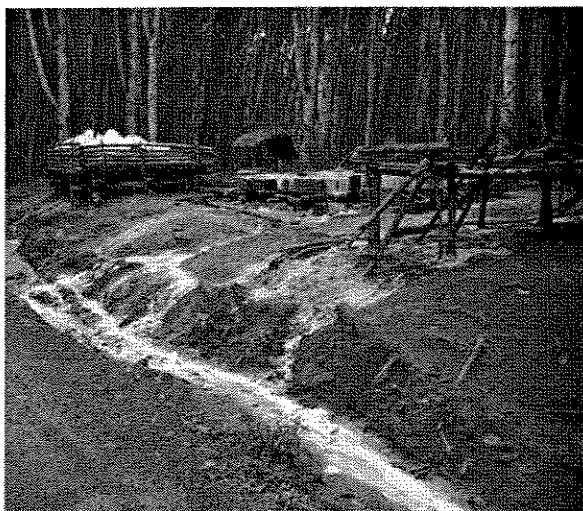


Photo taken by HRO on [REDACTED] Plantation in July 2005.

concession or management agreements. These provisions are frequently ignored by management entities. The poor management on each plantation, disregard for environmental laws, lack of monitoring by the Government and lack of environmental impact assessments of production activities frustrate protection laws, thus violating the rights of several communities living in and around concession areas to an adequate standard of living, which includes the right to safe drinking water and the right to health.

Legal and Institutional Framework

"Principle 1 of the *Stockholm Declaration* established a foundation for linking human rights and environmental protection, declaring that man has a fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being. It also announced the responsibility of each person to protect and improve the environment for present and future generations. Almost twenty years later, in resolution 45/94 the UN General Assembly recalled the language of Stockholm, stating that all individuals are entitled to live in an environment adequate for their health and well-being. The resolution called for enhanced efforts towards ensuring a better and healthier environment."¹²²

¹²⁰ *Supra* note 28.

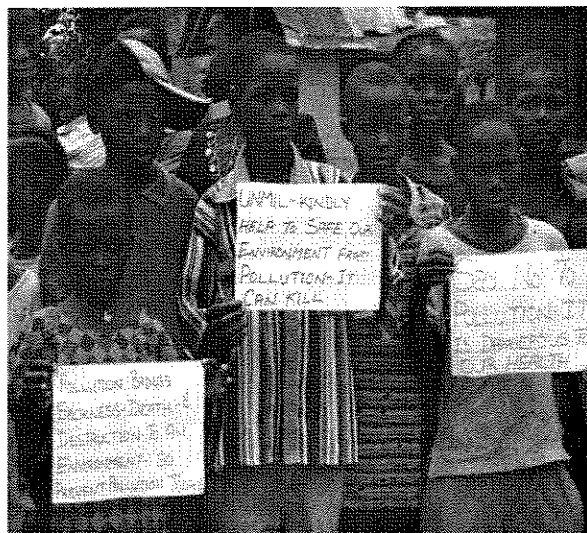
¹²¹ *Supra* note 28, p. 33.

¹²² See *Human Rights and Environmental Issues in Multilateral Treaties Adopted between 1991 – 2001*, Dinah Shelton, Background Paper No. 1 of the Joint UNEP-OHCHR Expert Seminar on Human Rights and the Environment, 14-16 January 2002. See *supra* note 2, §41, "There is also a need to ensure that enhancing access to safe drinking water and sanitation forms a part of development strategies." Furthermore the report reiterates

Although not explicitly included in UN human rights instruments, jurisprudence has been developed and General Comments have been adopted by the various committees concerning the connection between environmental protection and the rights of individuals to life, health, and the enjoyment of cultural rights, as well as the State's obligation towards third parties.¹²³ For instance, the Human Rights Committee has interpreted Article 27 ICCPR, the right of ethnic, religious or linguistic minorities to enjoy their own culture, broadly to include:

“... culture manifests itself in many forms, including a particular way of life associated with the use of land resources, especially in the case of indigenous peoples. That right may include such traditional activities as fishing or hunting and the right to live in reserves protected by law. The enjoyment of those rights may require positive legal measures of protection and measures to ensure the effective participation of members of minority communities in decisions which affect them.”¹²⁴

The CESCR has stated that the right to health also extends to underlying determinants of health, such as access to safe and potable water and healthy occupational and environmental conditions.¹²⁵ The Committee held that to protect the right to health, States are required to take all necessary measures to safeguard persons from infringements by third parties. This includes an obligation on States to regulate the activities of corporations and to enforce laws to prevent the pollution of water, air and soil by manufacturing industries.¹²⁶



The ACHPR also refers to the environment in Article 24 which provides that all peoples shall have the right to a general satisfactory environment favourable to their development. However, cases submitted to the African Commission generally address the right to health under Article 16. In this regard, the Commission has held that failure to provide basic social services such as safe drinking water constitutes a violation.¹²⁷

on the Millennium Summit, which agreed in considering ‘environmental sustainability’ as one of the Millennium Developments Goals (Box 4 ‘The special needs of Africa’).

¹²³ For more information on jurisprudence of International and Regional Human Rights Bodies see *Human Rights and the Environment: Jurisprudence of Human Rights Bodies*, Dinah Shelton, Background Paper No. 2 of the Joint UNEP-OHCHR Expert Seminar on Human Rights and the Environment, 14-16 January, 2002.

¹²⁴ See §7 of General Comment No. 23 on Article 27 of the ICCPR, UN Doc. CCPR/C/21/Rev.1/Add.5 (1994).

¹²⁵ See §11 of General Comment No. 14 on Article 12 of the ICESCR, UN Doc. E/C.12/2000/4 (2000).

¹²⁶ *Ibid.*, §51.

¹²⁷ Communications 25/89, 47/90, 56/91 and 100/93 against Zaire the Commission held that failure by the Government to provide basic services such as safe drinking water constituted a violation of Article 16. The failure of the Government to provide basic services such as safe drinking water and electricity and the shortage of medicine as alleged in communication 100/93 constitutes a violation of Article 16. See also *Human Rights and the Environment: Jurisprudence of Human Rights Bodies*, Dinah Shelton, Background Paper No. 2 of the Joint UNEP-OHCHR Expert Seminar on Human Rights and the Environment, 14-16 January 2002.

Article 7 of the Liberian Constitution provides:

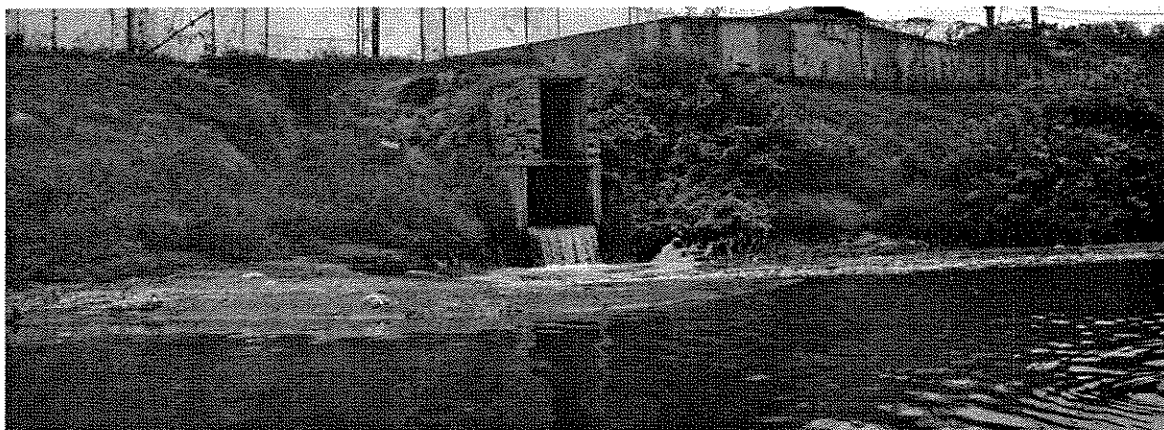
“The Republic shall...manage the national economy and the natural resources of Liberia in such manner as shall ensure the maximum feasible participation of Liberian citizens under conditions of equality so as to advance the general welfare of the Liberian people and the economic development of Liberia.”

In order to give effect to this provision, the Government must adopt and enforce environmental protection laws and ensure that national development plans are environmentally sustainable. The Public Health Law of 1975 addresses the prevention of water pollution resulting from agriculture and other activities. The Environmental Protection Agency is the primary Government institution responsible for the effective management and oversight of natural resources exploitation, which requires environmental protection and training and technical assistance in the area of water and sanitation.

a. Water Pollution

In [REDACTED] the industrial waste from the processing plants is directly discharged into the Farmington and New Cess rivers respectively. During a visit to a village along the Farmington River adjacent to Firestone’s rubber processing plant on 12 March 2005, UNMIL Environment and Natural Resources Advisors (ENRA) noted the smell of ammonia. Coagulated scum and bubbles were seen on the water surface in the area where the plant has been discharging its wastewater. Although ENRAs were not able to examine the toxicity of the discharge, the smell of ammonia alone had repeatedly driven people away from the area.

Allegations of the [REDACTED] mismanagement of its wastewater were included in the Save My Future Foundation report: “[REDACTED] the mark of Modern Slavery”. The NGO accuses [REDACTED] of polluting the river by its uncontrolled chemical discharge. If the discharge includes high concentration of ammonia, it will cause not only pollution to the river, but also poses a health risk to local communities. ENRA met with [REDACTED] management to request its response to the allegation. The management indicated that it dilutes the substances before releasing it into the river. However, although required by Liberian law, no test results were made available.



A drainage duct from [REDACTED] processing plant going into the Farmington River. Just opposite the drainage site is the township of Owensgrove in which several inhabitants have made health complaints due to the pollution in the river. Picture provided by ENRA, 2005.

Despite the fact that a comprehensive environmental protection plan was required in the agreement which was signed in April 2005, NGOs claim that at the time of this report the situation in the surrounding area has not improved. [REDACTED] is required to compile the environmental impact assessment report and its corresponding environmental management plan by 11 April, 2006 and submit it to the EPA. Furthermore, [REDACTED] must then comply with the EPA's recommendations on modifications to be made and may be subject to civil or criminal penalties or to mandatory mitigation measures for a violation either of the Agreement or National Law.¹²⁸

HROs visited the town of Owensgrove on 25 July 2005, which is situated directly across from the processing plant of [REDACTED]. Concerned Citizens of Owensgrove's coordinator introduced HROs to five individuals who all complained of alleged serious injuries or illnesses from the presence of chemicals in the river. Although the casual link between the pollution and the injury or illness could not be confirmed with the limited medical testing available in Liberia, a 38 year old male fisherman received information from Medicine San Frontier in 2004 that his continued pulmonary edema (severe swelling of the leg) is from fishing in the polluted waters of the Farmington River.

ENRAs are planning on meeting with [REDACTED] management once again hoping that the company will be able to share some information on its progress toward environmental protection.

¹²⁸ See Section 15 of the Concession Agreement between the Government of Liberia and the [REDACTED] on 28 January, 2005.

absence of a strong, independent and well-functioning police force, PPD officers are reportedly committing human rights abuses. The massive imbalance between the two authorities undermines the rule of law and respect for fundamental human rights.

In June 2005, HROs visited ██████████ and discovered that management pays the rent for both the LNP station and the Magistrate Court located on the plantation, which is clearly a State responsibility. In July 2005, the ██████████ Administrative Manager informed HROs that ██████████ had renovated the District Superintendent's Office and built a holding cell next to it for use by LNP. However, the cell is not clearly identified as being for LNP use only, and it is not in the vicinity of an LNP station or depot. Upon inspection of the holding cell, HROs found an individual who had been illegally detained and allegedly ill-treated by the Superintendent's security staff the previous day. The LNP had not been informed.

c. The Use of Private Security Firms

The operation and organization of private security firms in rubber plantations and their jurisdiction over crimes committed in concession or management areas has raised serious concerns regarding the right to security and liberty of person and the prohibition of ill treatment and punishment. Monitoring indicates that private security firms regularly arrest and detain individuals, at times for days, without notifying the LNP immediately as required. Many private security firms, known on plantations as the Plant Protection Department (PPD), are well staffed, have communications, transportation and detention facilities. However, many LNP stations have minimal staff, no transportation, communication or government buildings to facilitate their operations.

i. Excessive PPD Powers

The illegal detention of individuals by the PPD or other private security firms after they have made a temporary arrest is a recurring problem. Only the LNP has the power to detain individuals after making an arrest. However, the 'Guidelines to Organize and Operate Private Security Agencies'¹³⁵ issued by the Ministry of Justice provide in § 7 that Private Security Guards may effect a *temporary* arrest within their areas of assignment, but must *immediately* inform the nearest Police Authority of LNP and handover the arrested suspect. The PPD in several plantations have their own detention facilities and disregard these provisions by detaining individuals for several days without informing the LNP of the arrest. Under Liberian Penal Law, the illegal detention of individuals is the crime of false imprisonment (Subchapter C, §14.52).

The guidelines focus mainly on the registration and organization of private security firms and fail to define adequately the limits of their authority, although they do provide that private security firms:

“shall operate only within their respective places of business, private and residential houses, and shall be generally confined to their concession areas or compound and shall be required to observe all laws and ordinances of the Country.”¹³⁶

¹³⁵ See *Supra* note 52.

¹³⁶ See *Supra* note 52, § 6.

Nowhere in the Guidelines is there any provision for private security firms to detain individuals. The Ministry of Justice is the Government institution responsible for law enforcement and the coordination, regulation and supervision of the activities of the LNP. Therefore, the Government has an obligation to hold private security guards liable under the Liberian Penal Code, subchapter C, § 14.52 for false imprisonment. Should the LNP or a Court of competent jurisdiction fail to hold the private security officer and the firm criminally and civilly liable for such unlawful detention, this is a violation of the right to liberty under Chapter III of the Liberian Constitution, Article 20 (§a)¹³⁷, and the right to be formally charged and presented to a court of law within 48 hours, Article 21 (§ f).¹³⁸

At the [REDACTED] a verbal agreement between the PPD and LNP provides for the immediate handover of suspected criminals apprehended by PPD to the LNP to allow investigation and transfer to court. However, there have been reported cases of individuals external to the plantation who were kept in detention and even 'investigated' by the PPD beyond 48 hours, often with the knowledge of the LNP.¹³⁹

ii. *Marked Disparity between Resources of the PPD and LNP*



On [REDACTED] the LNP station is located in one room of the PPD building. The LNP Commander advised the HROs that the PPD strength is 588 men. When the HROs visited the plantation on three occasions in July 2005, there were nine officers present, only three of whom were in uniform. However, according to the LNP Commander, this number had been reduced to four in August 2005.

The [REDACTED] concession agreement refers to the authority and role of the police in guaranteeing security in the plantation.¹⁴⁰ However, there are only two LNP officers present in the plantation, which has an estimated population of 35,000 people. There are 81 men in the [REDACTED] PPD force. The LNP shares a building and detention facility with the PPD, but the LNP lacks the communications and other equipment possessed by the PPD.

HRPS has reported several instances where the PPD arrested and illegally detained individuals for several days without handing them over to the LNP.¹⁴¹ Only State law enforcement agencies have authority to detain individuals following arrest. In addition to denial of the rights to liberty and security, the PPD regularly fails to inform suspects of the

¹³⁷ Article 20, § a (in part) of the Liberian Constitution of 1986 states "No person shall be deprived of life, liberty, security of the person, property, privilege or any other right except as the outcome of a hearing judgment consistent with the provisions laid down in this Constitution and in accordance with due process of law."

¹³⁸ Article 21, § f (in part) of the Liberian Constitution of 1986 states "Every person arrested or detained shall be formally charged and presented before a court of competent jurisdiction within forty-eight hours."

¹³⁹ Two individuals were detained for seven nights in the PPD cell from 27 December 2005 to 3 January 2006. The [REDACTED] PPD Deputy Commander stated that the PPD had immediately informed the LNP, but the absence of the Magistrate required detention of the individuals at the plantation.

¹⁴⁰ *Supra* note 53.

¹⁴¹ HRPS reports of 17 February, 20 April and 1 August 2005.

charges against them, to advise them of their legal rights, or to ensure that the constitutionally guaranteed 48-hour limit on custody is respected. The Government is thus obliged to prosecute such instances under the Penal Code. PPD records of suspects and detainees, particularly at [REDACTED], are usually poor. It appears that [REDACTED] management has at times tried to influence the outcome of LNP investigations. It was reported in April 2005 that two CID officers from Buchanan station were temporarily based in [REDACTED] to conduct investigations into an alleged homicide case. One night, one of the CID officers was pulled out of his house by PPD and by the Special Assistant of the General Manager. He was arrested and forced to remove his clothes. He was then detained on the grounds that he had accused the Special Assistant of being a 'heartman'. The CID officer was only released the following day after the intervention of CID, UNPOL and HROs.

On the [REDACTED] the PPD has 69 officers, while the police station at Gedetargbo has only one LNP officer (and two volunteers without police training) with responsibility for an area with approximately 20,000 residents. In June 2005, the LNP officer advised that she was notified by the PPD as soon as they make an arrest. In addition, the plantation General Manager advised the HRO that although the PPD detention cell was used in the past to hold individuals when there was no police presence; suspects were now brought to the police station. However, this information contradicts statements made by PPD guards stationed at the gates of the plantation who admitted arresting individuals and releasing them the following day if they were not employees of the plantation.

The LNP cell is in very poor condition; at least two suspects have escaped the cell. Moreover, due to the lack of other detention facilities in Sodoken District, individuals were arrested, investigated and detained by PPD guards, in cooperation with LNP, throughout the last six months of 2005. The conditions of detention do not meet minimum international standards.¹⁴²

Private security companies engaged by plantation management are purportedly meeting the gap caused by the Government's failure to guarantee security and the rule of law. However, this abrogation of constitutional duties comes at a price. In the absence of a strong, independent and well-functioning police force, PPD officers are reportedly committing human rights abuses. The massive imbalance between the two authorities undermines the rule of law and respect for fundamental human rights.



Photo of the [REDACTED] PPD cell taken by HRO on 9 January 2006.

iii. Excessive Use of Force and Assault

In June 2005, the HRO was informed by a PPD officer at [REDACTED] that when non-employees are suspected of having committed petty offences, such as theft of

¹⁴² At least four individuals, all external to the plantation, were arrested by the PPD guards between 27 December, 2005 and 5 January, 2006 for alleged theft of rubber. Two of them were kept in custody in the PPD cell from 27 December 2005 to 3 January 2006 and later released on parole without a hearing before the Magistrate.

rubber, they are assaulted and evicted from the plantation. The PPD Chief also assured the HRO that PPD guards are well-trained and that they respect human rights standards.

However, on 3 January 2006, HRPS monitored the case of a tapper, accused of stealing rubber, who was seriously beaten by a group of security guards. The HRO met the employee at the plantation hospital and witnessed bruises and lesions on several parts of his body. The man could hardly hear or walk due to the beating he had received. He was subsequently sent home, where he continued treatment by his own means, as the plantation clinic did not have adequate medicines available. There appears to be limited accountability for excessive use of force, as management of the plantation stated that the beating of the man would serve as a deterrent for future cases of misconduct. In a separate development, while visiting the plantation hospital, the HROs met a PPD guard who sought treatment after he had allegedly been beaten while trying to arrest individuals involved in stealing.¹⁴³

¹⁴³ According to [REDACTED] disciplinary measures have not been taken in cases of workers caught stealing rubber, which raises questions as to the role of the PPD and the management team. In one case, [REDACTED] Vice-President determined that a worker would lose three months' salary, but that decision was changed by the management team to three months' suspension with pay. Collusion in the stealing of rubber between PPD guards, management representatives and workers cannot be excluded.

X. Ex-Combatant Occupation

██████████ are both under the illegal management of former combatants. Occupants of ██████████ argue that their continued presence is legitimate through provisions of the CPA (see below).¹⁴⁴ On ██████████, the occupants want to ensure that profits benefit the community rather than an external management entity. Management agreements exist in relation to both plantations, but it is not possible for management to begin lawful operations due to the illegal occupation. Furthermore, state authority has not been restored and the rule of law is absent in those communities within the plantation. The NTGL showed prolonged reluctance to address the occupation of either plantation and was thus unable to collect taxes and provide basic social services. Security and protection of fundamental human rights is a profound concern on these plantations.

On 26 October 2004, former UNMIL Special Representative of the Secretary-General, ██████████, sent a letter to the NTGL Chairman urging immediate action to address the state of impunity enjoyed by the ex-combatants in control of the ██████████. He urged the NTGL Chairman to establish a legitimate management structure and offered UNMIL's support in the restoration of law and order. Almost one year later, on 8 September 2005, the NTGL signed a new management agreement with ██████████ with an explicit provision for the inclusion of ex-combatants currently occupying the plantation. This agreement came about through consultation with the Minister of Agriculture, ██████████ and the ██████████. However, as of January 2006, ██████████ had not been able to start operations on the plantation due to further violence by the ex-combatant occupants.

The future potential value of the ██████████ is also being squandered through these illegal occupations. The former fighters are not trained in sustainable rubber production. The local community and rubber industry representatives have stated that the current rate of tapping is unsustainable and that irreparable damage is being done. There are also reports that trees are being cut down for charcoal production.

The reintegration, particularly in socio-economic terms, of ex-combatants is critical to the security and development of communities on the plantations. Profitable natural resources in both ██████████ plantations are a source of conflict when ex-combatants have no alternative means of supporting themselves. Provision for the reintegration of ex-combatants on ██████████ plantation, similar to that described above in the ██████████ management agreement, should be made.

Legal Framework

UN Security Resolution 1509 of 19 December, 2003 states that UNMIL will “facilitate the provision of humanitarian assistance, including by helping to establish the necessary security conditions”. As stipulated in the CPA, “[a]ll combatants shall remain in the declared and recorded locations until they proceed to reintegration activities or training for entry into the restructured Liberian armed forces or into civilian life.”¹⁴⁵ Therefore, ex-combatants could

¹⁴⁴ See Part III, Article VI § 6 of the Comprehensive Peace Agreement Between the Government of Liberia and the Liberians United for Reconciliation and Democracy (LURD) and the Movement for Democracy in Liberia (MODEL) and Political Parties, signed on 18th August 2003 in Accra, Ghana.

¹⁴⁵ Ibid.

not live outside their designated areas if they wished to participate in the 2004 Disarmament, Demobilisation, Rehabilitation and Reintegration (DDRR) process. However, in Sinoe and Bomi Counties, large numbers of ex-combatants remained in privately-owned or state-owned rubber plantations, continuing to illegally exploit natural and human resources, and thus failed to register for the demobilisation process.

██████████ is a privately-owned plantation. Section F, §3 of the concession agreement between the GOL and ██████████ explicitly states that the Government will:

“use its offices to prevent infiltration of radical elements that would cause interruption of the ██████████ activities or stop production and be dangerous to the peace of the Republic.”

However, as noted in Part IX of this report, members of the NTLA were directly involved in the management dispute and contributed to the placement of radical elements on the plantation.

i. Security Concerns

The absence of state authority and respect for the rule of law places the fundamental rights of plantation residents at risk. In ██████████ LNP officers are not present and courts do not operate. The ex-LURD General and self-proclaimed General Manager of ██████████ ██████████ advised HROs that he is both police and judge on the plantation.¹⁴⁶ He further described himself as “God” in an interview with the ██████████ ██████████ in June 2005. As noted above, ██████████ and an estimated 40 men were allegedly involved in several incidents of violence on the plantation in January and February 2005,¹⁴⁷ in which assault, incitement to violence, arson and other crimes are reported to have been committed. Police appear to be unwilling to arrest the men because of ethnic ties and possible payoffs.

The situation is similar in ██████████. There are no courts and the LNP is not present on the plantation. Although there is a designated Magistrates’ Court for ██████████, the personnel of the Court operate from Gbah Town. The Magistrate informed the HROs that the Court is only open occasionally because the Magistrate and the Associate actually live in Monrovia. Furthermore, the Magistrate stated that when the Court issues a summons for an ex-combatant living on the plantation to appear, the officials are often threatened. At the time of interview, these incidents had not been reported to the LNP.¹⁴⁸

The ease with which the ex-combatants can obtain funds through the exploitation of rubber is a key factor in the continued security vulnerability of the area. Profits are not recorded by the ex-combatants, their commanders or the buyers. It should be noted that the ex-LURD combatant, self-proclaimed General Manager of ██████████ ██████████, is a relative of the ex-LURD combatant self-proclaimed General Manager of ██████████ ██████████. This raises the possibility of direct collusion between the two operations. It is also important to remember that although the rebel groups were formally

¹⁴⁶ Information obtained in an interview on 6 July 2005 with ██████████

¹⁴⁷ See Note to File of 6 February 2005 by UNMIL Civil Affairs Expert for Sinoe.

¹⁴⁸ Information obtained by the HRO in Bomi County who held an interview with the Magistrate Judge, ██████████ ██████████ on 10 August 2005.

dissolved early this year, in the field, commanders continue to maintain varying degrees of control over their former fighters.

The rights of residents of the plantation and its surrounding area have been severely limited by the activities of the ex-combatants. It has been reported on numerous occasions that the ex-combatants in [REDACTED] are committing serious crimes, including murder, rape and aggravated assault. In the absence of the LNP or judicial services, victims of these crimes have limited or no access to justice.

Following persistent reports of arms caches and the presence of “Kamajors”¹⁴⁹ in the plantation, UNMIL Sector Two Military conducted a detailed search (Operation Barracuda) between 13 and 17 June, 2005 of various camps in the [REDACTED] plantation. The search was supported by UNPOL, Military Observers (MILOBS), the LNP and the HRPS. No arms or ammunition were recovered, nor was there any evidence of “Kamajors”. The search operation seems to have reassured community members and also sent a warning to the ex-combatants that criminal behaviour will not be accepted. A further arms search was conducted in [REDACTED] plantation in March 2006. This search also yielded no evidence of weapons. The situation is continually monitored by UNMIL.

ii. Denial of Economic, Social and Cultural Rights

Under the recklessly poor management of ex-combatants, workers in both [REDACTED] plantations are enduring unacceptable labour conditions. Rights to fair wages, equal remuneration, and a safe and healthy working environment are entirely denied. Forms of child labour, which have serious consequences for the health and development of children, are practised.



No health facilities are operational in either plantation. If legitimate management of both plantations was to assume control, both management agreements stipulate the provision of health care facilities for employees and their families. It has been reported that communities in [REDACTED] are experiencing serious cases of diarrhoea, because they are using the river water for drinking, washing clothes, bathing and as a public toilet. Similar cases have been reported to the HROs in [REDACTED]. The state of general insecurity in the plantations caused by ex-combatants impedes the rehabilitation of basic social services. Humanitarian agencies have raised concerns over their lack of access and very few NGOs work in either plantation.

[REDACTED] ex-LURD General and self-styled Chairman of [REDACTED] admitted to the HROs that there are no records of sales, employment or benefits (i.e. pension)

¹⁴⁹ Local traditional hunters that fought alongside government forces against the rebel force, Revolutionary United Front, in Sierra Leone.

for those working in the plantation.¹⁵⁰ Since early February direct communication with the ex-combatant leadership was increasingly established. Meetings have been held between UNMIL and the ex-LURD Generals [REDACTED] and [REDACTED] as well as with the overall former LURD Commander-in-Chief [REDACTED]. UNMIL has also engaged NTGL ministers in negotiations both separately and subsequently with the presence of ex-combatant representatives. Currently, meetings are carried out on a weekly bases and the previous atmosphere of insecurity that surrounded [REDACTED] rubber plantation has decreased. UNMIL has not been involved in negotiations with the new management as that is a task ahead for the newly inaugurated government.

¹⁵⁰ Information obtained in an interview on 10 July, 2005 with [REDACTED] ex-LURD General and Chairman of [REDACTED]

XI. Conclusion and Recommendations

Unsustainable exploitation of the environment and natural resources has contributed to the fuelling of armed conflict in Liberia and her neighbouring States. The conditions on the rubber plantations have a profound effect on the lives of the people labouring and living on them. Incompetent and continued misuse of natural resources in the plantations will lead to the decrease of yield and possible extinction of the trees, which will directly affect the communities in the future. To assist in peace-building in Liberia, the Government as well as corporations must abide by the rule of law, human rights and good business practices. It is thus necessary to establish a human rights-based approach to the management of rubber plantations.

The NTLA involvement in the placement of interim management on some of the plantations exceeded its authority and influenced the management of Liberia's natural resources. Concession agreements signed, even as recently as 2005, between the Government and corporations have limited or no safeguards for human rights, leaving the communities in the plantations at the will of the corporations with no enforcement or regulations by the national government. Obligations that are provided for under national law were not monitored by the NTGL. The management problem is compounded by the ongoing controversies of legality of ownership.

In several plantations there is an absence of State authority and the rule of law. There is a recurring problem on the plantations concerning illegal detention and arrest by private security officers without the knowledge of the LNP. Guidelines issued by the Ministry of Justice fail to define the limitations of the authority of private security firms. The marked disparity between private security officers and the LNP further undermines the rule of law.

In the plantations, workers are experiencing unacceptable labour conditions. Their rights to fair wages, equal remuneration, strike action, and a safe and healthy working environment, are poorly protected. Plantation workers are exposed to hazardous working conditions without proper training or safety equipment. Many workers are not represented by trades unions to protect their rights. Employees and their families live in deplorable conditions, with inadequate space, lighting and ventilation, which represent possible threats to health. Plantations that provide health care facilities do not provide services to all employees of the plantation, or the facilities are not appropriately equipped with medical supplies and staff as stipulated in national law. Communities were not involved in the negotiations for expansion of plantations, which destroyed crops and forced entire villages to resettle.

Forms of child labour with serious consequences for the health and development of the children are recurrent. Many children are not registered at birth by plantation health facilities and therefore cannot benefit from basic social services, such as free education and health care. Educational facilities are not physically accessible or adequate for the level of need. Many children work to assist their families on the plantation due to the distance of educational facilities, their incapacity to meet registration requirements, and entrenched poverty.

The NTGL and plantation management disregarded environmental protection laws. The discharge of agricultural waste products into local waterways leaves many employees and

surrounding plantation communities exposed to serious health risks. This and other concerns have attracted the attention of UNEP.

████████████████████ are both under the illegal management of ex-combatants. Because of their presence and illegitimate management of the plantation, State authority has not been restored and the rule of law is absent to those communities within the plantation. The state of general insecurity caused by the ex-combatants currently is impeding rehabilitation of social services to plantation communities.

Based on the above findings, the following recommendations are made to assist the Government, plantation management, civil society and international organisations to address human rights concerns in Liberia's rubber plantations. The recommendations are organised in terms of actions that can be taken immediately and in the long-term.

In making these recommendations, HRPS has taken into consideration the fact that the GOL has been restricted in the reforms it can undertake by limited resources and logistical difficulties, though it is hoped that these difficulties will be resolved with appropriate fiscal management by the new government. Corporations and other business enterprises which enter into concession and management agreements in relation to the rubber plantations also have an important role to play in contributing their own resources, and the wealth generated from the plantations, to address human rights concerns in partnership with the government.

To the Government of Liberia:

i. Recommendations for Immediate Action:

- The Government should ratify the Optional Protocol to the International Covenant on Civil and Political Rights; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. The Government should also ratify regional treaties, such as the African Charter on the Rights and Welfare of the Child, and their optional protocols.
- The Government should ratify the following ILO Conventions: Equal Remuneration Convention (C100); Plantations Convention (C110); Minimum Age Convention (C138); and Occupational Safety and Health Convention (C155).
- The Ministry of Labour should ensure that trades unions, local leaders and traditional authorities and communities are invited to, and have every opportunity to participate in, negotiations prior to the conclusion of new concession agreements. These negotiations and the agreements that arise from them must include provisions for workers' rights, prohibition of child labour, economic and social benefits for plantation workers and their families, preservation of the traditional use of lands, and environmental safeguards in accordance with international and national standards. Through its Labour Commissioners and Labour Agents, The Ministry of Labour should verify that trades unions and others have been given the opportunity to negotiate.
- In coordination with the CMC, The Bureau of Concessions of the Ministry of Finance should clarify the existing draft guidelines on the awarding of concession agreements.

The guidelines must ensure that, where there is direct evidence of the participation or complicity of corporations in past or current human rights abuses, those corporations are disqualified from the bidding process.

- The Ministry of Agriculture should review all current concession and management agreements to ensure compliance by plantation management with all existing requirements in the agreements to provide economic, social and cultural benefits to those living and working on the plantations.
- The Government should cooperate with the Ministry of Labour to repeal or amend provisions of the Labour Law that do not meet international human rights standards established under the ICCPR and ICESCR, and relevant ILO Conventions including the Right to Organise and Collective Bargaining Convention of 1949 (C98) and the Discrimination (Employment and Occupation) Convention of 1958 (C111). This includes the repeal or amendment of the summary dismissal provision in §1508(3) of the Labour Law, which can currently be used by employers to dismiss workers for discriminatory purposes or to deprive them of pension rights.
- The Ministry of Labour should undertake a nationwide investigation into occupational health and safety practices on the rubber plantations, including safety procedures, training on the use of processing equipment and the handling of hazardous substances, and the use of appropriate safety equipment in the production and processing of rubber. The Ministry of Labour should also establish national regulations with minimum safety requirements to be adhered to by plantation management.
- The Ministry of Health and Social Welfare should conduct blanket birth registration of unregistered juveniles.¹⁵¹
- In coordination with the National Commission on Child Labour, The Ministry of Labour should recommence the monitoring of child labour in the plantations and should deploy Labour Commissioners and Agents to all counties as required by the Labour Law.
- In collaboration with environmental NGOs and civil society, the Environmental Protection Agency should undertake an immediate assessment of the environmental impact of the production and processing of rubber and the discharge of agricultural waste into national waterways and should establish national regulations with minimum environmental protections to be adhered to by plantation management.
- The Ministry of Justice should review the operation of all private security firms working on the plantations to ensure that they fully comply with its Guidelines to Organize and Operate Private Security Agencies.
- The Ministry of Justice should conduct an assessment of the logistical needs of the courts in or near the concession areas in order to determine their requirements for budgetary and logistical support and to ensure that the courts remain independent from corporations managing the plantations.

¹⁵¹ UNICEF Sierra Leone piloted a similar scheme in two counties with great success.

- The Director of the LNP should conduct an assessment of LNP strength on the rubber plantations in order to determine the budgetary and logistical requirements for deploying an adequate LNP force to each plantation. The assessment and deployment should be conducted with a view to replacing PPD and private security firms with LNP officers on the plantations.
- The Government should enter into immediate negotiations with ex-combatants on [REDACTED] for their withdrawal from these plantations and their rehabilitation and reintegration into the community. The Government should provide adequate security to ensure that rehabilitation and reintegration programs can be implemented, and to ensure the resumption of basic services such as the provision of safe drinking water and the establishment of schools and medical facilities.

ii. Recommendations for Long-term Action:

- The Government should incorporate into national law all international and regional human rights treaties and ILO Conventions to which it has acceded or ratified, particularly those that are relevant to rubber plantations (see Annex II to this report). The Government should also adhere to reporting procedures established under these international treaties in order to monitor its own progress on the implementation of human rights standards in the rubber plantations.
- In coordination with the Independent National Commission on Human Rights, the CMC should review the bidding process for all new concession agreements. As a pre-requisite to making a bid, each bidder should agree to the insertion of provisions in the concession agreement to protect human rights. The review should be conducted by mid-2006.
- The Ministries of Agriculture and Labour, as well as other relevant government ministries, should review all new concession and management agreements to ensure that obligations are imposed on plantation management to protect the human rights of those living and working on the plantations.
- The Ministry of Labour should establish national guidelines on collective bargaining by the end of 2006.
- The Ministries of Agriculture and Internal Affairs should undertake a comprehensive review of measures which can be taken to protect indigenous peoples and their use of traditional lands and natural resources by the end of 2006.
- The Ministry of Justice should conduct training and capacity building of all LNP officers on law enforcement issues related to the plantations, including child labour, non-discrimination, the right to security etc by the end of 2006.
- The Ministries of Finance, Labour and Justice, in collaboration with civil society and national NGOs, should create a five-year national Business and Human Rights Plan of Action to clarify the mutual responsibilities of Government and corporations that manage the plantations to uphold human rights standards on the plantations.

To the Plantation Managements:

i. Recommendations for Immediate Action:

- Plantation managements should review all existing collective bargaining agreements to assess their compliance with national labour standards, such as the Labour Law. Plantation managements should renegotiate agreements with trades unions and workers if the agreements do not comply with these standards. In particular, the right to strike must be negotiated and inserted into all collective bargaining agreements, with guarantees for trade union officials that they will not be punished for labour disputes and strikes, regardless of whether they were personally involved in the instigation of such actions.
- Plantation managements should ensure that all salary arrears and any other amounts owed to workers on the plantations are paid immediately. This is particularly urgent at [REDACTED] where salary arrears are substantial.
- Plantation managements should conduct an immediate review of child labour in each plantation in order to establish a policy, where none already exists, banning child labour with no exceptions. Such policies should include mechanisms to monitor school attendance records and truancy.
- Plantation managements should review practices, where applicable, of deducting amounts from employees' wages to subsidise the provision of health care, with a view to finding alternative sources (such as profit from rubber production) to fund health care facilities. Adequate health care is likely to result in high labour productivity and other commercial benefits for the plantation.
- Plantation managements should immediately contact the Environmental Protection Agency to seek technical assistance to ensure its operation is meeting the country's environmental standards. Plantation managements should also take immediate action to implement regulations established by the Ministry of Labour regarding minimum safety standards.
- In order to avoid continuing civil instability on [REDACTED] plantation managements should stop purchasing rubber from these plantations until legitimate management is established.

- [REDACTED]
- Plantation managements should strictly adhere to national guidelines established by the Ministry of Labour in relation to the minimum safety requirements for the production and processing of rubber, and should establish internal mechanisms to review compliance with the guidelines. Plantation management must also ensure that appropriate medical facilities exist to treat occupational hazards encountered on the plantations.
 - Plantation managements should cooperate with the National Commission on Child Labour and with Labour Agents (who are obliged to uphold the Labour Law, the

- Civil society groups should undertake training and capacity building for Government and corporations on business and human rights issues pertaining to the plantations.
- Civil society groups should continue to monitor the human rights situation on the rubber plantations. Information on violations and abuses of human rights, which can be substantiated with appropriate evidence, should be made public. Violations of contractual obligations to uphold human rights should also be made public.
- Civil society groups should conduct capacity building activities for trades unions on the ILO Conventions (including advocacy for the mainstreaming of ILO treaties), collective bargaining, mechanisms for the resolution of labour grievances, etc. Civil society groups should also undertake *pro bono* representation of trades unions and employees (particularly those that have been summarily dismissed) in labour disputes.

To UNMIL and the UN Country Team:

- The UN should support the Government's ratification and incorporation of international human rights treaties and ILO Conventions through technical assistance, awareness-raising and training of relevant public officers.
- The UN should maintain constructive dialogue with members of the Legislature, the Independent National Commission on Human Rights, civil society, NGOs and "reporting offices" to ensure that agreed dates for action will be met and that reports will reflect a realistic appraisal of human rights and business in Liberia's rubber plantations.
- The UN should support the establishment of a confidential complaint mechanism for workers by developing potential models for adoption by the Government.
- The UN should continue to support reconciliation in conflict areas, inside plantations, between former combatants and local communities, with an important role for the Truth and Reconciliation Commission and the Independent National Commission on Human Rights.
- The UN should advocate for the NCDDRR to support the rehabilitation of the ex-combatants located on [REDACTED] plantations and ensure that they are included in reintegration projects under the DDDR process.
- The UN should increase military and UNPOL patrols of plantation areas to send a clear message that illegal activities will not be tolerated.
- The UN should adopt a coordinated and consistent mechanism and policy for addressing the occupation of [REDACTED] plantations, including greater use of, and cooperation with, taskforces established within the UN in relation to these plantations.

Annex I

Background Information on Liberian Rubber Plantations Investigated

██████████

The history of ██████████ goes back to just after World War I when the rubber prices on the international market dropped. As a consequence, the United Kingdom, the country that dominated the rubber industry, introduced a measure to restrict the supply of rubber to the world market, resulting in a sharp increase in the price of rubber for buyers. The United States was the largest importer of rubber, absorbing approximately two-thirds of rubber produced internationally. In response, ██████████ established a plantation in Liberia.¹⁵²

The original concession agreement contained a clause¹⁵³ providing that the Government would accept a loan from ██████████ of 5 million USD, in part to eliminate the already 1 million USD owed to British bankers. This loan and the long-term nature of the investment in the country provided ██████████ with some leverage over the Liberian Government. The agreement was supported by the United States Government.¹⁵⁴

In the ratified agreement, ██████████ obtained a one million acre concession for 99 years with exclusive rights to the land, which was equal to 4% of Liberia's territory and nearly 10% of arable land. To produce the rubber, ██████████ needed a very large workforce to tap the trees. In the 1920s and 1930s, the Committee of the League of Nations documented that "[I]labour for private purposes is forcibly impressed by the Government, and used in the ██████████ Plantations."¹⁵⁵ However, the recruitment system, described as forced recruitment, was still in place until the 1960s and supplied ██████████ with tens of thousands of workers. It was not until a complaint was filed in 1961 by the Government of Portugal to the ILO concerning Liberia's non-compliance with the 1930 Forced Labour Convention, that Liberia enacted legislation regulating labour recruitment. Following intervention by ILO, the recruitment system that had supplied ██████████ with disposable labour since 1926 was outlawed.

Harbel, the town where ██████████ operates its processing plant, is situated about 60 km. from Monrovia. Owing to the declining international rubber market, the workforce at ██████████ has decreased over the past decades. In the 1960s, ██████████ had a workforce of 20,000 people compared to present numbers of only 8,500. However, in January 2005, the NTGL renewed the concession agreement with ██████████ which was ratified on 11 April 2005.¹⁵⁶ The new agreement incorporates provisions of the CRC and the ICCPR. Of the five plantations investigated, this is the only concession agreement which incorporates international human rights standards that are directly applicable to the corporations.

¹⁵² See The 1926 ██████████ Concession Agreement, <http://www.liberiapastandpresent.org/1926-██████████.htm>.

¹⁵³ See Clause K of the Concession Agreement between the Republic of Liberia, ██████████ ██████████ 26 October 1926.

¹⁵⁴ Ibid.

¹⁵⁵ Ibid.

¹⁵⁶ See An Act to Ratify the Concession Agreement Between the Republic of Liberia and ██████████ ██████████ approved 11 April 2005 and published by the Authority of the Ministry of Foreign Affairs, Monrovia, Liberia, 12 April 2005.

Concession Agreement:

- Executed on 26 October 1926 for 99 years and renewed on 20 August, 1976. Subsequently amended on 24 November 1987. Renewed again on 28 January 2005 for a period of 36 years.

Management:

- [REDACTED] consolidated with [REDACTED]
- [REDACTED] – President and Managing Director
- [REDACTED] - Industrial Relations Manager
- [REDACTED] - Public Relations Manager

Start of Operations:

- 1930s

Concession Area:

- One million acres (1926 concession agreement)

Development Area:

- 118,000 (at present)

Employment:

- 6,500 company workers
- 3,800 contractors – subleasing of land (mainly tappers)

Minimum Wage:

- 2.65 USD a day – contractors (no benefits from [REDACTED])
- 3.38 USD a day – company workers

Population of Concession Area:

- 100,000 (estimate)

Camps/Divisions/Towns:

- 45 Divisions
- Harbel – site of [REDACTED] head office

Liberian National Police:

- 47 LNP Officers for Harbel City ([REDACTED]), Roberts International Airport and Marshall City – 9 LNP Officers (three in uniform) for [REDACTED]

Private Security Firm

- Plant Protection Department – 588 Officers

Schools:

- Four Junior High Schools, no high school

Clinics/Hospitals:

- [REDACTED] and health posts in some divisions

Trade Union:

- [REDACTED]
- [REDACTED] – President
- [REDACTED] – Vice-President

[REDACTED]

The [REDACTED] Plantation was established in 1959 through a concession agreement signed by the Government and a road construction company known as [REDACTED]. This was later ratified by the Legislature in 1966. At the time, the Government was indebted to [REDACTED] for work it had done in paving the Monrovia to Buchanan road. As a means of settling its obligations to the company, the Government offered 300,000 acres of land in either Grand Bassa County or Grand Gedeh County. [REDACTED] accepted the offer of Grand Bassa County and made arrangements for the current concession agreement.

However, [REDACTED] was a road construction company and therefore sold the rights embodied in the concession agreement to an American company, [REDACTED]. Under the ownership of [REDACTED] the planting of rubber started in 1960, followed by other agricultural projects.

A factory complex, complete with a processing plant, was constructed by [REDACTED]. In 1968, the first batch of processed rubber was produced.

In 1985, following a buyout of [REDACTED], ownership passed to another American company known as [REDACTED] which managed the plantation until the outbreak of the war in December 1989. [REDACTED] suffered destruction of resources amounting to over 20 million USD and as a result, [REDACTED] could not raise the funds required to return the plantation to its maximum operation level. In 1998 the company sold its rights to a Luxembourg company known as [REDACTED] the present owner of the [REDACTED].

Concession Agreement:

- 1959 agreement with [REDACTED] for 70 years, ratified in 1966

Management:

- [REDACTED] – General Manager
- [REDACTED] – Administration Manager
- [REDACTED] – Factory Manager

Start of Operations:

- 1962 - 1990, 1997 - present

Concession Area:

- 300,000 (acres)

Development Area:

- 10,000 (acres) with the new expansion of an additional 10,000

Production 2005:

- 50-65 tonnes of dry lump daily (1,200 – 1,300 USD a tonne)

Employment:

- 1,300 company workers
- 1,500 contractors – subleasing of land (mainly tappers)

Minimum Wage:

- 2.76 USD a day – company workers

Population of Concession Area:

- 30,000-35,000 (estimate)

Camps/Divisions/Towns:

- 12 Divisions
- 75 Villages

- Expansion area is 13th Division – approx. 15 villages

Magistrates' Court:

- [REDACTED] – Magistrate
- [REDACTED] – Associate Magistrate
- [REDACTED] – Clerk
- [REDACTED] – City Solicitor

Liberian National Police:

- 2 LNP Officers
- [REDACTED] – Commander
- [REDACTED] – Deputy Commander

Private Security Firm:

- Plant Protection Department – 81 Officers

Schools:

- Three elementary schools, one junior high, one high school

Clinics/Hospitals:

- One clinic with two doctors, two ambulances
- Plans for two additional clinics in other divisions

Trade Union:

- [REDACTED]
- President – [REDACTED]

████████████████████

The ██████████ was created by the 1926 ██████████ Concession Agreement, as part of the one million acre concession. In 1981, following the previous year's military coup, ██████████ turned the plantation over to the Government. In 1983, the Government contracted ██████████, a Belgian company, to manage the plantation and gave the company 50 per cent of the shares in the plantation. ██████████ claims that it made a deal with a subsequent Government to acquire the remaining 50 per cent of the shares in return for paying the balance of a 2 million USD loan owed by the Government to a Belgian company. The sum of the loan was paid, ██████████ claims, through a company in Liberia – ██████████. However, ██████████ went bankrupt and the 2 million USD cannot be accounted for by the NTGL.¹⁵⁷ Following the outbreak of war in 1990, ██████████ withdrew their operations from the plantation and contracted a Malaysian company, ██████████, to manage the plantation. However, in 1992, ██████████ was forced to leave due to factional wars in the Liberian conflict. It was not until 1998 that the plantation opened for operation by ██████████, a subsidiary of the ██████████. It was then turned over in 2003 to ██████████, which was itself headed by a Lebanese businessman, ██████████. In 2003, ██████████ took control of the plantation and assigned ██████████ to manage the plantation in the interests of ██████████.

In September 2004, after the signing of the CPA, the Maryland Legislative Caucus told ██████████ to vacate the farm. It was not known when ██████████ would return, and in the interests of the 50 per cent share of the plantation allegedly owned by the State, the NTGL decided to start a bidding process to contract management to operate the plantation until ██████████ return. Previously, on 14 August 2004, the NTGL had contracted ██████████ to manage, operate and rehabilitate the plantation for 'four calendar years'.¹⁵⁸ Following the award of the contract to ██████████ NTLA member ██████████ (of The Concerned Citizens of Maryland) and ██████████ initiated proceedings in the Supreme Court to prevent ██████████ from managing the plantation. These proceedings and the resolution of the dispute are described in greater detail above in Part IX of this report.

On 16 February 2005, ██████████ took over the management of the plantation, and as agreed with the Government, retained ██████████ as the General Manager. At this time, there was a high degree of tension at the plantation. Due to alleged mismanagement by ██████████ the workers went on strike. On 17 March 2005, ██████████ removed ██████████ as the General Manager and two other officials placed in management by the Maryland Legislative Caucus, and replaced those personnel with the current management team. ██████████ refused to leave the plantation until the end of May when action was taken by Maryland County authorities, the Labour Commissioner and UNMIL to resolve the situation. Throughout 2005, workers were not paid regularly. The agreement of ██████████ with the NTGL anticipated payment by the new management of all the arrears left by ██████████ and his team.

Unfortunately, ██████████ failed to meet these financial obligations. This led to the signature of a new agreement whereby ██████████ a corporation of rubber buyers from the Pleebo area, decided to step in and finance the plantation with the support of ██████████. At that stage, illegal selling of rubber (mostly to buyers in the Ivory Coast), absenteeism, strikes

¹⁵⁷ Interview on 20 July 2005 with the Minister of Agriculture and interview on 7 July 2005 with ██████████ Managing Director. The Minister of Agriculture also informed HRPS on 30 January 2006 that he was unaware of any legal documentation showing that the money was owed by Liberia to ██████████.

¹⁵⁸ See Management Agreement between the Government of Liberia and ██████████ of 14 August 2004.

accompanied by violence, and rampant corruption dominated the plantation. HRPS and Civil Affairs were often requested by local authorities to act as mediators. However, with the new management, there is now a greater expectation of stabilising the plantation through collaboration with the new government and by encouraging international investment in the plantation.

Concession Agreement:

- 1983 with [REDACTED] – Belgian Company and/or [REDACTED] 1926 for 99 years

Management Agreement:

- 14 August, 2004 – [REDACTED]

Memorandum of Understanding:

- 18 August, 2005 – [REDACTED]

[REDACTED] Management Team:

- [REDACTED] – President, [REDACTED]
- [REDACTED] Vice-President, [REDACTED]
- [REDACTED] – General Manager, [REDACTED]
- [REDACTED] – Labour Relations Manager, [REDACTED]

Start of Operations:

- October 2005

Concession Area:

- 20,000 (acres); 8,094 (hectares)

Development Area:

- 9,662 (acres); 3,910 (hectares)

Employment:

- 1,350 workers, 850 of those are tappers

Minimum Wage:

- 2 USD per day – (paid in either USD or Ivorian currency CFA)

Population of Concession Area:

- 20,000 (estimate)

Camps/Divisions/Towns:

- 12 camps; 6 divisions
- Gedetargbo (inside plantation), Sadeken, Quedeken, Neneken, Bolobo, Pleebo (surrounding plantation)

Magistrates' Court:

- Gedetargbo Magistrates' Court, opened 2000
- [REDACTED] Stipendiary Magistrate
- [REDACTED] Associate Magistrate

Liberian National Police:

- 1 LNP Officer
- [REDACTED] - Commander

Private Security Firm:

- Plant Protection Department; 69 security officers
- [REDACTED] - Chief PPD

Schools:

- 1,200 Students
- Four Elementary Schools, one Junior High School, one High School

Clinics/Hospitals:

- [REDACTED]

Trade Union:

- [REDACTED] – President

[REDACTED]

In 1954, the Government signed a concession agreement with an American company, owned by inventor of the tubeless tire, [REDACTED], for 300,000 acres in Bomi County and Grand Cape Mount County. In 1981, the Government acquired the plantation and hired a Malaysian Company, [REDACTED], to manage it. [REDACTED] managed the concession area until December 2000. Between December 2000 and July 2003, an interim management was installed by then President [REDACTED] which mainly comprised the same management from [REDACTED] but directly controlled by the Government. In 2002 and 2003, LURD forces carried out several ambushes against the [REDACTED] Government in and around the plantation. Just before the takeover of the plantation in July 2003 by LURD, the Government signed a contract with [REDACTED], chaired by [REDACTED] a Lebanese businessman, for a period of ten calendar years. However, since July 2003, the plantation has been under the control of LURD ex-combatants and [REDACTED] was never able to assume management. Currently, the plantation is under the control of approximately 3,700 ex-combatants. Of these, 529 claim not to have participated in the disarmament and demobilisation. Those who did go through this process complain that there are no rehabilitation and reintegration programmes available to them.

However, during the negotiations with the NTGL and the UN Development Programme regarding the DDRR process, the ex-combatants established full control and management of the plantation under the chairmanship of [REDACTED] former LURD general. The ex-combatants and inhabitants of the plantation appear to be tapping the rubber illegally, since it is a Government-owned plantation and [REDACTED] claims to have legitimate rights to operate the plantation. Furthermore, the contractual obligations of management companies or concessionaires to provide social and economic services, such as hospitals, clinics, schools, pension schemes etc., to workers and communities in the plantation are not being fulfilled by the ex-combatant management.

According to a letter dated 27 November, 2005 from the Director of Communication of the NCDDRR, on 8 September 2005, the NTGL signed a management agreement with [REDACTED] [REDACTED]. However, as of January 2006, [REDACTED] had yet to enter the plantation.

Management Agreement:

- 14 March 2003, ten calendar years with [REDACTED] (previous management).
- 8 September, 2005 with [REDACTED] valid for 45 years.

Management:

- [REDACTED] - [REDACTED] General Manager/Chief Executive Officer (not on plantation)
- [REDACTED] - Chairlady
- [REDACTED] (ex-LURD General) – Chairman
- [REDACTED] (relative of [REDACTED]) – General Manager

Start of Operations:

- Ex-combatant occupation July 2003 (LURD)

Concession Area:

- 300,000 acres

Development Area:

- 18,000 acres

Production 2005:

- Estimate 2,270 tonnes from January – June 2005 (410 USD per tonne)

Employment:

- Records not kept

Minimum Wage:

- 150 USD per month (not including deductions or benefits)

Population of Concession Area:

- 32,000 – 38,000 estimated

Camps/Divisions/Towns:

- Three Estates, 23 Camps, 2 Townships

Magistrates' Court:

- [REDACTED] - Magistrate
- Court for Plantation but situated in Gbah Town, no structure on Plantation

Liberian National Police:

- Not present on plantation

Private Security Firm:

- N/A

Schools:

- Two Elementary Schools – Zui Camp, Mambo Camp
- Renovated by Norwegian Refugee Council

Clinics/Hospitals:

- N/A

Trade Union:

- N/A

plantation to start operations. The Sinoe Legislative Caucus later wrote to the county authorities rescinding the decision of the Ministry of Agriculture.

Due to [REDACTED] inability to commence operations on the plantation because of the conflict between the Wedjah community and the ex-combatant occupants, [REDACTED] terminated the management agreement with [REDACTED]

<p>Concession Agreement:</p> <ul style="list-style-type: none"> ▪ [REDACTED] Hamburg, 30 March, 1953 ▪ 15 July, 1973 [REDACTED] gained full rights to the AFC. <p>Owner:</p> <ul style="list-style-type: none"> ▪ [REDACTED] - owner of [REDACTED] <p>Management:</p> <ul style="list-style-type: none"> ▪ [REDACTED], President and Managing Director of [REDACTED], five-year leasehold from 1 October, 2001. However, [REDACTED] has invalidated [REDACTED] entitlements to management the [REDACTED] ▪ Interim Management - [REDACTED] (General Manager), [REDACTED] (Administrative Manager), [REDACTED] (Financial Comptroller) and [REDACTED] (Estates Production Manager). <p>Start of Operations:</p> <ul style="list-style-type: none"> ▪ [REDACTED] was unable to start operations because of conflict between the Wedjah Community and ex-combatants. Ex-combatant occupation March 2003. <p>Concession Area:</p> <ul style="list-style-type: none"> ▪ 600,000 acres <p>Development Area:</p> <ul style="list-style-type: none"> ▪ 50,000 acres <p>Employment:</p> <ul style="list-style-type: none"> ▪ No records kept <p>Minimum Wage:</p> <ul style="list-style-type: none"> ▪ 100 USD per month (no benefits) <p>Population of Concession Area:</p> <ul style="list-style-type: none"> ▪ 4-5,000 (estimate) <p>Camps/Divisions/Towns:</p> <ul style="list-style-type: none"> ▪ Seven Camps ▪ Garteh Town, Falahn Town, Saywo Town, Munah Town, Kaye Town, Julu Town, Boye Town <p>Magistrates' Court:</p> <ul style="list-style-type: none"> ▪ [REDACTED] Magistrates' Court <p>Liberian National Police:</p> <ul style="list-style-type: none"> ▪ N/A (LNP officers are present in Greenville) <p>Private Security Firm:</p> <ul style="list-style-type: none"> ▪ N/A <p>Schools:</p> <ul style="list-style-type: none"> ▪ N/A <p>Clinics/Hospitals:</p> <ul style="list-style-type: none"> ▪ N/A <p>Trade Union:</p> <ul style="list-style-type: none"> ▪ N/A
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Annex II

Selected International Human Rights Treaties and Conventions of Relevance to the Human Rights Situation on Liberia's Rubber Plantations

▪ UN Human Rights Treaties

#	Treaty (entry into force)	Ratification, (r), Accession (a) or Signature (s)	Entry into Force for Liberia
1	International Convention on the Elimination of All Forms of Racial Discrimination (1969)	5 November 1976 (a)	5 December 1976
2	International Covenant on Civil and Political Rights (1976)	22 September 2004 (r)	22 December 2004
3	Optional Protocol to the International Covenant on Civil and Political Rights (1976)	22 September 2004 (s)	
4	International Covenant on Economic, Social and Cultural Rights (1976)	22 September 2004 (r)	22 December 2004
5	Convention on the Elimination of All Forms of Discrimination against Women (1981)	17 July 1984 (a)	16 August 1984
6	Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (2000)	22 September 2004 (s)	
7	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1987)	22 September 2004 (a)	22 October 2004
8	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 2002, not yet in force)	22 September 2004 (a)	Optional Protocol not yet in force
9	Convention on the Rights of the Child (1990)	4 June 1993 (r)	4 July 1993
10	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (2003)	22 September 2004 (s)	

▪ **ILO Conventions (of relevance to plantations)**

#	Convention	Date of Ratification
1	C29 Forced Labour Convention (1932)	1 May 1931
2	C81 Labour Inspection Convention (1950)	25 March 2003
3	C87 Freedom of Association and Protection of the Right to Organise Convention (1950)	25 May 1962
4	C98 Right to Organise and Collective Bargaining Convention (1951)	25 May 1962
5	C105 Abolition of Forced Labour Convention (1959)	25 May 1962
6	C110 Plantations Convention (1960)	22 July 1959; denounced on 22 January 1971
7	C111 Discrimination (Employment and Occupation) Convention (1961)	22 July 1959
8	C144 Tripartite Consultation (International Labour Standards) Convention (1978)	25 March 2003
9	C150 Labour Administration Convention (1980)	2 June 2003
10	C182 Worst Forms of Child Labour Convention (2000)	2 June 2003

▪ **Regional Treaties**

#	Treaty	Ratification	Entry into Force
1	African Charter on Human and Peoples' Rights (1986)	4 August 1982	21 October 1986
2	African Charter on the Rights and Welfare of the Child (1999)	<i>Signature</i> 14 May 1992	

Annex III

United Nations Norms on the Responsibilities of Transnational Corporations
and Other Business Enterprises with Regard to Human Rights
U.N. Doc. E/CN.4/Sub.2/2003/12/Rev.2 (2003)

Preamble

Bearing in mind the principles and obligations under the Charter of the United Nations, in particular the preamble and Articles 1, 2, 55 and 56, inter alia to promote universal respect for, and observance of, human rights and fundamental freedoms,

Recalling that the Universal Declaration of Human Rights proclaims a common standard of achievement for all peoples and all nations, to the end that Governments, other organs of society and individuals shall strive, by teaching and education to promote respect for human rights and freedoms, and, by progressive measures, to secure universal and effective recognition and observance, including of equal rights of women and men and the promotion of social progress and better standards of life in larger freedom,

Recognizing that even though States have the primary responsibility to promote, secure the fulfilment of, respect, ensure respect of and protect human rights, transnational corporations and other business enterprises, as organs of society, are also responsible for promoting and securing the human rights set forth in the Universal Declaration of Human Rights,

Realizing that transnational corporations and other business enterprises, their officers and persons working for them are also obligated to respect generally recognized responsibilities and norms contained in United Nations treaties and other international instruments such as the Convention on the Prevention and Punishment of the Crime of Genocide; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Slavery Convention and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the four Geneva Conventions of 12 August 1949 and two Additional Protocols thereto for the protection of victims of war; the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms; the Rome Statute of the International Criminal Court; the United Nations Convention against Transnational Organized Crime; the Convention on Biological Diversity; the International Convention on Civil Liability for Oil Pollution Damage; the Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment; the Declaration on the Right to Development; the Rio Declaration on the Environment and Development; the Plan of Implementation of the World Summit on Sustainable Development; the United Nations Millennium Declaration; the Universal Declaration on the Human Genome and Human Rights; the International Code of Marketing of Breast milk Substitutes adopted by the World Health Assembly; the Ethical Criteria for Medical Drug Promotion and the "Health for All in the Twenty-First Century" policy of the World Health Organization; the Convention against Discrimination in Education of the United Nations Education, Scientific, and Cultural Organization; conventions and recommendations of the International Labour Organization; the Convention and Protocol relating to the Status of Refugees; the African Charter on Human and Peoples' Rights; the American Convention on Human Rights; the European Convention for the Protection of Human Rights and Fundamental Freedoms; the Charter of Fundamental Rights of the European Union; the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of the Organization for Economic Cooperation and Development; and other instruments,

Taking into account the standards set forth in the Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy and the Declaration on Fundamental Principles and Rights at Work of the International Labour Organization,

Aware of the Guidelines for Multinational Enterprises and the Committee on International Investment and Multinational Enterprises of the Organization for Economic Cooperation and Development,

Aware also of the United Nations Global Compact initiative which challenges business leaders to “embrace and enact” nine basic principles with respect to human rights, including labour rights and the environment,

Conscious of the fact that the Governing Body Subcommittee on Multinational Enterprises and Social Policy, the Committee of Experts on the Application of Standards, as well as the Committee on Freedom of Association of the International Labour Organization, which have named business enterprises implicated in States’ failure to comply with Conventions No. 87 concerning the Freedom of Association and Protection of the Right to Organize and No. 98 concerning the Application of the Principles of the Right to Organize and Bargain Collectively, and seeking to supplement and assist their efforts to encourage transnational corporations and other business enterprises to protect human rights,

Conscious also of the Commentary on the Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights, and finding it a useful interpretation and elaboration of the standards contained in the Norms,

Taking note of global trends which have increased the influence of transnational corporations and other business enterprises on the economies of most countries and in international economic relations, and of the growing number of other business enterprises which operate across national boundaries in a variety of arrangements resulting in economic activities beyond the actual capacities of any one national system,

Noting that transnational corporations and other business enterprises have the capacity to foster economic well-being, development, technological improvement and wealth as well as the capacity to cause harmful impacts on the human rights and lives of individuals through their core business practices and operations, including employment practices, environmental policies, relationships with suppliers and consumers, interactions with Governments and other activities,

Noting also that new international human rights issues and concerns are continually emerging and that transnational corporations and other business enterprises often are involved in these issues and concerns, such that further standard-setting and implementation are required at this time and in the future,

Acknowledging the universality, indivisibility, interdependence and interrelatedness of human rights, including the right to development, which entitles every human person and all peoples to participate in, contribute to and enjoy economic, social, cultural and political development in which all human rights and fundamental freedoms can be fully realized,

Reaffirming that transnational corporations and other business enterprises, their officers – including managers, members of corporate boards or directors and other executives - and persons working for them have, inter alia, human rights obligations and responsibilities and that these human rights norms will contribute to the making and development of international law as to those responsibilities and obligations,

Solemnly proclaims these Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights and urges that every effort be made so that they become generally known and respected.

A. General obligations

1. States have the primary responsibility to promote, secure the fulfilment of, respect, ensure respect of and protect human rights recognized in international as well as national law, including ensuring that transnational corporations and other business enterprises respect human rights. Within their respective spheres of activity and influence, transnational corporations and other business enterprises have the obligation to promote, secure the fulfilment of, respect, ensure respect of and protect human rights recognized in international as well as national law, including the rights and interests of indigenous peoples and other vulnerable groups.

B. Right to equal opportunity and non-discriminatory treatment

2. Transnational corporations and other business enterprises shall ensure equality of opportunity and treatment, as provided in the relevant international instruments and national legislation as well as international human rights law, for the purpose of eliminating discrimination based on race, colour, sex, language, religion, political opinion, national or social origin, social status, indigenous status, disability, age - except for children, who may

be given greater protection - or other status of the individual unrelated to the inherent requirements to perform the job, or of complying with special measures designed to overcome past discrimination against certain groups.

C. Right to security of persons

3. Transnational corporations and other business enterprises shall not engage in nor benefit from war crimes, crimes against humanity, genocide, torture, forced disappearance, forced or compulsory labour, hostage-taking, extrajudicial, summary or arbitrary executions, other violations of humanitarian law and other international crimes against the human person as defined by international law, in particular human rights and humanitarian law.

4. Security arrangements for transnational corporations and other business enterprises shall observe international human rights norms as well as the laws and professional standards of the country or countries in which they operate.

D. Rights of workers

5. Transnational corporations and other business enterprises shall not use forced or compulsory labour as forbidden by the relevant international instruments and national legislation as well as international human rights and humanitarian law.

6. Transnational corporations and other business enterprises shall respect the rights of children to be protected from economic exploitation as forbidden by the relevant international instruments and national legislation as well as international human rights and humanitarian law.

7. Transnational corporations and other business enterprises shall provide a safe and healthy working environment as set forth in relevant international instruments and national legislation as well as international human rights and humanitarian law.

8. Transnational corporations and other business enterprises shall provide workers with remuneration that ensures an adequate standard of living for them and their families. Such remuneration shall take due account of their needs for adequate living conditions with a view towards progressive improvement.

9. Transnational corporations and other business enterprises shall ensure freedom of association and effective recognition of the right to collective bargaining by protecting the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without distinction, previous authorization, or interference, for the protection of their employment interests and for other collective bargaining purposes as provided in national legislation and the relevant conventions of the International Labour Organization.

E. Respect for national sovereignty and human rights

10. Transnational corporations and other business enterprises shall recognize and respect applicable norms of international law, national laws and regulations, as well as administrative practices, the rule of law, the public interest, development objectives, social, economic and cultural policies including transparency, accountability and prohibition of corruption, and authority of the countries in which the enterprises operate.

11. Transnational corporations and other business enterprises shall not offer, promise, give, accept, condone, knowingly benefit from, or demand a bribe or other improper advantage, nor shall they be solicited or expected to give a bribe or other improper advantage to any Government, public official, candidate for elective post, any member of the armed forces or security forces, or any other individual or organization. Transnational corporations and other business enterprises shall refrain from any activity which supports, solicits, or encourages States or any other entities to abuse human rights. They shall further seek to ensure that the goods and services they provide will not be used to abuse human rights.

12. Transnational corporations and other business enterprises shall respect economic, social and cultural rights as well as civil and political rights and contribute to their realization, in particular the rights to development, adequate food and drinking water, the highest attainable standard of physical and mental health, adequate

housing, privacy, education, freedom of thought, conscience, and religion and freedom of opinion and expression, and shall refrain from actions which obstruct or impede the realization of those rights.

F. Obligations with regard to consumer protection

13. Transnational corporations and other business enterprises shall act in accordance with fair business, marketing and advertising practices and shall take all necessary steps to ensure the safety and quality of the goods and services they provide, including observance of the precautionary principle. Nor shall they produce, distribute, market, or advertise harmful or potentially harmful products for use by consumers.

G. Obligations with regard to environmental protection

14. Transnational corporations and other business enterprises shall carry out their activities in accordance with national laws, regulations, administrative practices and policies relating to the preservation of the environment of the countries in which they operate, as well as in accordance with relevant international agreements, principles, objectives, responsibilities and standards with regard to the environment as well as human rights, public health and safety, bioethics and the precautionary principle, and shall generally conduct their activities in a manner contributing to the wider goal of sustainable development.

H. General provisions of implementation

15. As an initial step towards implementing these Norms, each transnational corporation or other business enterprise shall adopt, disseminate and implement internal rules of operation in compliance with the Norms. Further, they shall periodically report on and take other measures fully to implement the Norms and to provide at least for the prompt implementation of the protections set forth in the Norms. Each transnational corporation or other business enterprise shall apply and incorporate these Norms in their contracts or other arrangements and dealings with contractors, subcontractors, suppliers, licensees, distributors, or natural or other legal persons that enter into any agreement with the transnational corporation or business enterprise in order to ensure respect for and implementation of the Norms.

16. Transnational corporations and other businesses enterprises shall be subject to periodic monitoring and verification by United Nations, other international and national mechanisms already in existence or yet to be created, regarding application of the Norms. This monitoring shall be transparent and independent and take into account input from stakeholders (including non governmental organizations) and as a result of complaints of violations of these Norms. Further, transnational corporations and other businesses enterprises shall conduct periodic evaluations concerning the impact of their own activities on human rights under these Norms.

17. States should establish and reinforce the necessary legal and administrative framework for ensuring that the Norms and other relevant national and international laws are implemented by transnational corporations and other business enterprises.

18. Transnational corporations and other business enterprises shall provide prompt, effective and adequate reparation to those persons, entities and communities that have been adversely affected by failures to comply with these Norms through, inter alia, reparations, restitution, compensation and rehabilitation for any damage done or property taken. In connection with determining damages in regard to criminal sanctions, and in all other respects, these Norms shall be applied by national courts and/or international tribunals, pursuant to national and international law.

19. Nothing in these Norms shall be construed as diminishing, restricting, or adversely affecting the human rights obligations of States under national and international law, nor shall they be construed as diminishing, restricting, or adversely affecting more protective human rights norms, nor shall they be construed as diminishing, restricting, or adversely affecting other obligations or responsibilities of transnational corporations and other business enterprises in fields other than human rights.

I. Definitions

20. The term "transnational corporation" refers to an economic entity operating in more than one country or a cluster of economic entities operating in two or more countries - whatever their legal form, whether in their home country or country of activity, and whether taken individually or collectively.

21. The phrase “other business enterprise” includes any business entity, regardless of the international or domestic nature of its activities, including a transnational corporation, contractor, subcontractor, supplier, licensee or distributor; the corporate, partnership, or other legal form used to establish the business entity; and the nature of the ownership of the entity. These Norms shall be presumed to apply, as a matter of practice, if the business enterprise has any relation with a transnational corporation, the impact of its activities is not entirely local, or the activities involve violations of the right to security as indicated in paragraphs 3 and 4.

22. The term “stakeholder” includes stockholders, other owners, workers and their representatives, as well as any other individual or group that is affected by the activities of transnational corporations or other business enterprises. The term “stakeholder” shall be interpreted functionally in the light of the objectives of these Norms and include indirect stakeholders when their interests are or will be substantially affected by the activities of the transnational corporation or business enterprise. In addition to parties directly affected by the activities of business enterprises, stakeholders can include parties which are indirectly affected by the activities of transnational corporations or other business enterprises such as consumer groups, customers, Governments, neighbouring communities, indigenous peoples and communities, non governmental organizations, public and private lending institutions, suppliers, trade associations, and others.

23. The phrases “human rights” and “international human rights” include civil, cultural, economic, political and social rights, as set forth in the International Bill of Human Rights and other human rights treaties, as well as the right to development and rights recognized by international humanitarian law, international refugee law, international labour law, and other relevant instruments adopted within the United Nations system.