



# APPLYING HUMAN RIGHTS PRINCIPLES TO THE LIBERIAN SECURITY SECTOR

Practical guidelines for Legislators

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To complete these guidelines, readers may want to watch a series of interviews conducted by DCAF where former legislators provide key tips on security sector governance to their newly-elected peers: <https://www.dcaf.ch/parliamentary-oversight-security-sector-liberia>



## Abbreviations

AC (African Charter on Human and Peoples' Rights)  
 ACHPR (African Commission on Human and Peoples' Rights)  
 ACtHPR (African Court on Human and Peoples' Rights)  
 AU (African Union)  
 CAT (Committee against Torture)  
 CEDAW (Convention on the Elimination of All Forms of Discrimination against Women)  
 CESCR (Committee on Economic, Social and Cultural Rights)  
 CRC (Convention on the Rights of the Child)  
 CRPD (Convention on the Rights of Persons with Disabilities)  
 DCAF (Geneva Centre for Security Sector Governance)  
 HRC (Human Rights Council)  
 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)  
 ICPED (International Convention for the Protection of All Persons from Enforced Disappearance)  
 ICRMW (International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families)  
 INCHRL (Independent National Commission on Human Rights of Liberia)  
 IPU (Inter-Parliamentary Union)  
 LGBTI (Lesbian, gay, bisexual, transgender, and intersex)  
 MDG (Millennium Development Goal)  
 NGO (Non-Governmental Organization)  
 NHRI (National Human Rights Institution)  
 OHCHR (Office of the High Commissioner for Human Rights)  
 SDG (Sustainable Development Goal)  
 SSG (Security Sector Governance)  
 UDHR (Universal Declaration of Human Rights)  
 UNCAT (Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment)  
 UPR (Universal Periodic Review)

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## Introduction

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### Background – Restoring Liberia’s constitutional commitment to human rights

Since the signing of the 2003 Comprehensive Peace Agreement<sup>i</sup>, which put an end to 14 years of civil wars, **Liberia has made significant progress towards post-conflict reconstruction and development**. The country successfully held presidential and legislative elections in late 2017, which followed peaceful elections held in 2005, 2011 and 2014. Successive governments have adopted several policies to foster national reconciliation, and its population now enjoys a higher degree of civil liberty than before the conflict<sup>ii</sup>. Liberia demonstrated the resilience of its post-conflict reconstruction in confronting the outbreak of Ebola from 2014-2016 and continues to rebuild in the aftermath.

Improving respect for human rights is an important element of Liberia’s transition to peaceful democracy. **Liberia’s 1984 Constitution currently lays down essential safeguards for a range of** civil and political rights, such as the right to life, liberty, property, due process, equality before the law, freedom of thought, conscience, and religion, as well as freedom of expression – **see Chapter 2** – However, these protections were systematically violated throughout the Liberian conflict<sup>iii</sup> and, violations have continued, though to a lesser extent since the return of peace<sup>iv</sup>.

**Liberia’s security institutions are the most prominent violators of the human rights Liberia’s constitution protects**. This fact has been highlighted in reports from relevant human rights monitoring bodies – **see Chapter 3** – citing serious violations, including extrajudicial killings by the police, arbitrary and prolonged detention by legal authorities, excessively harsh and even life-threatening prison conditions, undue restrictions on press freedom, corruption of officials, impunity for violence against women, trafficking of persons, and abuse targeting lesbian, gay, bisexual, transgender and intersex (LGBTI) persons<sup>v</sup>. The gravity of these violations underlines the urgent need to reassert the importance of the human rights of all Liberians, and most notably the fundamental rights of vulnerable groups.

**Reasserting the importance of human rights within Liberia’s security sector is a core responsibility of Liberia’s legislators** – the elected members of Liberia’s Senate and House of Representatives. In their capacity as the people’s representatives, members of the Legislature have a critical role to play in ensuring that all the relevant committees of both chambers are working actively and constructively with both the Presidency and the security sector to improve respect for human rights – **see Chapters 1 and 4** – Legislators can fulfil this mission in several ways: Firstly, through their **oversight function**, they are best placed to ensure that the Liberian security authorities effectively implement existing human rights commitments enshrined in Liberia’s current policy framework. Secondly, through their **law-making function**, legislators can contribute to strengthening human rights safeguards, either by adopting and/or reviewing national security legislation, or by promoting the ratification of relevant human rights instruments and their application to domestic security provision. Lastly, the committee members’ **representative function** enables them to raise awareness among ordinary Liberians of their fundamental human rights and to demand the respect they deserve from the security sector that is mandated to protect them.

However, **the Liberian Legislature is substantially hampered in its ability to ensure that the security sector defends and protects the human rights principles established under Liberia’s constitution**. Weak infrastructure and budget restrictions, as well as from a lack of dedicated support staff<sup>vi</sup> ultimately undermine the ability of legislators to exercise their core functions related to good security sector governance (SSG),<sup>vii</sup> access to justice, and human rights. Committee members and staff alike lack comprehensive training in human rights, and their limited expertise in this field prevents them from making effective use of regional and international human rights instruments and principles in their daily practice. Human rights principles do not feature in initiatives to review national legislation on security or to monitor security and justice institutions. Opportunities are missed to adopt a strategic rights-based approach to security sector governance that would better comply with international standards and best practices, as well as Liberia’s existing commitments under international human rights law.

To address these challenges, the United Nations Development Programme (UNDP) country office in Liberia requested the assistance of the Geneva Centre for Security Sector Governance’s (DCAF’s)<sup>viii</sup> in designing and



implementing a multi-year capacity-development project, entitled “Support to security sector accountability in Liberia through strengthened legislative functions” <sup>IX</sup>. **Bridging the information gap on human rights and SSG, DCAF developed these practical guidelines to support Liberia’s legislators in applying human rights principles to their work with the security sector** <sup>X</sup>.

## Objectives

These guidelines are designed to:

- Provide legislators with a clear **understanding of key human rights principles** as they apply to the security sector;
- Stimulate legislators’ **interest in human rights principles and SSG** when performing their core functions; and
- Strengthen legislators’ **capacity to effectively implement human rights principles** in their daily activities related to SSG.

## Expected results

These guidelines offer legislators the opportunity to:

- Acquire greater knowledge of fundamental human rights concepts as entrenched in the human rights treaties ratified by Liberia;
- Increase their awareness of how integrating human rights into their work on SSG will have positive impacts on the everyday life of Liberians;
- Recall that human rights treaties ratified by Liberia require legislators to incorporate concrete human rights safeguards into domestic laws, which the Liberian security authorities shall then “respect”, “protect” and “fulfil”; and
- Develop concrete techniques to implement human rights at the national level through their core functions – for example, by adopting enabling legislation, approving the budget, overseeing the executive, and following up on recommendations from relevant human rights monitoring bodies.

**These guidelines are intended for all legislators with security-related responsibilities.** Some will be members of legislative committees with direct responsibility for security matters, such as the Committee on National Defense within the House of Representatives, or the Senate Committee on National Defense, Intelligence, Security and Veteran Affairs. However, there are many broader aspects of good governance that touch upon the role of Liberia’s security sector and its responsibilities to protect human rights. Legislators working on issues of justice, rule of law, foreign affairs, gender, education and social welfare—for example—may all be called upon to make decisions that invoke human rights principles and the security sector. These guidelines are therefore intended to serve all Liberian legislators who need to be well informed on how human rights principles apply to the security sector.

## Structure

Following a brief discussion on **why** it is essential that legislators are actively involved in promoting human rights for the security sector throughout their term of office (Chapter 1), these guidelines lay out **what** the main international human rights standards and instruments consist of and how they related to SSG (Chapters 2 and 3). Chapter 4 then makes suggestions on **how** committee members and their staff can integrate and promote human rights in their daily work. Each chapter contains diagrams, boxes and tables to support readers in quickly acquiring key concepts. For those interested in deepening their understanding of some of the matters discussed hereafter, additional resources are also listed in the endnotes section.



## Chapter 1. WHY should Liberian legislators promote human rights in security?

*“A legislator armed with human rights knowledge is far more effective, robust and responsive to the needs of his constituents. Nothing can be more rewarding. When legislators become, act and live as human rights champions, democracy flourishes, the rule of law is guaranteed, and security becomes people-centered.”<sup>x1</sup>*

**Senator Zargo, Chairman on Subcommittee on Security/Intelligence, Member of the ECOWAS Parliament Human Rights Committee.**



Picture: Albert Gonzales Farran, UN photo, First session of the House of Representative in Liberia, 15 January 2018



## 1.1. The Legislature's critical role in protecting human rights

*“Recognizing that parliament’s main functions of (...) ratifying human rights treaties, scrutinizing legislation and overseeing the work of the executive in fulfilling its human rights obligations, are crucial in order to support and ensure the Government’s own primary responsibility for the promotion and protection of human rights.”<sup>xii</sup>*

### **OHCHR, leading UN entity on human rights**

Through their core functions of lawmaking, oversight and representation, legislators exert a significant influence on the adoption and effective implementation in domestic law and practice of universally recognized international human rights. For instance, lawmakers are well placed to persuade the executive to initiate the ratification process of key international instruments, notably the nine “core” human rights treaties – **see Chapter 3** – Moreover, although in Liberia treaties are signed by the executive, their ratification must be formally approved by the Legislature before becoming applicable under national law. Therefore, the Legislature can deter the government from making reservations to a given human rights treaty that may otherwise undermine fundamental freedoms – **see Section 4.1**.

In addition to promoting the adoption of international human rights instruments, legislators have an essential role in ensuring their full implementation through national laws. In particular, they must ensure that bills brought before them comply with both treaty-based and charter-based international human rights standards – **see Section 4.2**. Once adopted, legislators can ensure that human rights legislation is being properly implemented by public officials and the government through their oversight functions. They can use various mechanisms to do so, including carrying out special investigations to collect information on human rights issues or using the procedure of parliamentary questions to elicit concrete information from the administration on matters of general policy that may affect human rights – **see Section 4.3**.

### **Box 1. How can legislators protect the human rights of all Liberians?**

Because fundamental human rights are universal, they apply to each person equally regardless of gender, age, ethnicity, religion, wealth or education. Yet the diversity of Liberia’s people is not yet reflected in its legislature and some wonder whether this lack of inclusion may prevent legislators from effectively defending human rights of under-represented groups, such as women or young people.

For instance, with approximately 10 percent of women in the upper house and 11 percent in the lower house, equal participation of women in government is still a long way off, and both the House of Representatives and the Senate are heavily male dominated<sup>xiii</sup>.

Equality and inclusion are key human rights principles – **see Section 2.2** – and appropriate measures to increase the participation of women and minorities are valuable. For instance, specific electoral systems and procedures can be implemented to increase the number of women or minority representatives in the Legislature – **see Box 3**.

However, it is not the identity of a person that determines whether they are effective advocates for human rights, and existing representatives need to accept responsibility for promoting and protecting the human rights of all constituents regardless of factors such as age, gender, ethnicity or otherwise. A sound knowledge and understanding of human rights principles is essential for all. For this reason, all legislators and staff require training and resources on how to effectively assess human rights legislation, question the executive’s performance on human rights implementation, and successfully convey the human rights needs of constituents – **see Box 4**.

## 1.2. Liberia’s enabling constitutional framework

Article 29 of the Liberian Constitution of 1986 provides that “the legislative power of the Republic shall be vested in the Legislature of Liberia”. This Article not only empowers the Legislature to make laws, to borrow the words of Kofi Annan<sup>xiv</sup>, it also makes Liberian lawmakers “the guardians of democracy”<sup>xv</sup>. As such, it enables each of them, including members of the opposition, to conduct hearings and carry out investigations to protect the fundamental rights of their constituents – **see Chapter 4**.

According to Article 34 (I), the Legislature can also “make other laws that are necessary and proper for carrying into execution the foregoing powers, and all other powers (...) in the Government of the Republic”. This essential mandate, which directly impacts the overall living standards of ordinary Liberians, also imposes a duty on legislators. They must take full responsibility for their role as “champions” <sup>xvi</sup> of the rights of Liberian citizens by adopting enabling laws and ensuring their effective implementation. The table below lists some principles that every legislator should live by when carrying out his/her duties.

**Table 1. Human rights values and principles checklist <sup>xvii</sup>**

No.			
	Are legislators...	Yes	No
<b>1</b>	Promoting active citizenship and inclusive participation of citizens in the public policy process through public hearings, citizens’ advisory committees, constituency meetings, etc.?		
<b>2</b>	Encouraging the representation of women, the poor and disadvantaged or minority groups within the Legislature?		
<b>3</b>	Successful in fostering open and transparent economic and social policies?		
<b>4</b>	Establishing and encouraging public debate on policy options?		
<b>5</b>	Rejecting economic programmes that do not meet public demands, including those entered into with international financial institutions?		
<b>6</b>	Encouraging public participation and freedom of speech, expression and assembly in legislative processes and procedures? Are there enacted laws to safeguard such rights and freedoms?		
<b>7</b>	Restricting the arbitrary exercise of executive power through laws, the auditor general or ombudsman, and ensuring an independent judiciary, etc.?		
<b>8</b>	Accountable to their constituencies and do they report on their activities?		
<b>9</b>	Readily providing information to the public? Allowing the public to observe their work?		
<b>10</b>	Encouraging public dialogue, opportunities for public input to policies, legislation, budgets, etc.?		
<b>11</b>	Acting as an effective mechanism for checks and balances against other institutions of government?		

### 1.3. The nexus between human rights, democracy, development and peace

Respect for human rights helps democracy to flourish. While human rights are a prerequisite to any functional democracy, a fully-fledged democracy that promotes diversity, equality and individual freedoms prevents the concentration of power in the hands of a few – and the human rights violations that inevitably result from it.

In turn, democracy creates an enabling context for national development and economic growth. Democracy is essential for development planning, as it allows for greater participation in development policy formulation and implementation. Conversely, systematic development gaps such as the exclusion from economic opportunity of certain segments of the population based on gender, religion or ethnicity, often lead to violence and distrust in the political system, which necessarily hinder the progress of democracy <sup>xviii</sup>.

Ensuring that the security sector understands and respects human rights is a critical element of democracy and peace. The security sector includes all the institutions, agencies and authorities responsible for protecting the security of the state and the safety of its population – this includes the military and law enforcement agencies as well as intelligence services, border control and environmental protection agencies, and all of the executive



departments and ministries responsible for their management. Respect for human rights is especially important for the security sector in a democracy because security institutions have a legal mandate to use coercive force and to deprive people of their rights under certain circumstances. Without a clear and robust legal framework determining when and how these powers may be used, the security sector can become a source of insecurity for the population and a danger to the government. The lack of respect for human rights within the security sector was a key cause of war in Liberia, and holding the security sector to a higher standard of respect for human rights is essential to securing democracy, development and peace for Liberia in the future. Liberia's legislators have a critical role to play in ensuring that Liberia's security sector can contribute to democracy, development and peace by defending and respecting the human rights of its citizens.

### **Box 2. What are the SDGs and how can the Legislature support them?**

The Sustainable Development Goals (SDGs) are a collection of 17 global objectives that aim to support a better and more sustainable future by addressing the greatest challenges facing humanity – including poverty, climate change, gender inequality, peace, access to justice, and defence of human rights. Liberia played a key role in developing the SDGs and especially in efforts to include SDG 16 on Peace, Justice and Strong Institutions, which recognises the cardinal importance of human rights for peace and sustainable development. Through its membership of the g7+, and support for the International Dialogue on Peace-building and Statebuilding, Liberia has played a key role internationally in shaping expectations for how the SDGs will be achieved in conflict-affected and fragile states, and especially SDG 16.

All states have committed to achieving the SDGs by 2030, and Liberia has developed a number of strategic plans to achieve the SDGs. Against this background, national commitments to implement the SDGs provide a strong basis for legislators to act on sustainable development and shape government policies.

Liberian legislators can refer to the SDGs in order to:

- Join together with local communities and the government to create and implement coordinated strategies for sustainable development that address the challenges of human rights and SDG 16;
- Question and hold accountable the responsible government authorities for their action and inaction in achieving the human rights elements of the SDG – **see Section 4.4** - ; and
- Share best practices and learn from other countries' experience on how to support effective action for sustainable development and human rights, which is a tenet of the New Deal for engagement in fragile states, which Liberia helped create.

Although Liberia has made progress in some areas of human rights and democracy since the war ended, challenges remain. For example, concerns persist over fundamental rights such as the death penalty, enforcement of legislation against child labour and exploitation, as well as in access to justice, health and education, lengthy pre-trial detention and poor prison conditions <sup>xix</sup>. Sexual and gender-based violence also continues to be a major challenge, and impunity for such crimes remains high. Moreover, while Liberia's Constitution protects freedom of expression, there are regular incidents of harassment and abuse of power by public officials, notably against groups advocating for LGBTI rights. Finally, although the police and other law enforcement agencies have recently performed well in handling political rallies and protests in Monrovia, cases of police corruption and violence are regularly reported <sup>xx</sup>. The probity of management of the Armed Forces of Liberia has also recently been called into question.

This context makes it all the more urgent for Liberian lawmakers to fully embrace their role as human rights defenders and to demand higher standards of respect for human rights from Liberia's security sector. This will, in turn, contribute to increasing safety and security for Liberia's people, to strengthening democratic institutions, and to answering the growing demand for accountability and good governance from their constituents.

**In order to achieve this objective, Liberian lawmakers need to acquire a clearer understanding of key human rights standards and how they apply to the security sector.**



## Chapter 2. WHAT are the key human rights standards?

*"To deny people their human rights is to challenge their very humanity." <sup>XXI</sup>*

**Nelson Mandela, former president of South Africa**



Picture: Eric Kanalstein, UN Photo, Liberian women peacefully protesting for the International Women's Day, October 2019



## 2.1. Definition

Human rights can be defined as the fundamental rights and freedoms that “belong to all of us” <sup>xxii</sup>. From a procedural standpoint, human rights provide universal legal guarantees that protect individuals and groups against government action or inaction that could result in the violation of people’s fundamental rights.

Human rights are inherent in all human beings from birth – i.e. every person is entitled to enjoy human rights because he/she was born with them. As a result, human rights apply to everyone, everywhere, regardless of race, colour, sex, language, religion, ethnicity, political persuasion, nationality, social origin, property or any other status.

Key human rights are laid down in the Universal Declaration of Human Rights (UDHR), and further described in the nine core human rights treaties – see **Chapter 3**. As shown in the table below, the Liberian Constitution captures most of these rights, which means legislators have a responsibility to defend and protect them.

**Table 2. Human rights common to the Liberian Constitution and the UDHR**

UDHR Articles	Rights	Articles of the Liberian Constitution
Article 2	<b>Non-discrimination</b>	Article 8
Article 3	<b>Right to life, liberty and security</b>	Article 11 (a)
Article 4	<b>Prohibition of slavery</b>	Article 12
Article 5	<b>Prohibition of torture</b>	Article 21 (e)
Article 6	<b>Right to equal protection</b>	Article 11 (c)
Article 9	<b>Prohibition of arbitrary arrest</b>	Article 21 (b)
Article 10	<b>Right to a fair trial</b>	Article 20 (a)
Article 12	<b>Right to privacy</b>	Article 16
Article 17	<b>Right to property</b>	Articles 11 (a), 20 (a), 21 (b), 22 (a-d), 23 (a), 24 and 26
Article 18	<b>Freedom of religion</b>	Article 14
Article 19	<b>Freedom of speech</b>	Article 15 (a)
Article 20	<b>Freedom of association</b>	Article 17
Article 22	<b>Right to vote</b>	Article 80 (c)

## 2.2. Basic features

Human rights are based on several shared values that are the cornerstone of human rights standards. These values are closely interconnected and continuously interact with one another.

### 2.2.1 Human dignity

“All human beings are born free and equal in dignity and rights” <sup>xxiii</sup>. The notion of human dignity stems from the shared conception that every person is uniquely valuable, and therefore deserves the highest level of respect and care. In other words, human rights were designed to ensure that everyone enjoys the fundamental entitlements inherent to all human beings, and to set the basic standards required to protect their dignity under any circumstances.



### 2.2.2. Universality, inalienability and indivisibility

**Universality:** the idea that “human rights are inherent to all human beings” <sup>xxiv</sup> implies that everyone is entitled to them. Since all states and people accept them, they belong to everyone, everywhere <sup>xxv</sup>.

**Inalienability:** human rights cannot be waived or taken away on any grounds – i.e. no one can be deprived of his/her human rights for any reason, except in specific situations and according to due and legally-defined processes. For example, the right to liberty may be restricted if a person is found guilty of a crime by a court <sup>xxvi</sup> – **see Sub-sections 3.6.2 and 3.6.3.**

**Indivisibility:** all human rights are indivisible, interrelated and interdependent – that is to say, complying with or violating one particular right strengthens or weakens the others, respectively <sup>xxvii</sup>. For instance, the right to life presupposes respect for the right to food and to an adequate standard of living <sup>xxviii</sup>.

### 2.2.3 Equality and non-discrimination

All individuals are equal as human beings. No one, therefore, should suffer from discrimination on any grounds <sup>xxix</sup>. This, in particular, entails protecting individuals from policies and practices that may have either direct or indirect discriminatory effects.

#### Box 3. Why gender equality in parliaments matters and how can it be achieved?

One of the core functions of a parliament is to represent its constituents. Indeed, lawmakers are elected by citizens to translate their needs and expectations into policies. Following the human rights basic principle of equality, it is therefore essential to enable all members of the community to express their views and participate in governing, on an equal footing with others.

However, gender-based discrimination is still pervasive in modern societies, including in Liberia, where women do not enjoy equal access to resources, opportunities or political power. It is therefore imperative to foster gender-sensitive as well as gender-balanced parliaments.

This basic requirement has a direct impact on the effectiveness of parliamentary work and the ability to adopt laws that comply with human rights standards. In addition to being a human right in itself, women's participation in politics has proven to foster the adoption and implementation of security legislation that complies with human rights <sup>xxx</sup>.

Several measures can be envisaged to promote gender-sensitive parliaments, including:

- Setting up specific electoral systems to increase the number of women in parliament and achieve equality in participation – for example, reviewing electoral laws to ensure that they provide for seats reserved for women;
- Promoting equality in key positions by encouraging the proportional distribution of men and women across specific parliamentary committees, or by regularly rotating positions of leadership;
- Mainstreaming gender equality throughout all parliamentary activities, through the development of gender-based self-assessment manuals and toolkits, or the creation of a dedicated parliamentary committee on gender equality <sup>xxxi</sup>.

### 2.2.4. Meaningful participation and inclusiveness

“Every human being shall have the right to participate in and access information on decision-making processes that affect their lives and well-being” <sup>xxxii</sup>. This entails having the ability to influence governmental decisions that may impact fundamental rights, including through the expression of political positions that diverge from that of the majority. A vibrant civil society and strong opposition parties are therefore essential in this regard, as discussed in the box below.



#### Box 4. Why is public debate fundamental for democracy and human rights?

Under the key human rights principle of meaningful representation and inclusiveness, a healthy parliamentary democracy must have a variety of political voices able to critique and contribute to public policy debates. Holding the government and in particular the executive to account for its decisions is essential to achieving better policy outcomes. Electoral systems should therefore ensure that political parties, civil society, and the media have the necessary resources and tools to effectively assess policy and legislation, to question the performance of the executive, and to represent their interests effectively. A broad public discussion of government performance can enhance respect for human rights.

Access to information is a critical element of healthy public debate, and a necessity for effectively investigating alleged human rights violations, but information access is also a sensitive issue for security matters. Governments should have clear regulations for the classification of information that favour public disclosure over confidentiality. When certain elements of security policy and planning must be kept secret from the public for legitimate reasons of national security, legislators should still be involved and briefed so that they can provide legislative scrutiny and hold the government to account for its respect of human rights standards.

#### 2.2.5. Accountability and right to an effective remedy

As indicated in **Section 2.3**, states have principal responsibility for the protection and observance of human rights. Therefore, they must comply with the legal standards enshrined in their national constitution and in the international human rights instruments that they have ratified. If they fail to do so, rights holders are entitled to institute proceedings and seek appropriate redress before competent courts, either at the national or international level.

#### 2.2.6. Transparency

States must be open about all information and decision-making processes that relate to human rights issues so that citizens know and understand how these decisions are made and to what extent they affect their fundamental freedoms.

UNIVERSAL	<i>Human rights belong to all people.</i>
INALIENABLE	<i>Human rights cannot be taken away.</i>
INTERCONNECTED	<i>Human rights are dependent on one another.</i>
INDIVISIBLE	<i>Human rights cannot be treated in isolation.</i>
NON-DISCRIMINATORY	<i>Human rights should be respected without prejudice.</i>

#### Diagram 1. Key human rights features <sup>xxxiii</sup>

### 2.3. Liberia's human rights obligations

*"International human rights law lays down obligations which states are bound to respect. By becoming parties to international treaties, states assume obligations and duties under international law to respect, to protect and to fulfil human rights."* <sup>xxxiv</sup>

## Office of the High Commissioner for Human Rights (OHCHR)

Although non-state actors such as transnational corporations or terrorist groups may commit human rights violations, only states can be held accountable for violations under the international instruments that they have voluntarily ratified.

Human rights impose different types of obligations on the state. On the one hand, governments shall *refrain* from interfering with people's enjoyment of their rights, which is traditionally referred to as a "negative obligation". On the other hand, governments are expected to undertake certain actions to protect and *fulfil* the rights of people within their jurisdiction, which are traditionally described as "positive obligations".

### 2.3.1. The negative obligation to "respect" human rights

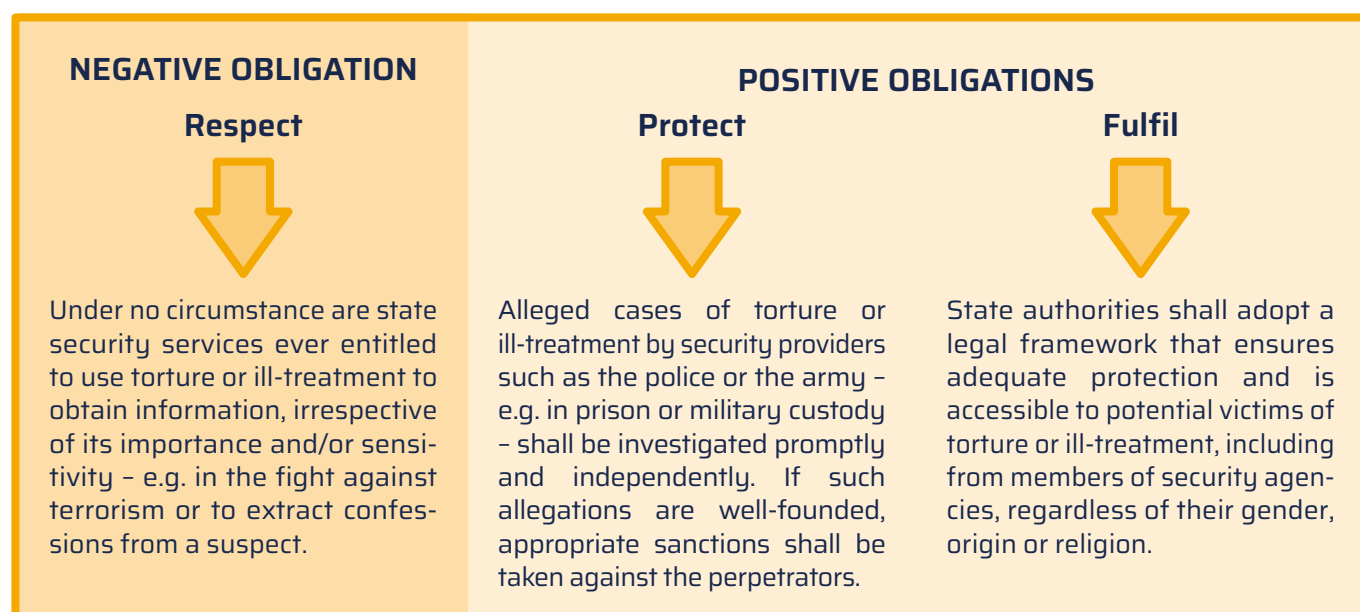
Under the negative obligation to respect human rights, the Liberian government and all those operating under the scope of its authority must avoid actions that may tamper with or undermine people's enjoyment of fundamental freedoms. For example, the right to personal liberty and security – **see Sub-section 2.4.3** – includes the right to be free from arbitrary arrest.

### 2.3.2. The positive obligations to "protect" and "fulfil" human rights

The Liberian government is required to protect individuals against human rights abuses by both state and non-state actors. Therefore, they must take concrete steps to prevent such abuses from happening or provide a quick and effective remedy to victims where such abuses occur, notably through the adoption of appropriate legislation. For example, the right to personal liberty and security requires states to adopt a system of effective criminal justice.

The obligation to *fulfil* human rights acknowledges that active promotion may be required to allow for the effective enjoyment of human rights in practice. This requires taking positive action to ensure that human rights can be realized. This means that Liberia should create the legal, institutional and procedural conditions that its citizens and residents need in order to realize and enjoy their rights in full. For example, the right to life – **see Sub-section 2.4.1** – entails the requirement that Liberian authorities take all necessary measures to progressively instigate plans to improve national health and reduce mortality.

## Diagram 2. The obligation to respect, protect and fulfil human rights applied to the prohibition of torture



## 2.4. Main civil and political rights <sup>xxxv</sup>

### 2.4.1. The right to life

**Article 3 of the UDHR:** *“Everyone has the right to life, liberty and security of person.”*

**Article 11 (a) of the Liberian Constitution:** *“All persons are born equally free and independent and have certain natural, inherent and inalienable rights, among which are the right of enjoying and defending life and liberty.”*

Since its effective implementation is a precondition for the enjoyment of most other human rights, the right to life is often listed first among the “core” international human rights treaties – see **Section 3.2**. Like all human rights, it imposes both positive and negative obligations upon Liberia. Notably, the Liberian government must take all necessary steps to safeguard people’s lives within its jurisdiction – for example, by ensuring that homicide constitutes a crime under domestic criminal law and that it carries an appropriate penalty.

Unless such action results from specific circumstances, such as self-defence against unlawful violence, Liberian security institutions must refrain from intentionally taking the life of any individual. For instance, the police should not intentionally take the life of a suspect to prevent his/her escape.

When such deaths occur, however, the authorities should launch an effective investigation by an independent authority to assess whether the use of force was necessary and proportionate <sup>xxxvi</sup>. When proven otherwise, perpetrators must be appropriately sentenced, and the family of the victims duly compensated. The box below lists good practices that are intended to help national authorities strike the right balance between the law enforcement duties of the police and the protection of the right to life.

#### Box 5. Right to life and policing: good practices

In the performance of their duties, police and other law enforcement officials must respect and protect the right to life. To reconcile this objective with the state’s competing priority to ensure law and order, the United Nations (UN) has defined several good practices that all lawmakers should be acquainted with and apply when adopting or revising laws regulating police powers. This notably concerns the use of force and firearms and the steps to take in the event of the death of a suspect or witness.

- Use of force and firearms
  - “Law enforcement officials, in carrying out their duty, shall (...) apply non-violent means before resorting to the use of force and firearms”.
  - “Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall: exercise restraint (...) in proportion to the seriousness of the offence and the legitimate objective to be achieved; (...) respect and preserve human life; ensure that (...) medical aid is rendered to any injured or affected persons (...)” <sup>xxxvii</sup>.
- Death of a suspect or witness in the exercise of police duties
  - Where injury or death is caused by the use of force by police officers, they shall “report the incident promptly to their superiors”, who should ensure that “proper investigations of all such incidents are carried out”.
  - “Governments shall ensure that arbitrary or abusive use of force and firearms (...) is punished as a criminal offence under the law”.
  - “Exceptional circumstances such as (...) public emergency may not be invoked to justify any departure from these basic principles” <sup>xxxviii</sup>.

## 2.4.2. Freedom from torture

**Article 5 of the UDHR:** *“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”*

**Article 21 (e) of the Liberian Constitution:** *“No person charged, arrested, restricted, detained or otherwise held in confinement shall be subject to torture or inhumane treatment (...) The Legislature shall make it a criminal offence and provide for appropriate penalties against any police or security officer, prosecutor, administrator or any other public official acting in contravention of this provision; and any person so damaged by the conduct of any such public official shall have a civil remedy therefor.”*

Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) defines torture as “any act – committed by a public official or other person acting in an official capacity or at the instigation of or with the consent of such a person – by which severe physical or mental pain or suffering is intentionally inflicted for a specific purpose, such as extortion of information or confession, punishment, intimidation or discrimination” <sup>xxxix</sup>.

Unusually, compared to other human rights, the prohibition of torture cannot be subject to any derogation under any circumstances – **see Sub-section 3.6.3.** for more details on “absolute rights”. There are no permitted exceptions to this principle, which means that neither the public interest or rights of others, nor the actions of the suspect – however dangerous or criminal – can justify treatment prohibited by Article 5 of the UDHR – **see Section 3.1.**

Allegations of torture and ill-treatment often arise in the case of persons deprived of their liberty. Therefore, police officers and other public security providers responsible for monitoring detainees – e.g. prison guards, immigration officials and staff from detention centres – require specific attention in order to avoid human rights violations. As with the right to life, in the case of an alleged incident of torture, Liberian authorities need to carry out an effective investigation. For their part, the security institutions concerned need to keep accurate records of their actions and cooperate fully with investigators.

## 2.4.3. The right to personal liberty and security

**Article 9 of the UDHR:** *“No one shall be subjected to arbitrary arrest, detention or exile.”*

**Article 20 of the Liberian Constitution:** *“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.”*

Liberty and security of a person are vital to the enjoyment of human rights. The Human Rights Committee – **see Section 3.4** – has defined liberty as “freedom from confinement of the body, not a general freedom of action” <sup>xl</sup>. Therefore, the right to liberty and security protects individuals against arbitrary or unlawful arrest and detention.

Similar to the right to life and the prohibition against torture, these guarantees apply to all individuals, including those in detention or held on such grounds as mental illness, vagrancy, institutional custody of children or for immigration control <sup>xli</sup>. Here again, security and law enforcement agencies, especially those with powers of arrest and detention, must strictly observe the limits set by Article 9 of the UDHR and submit their actions to judicial control.

In contrast to the prohibition of torture, however, the right to liberty is not absolute – **see Section 2.4.8.** This means that there are various legitimate reasons why the Liberian authorities may decide to deprive a person of his/her liberty to protect the general interest, notably when his/her actions pose a danger to him/herself or to others. For instance, the deprivation of liberty is seen as legitimate if it is based on a court’s sentence or to detain persons with infectious diseases – **see Box 5.**

#### 2.4.4. The right to a fair trial

**Article 10 of the UDHR:** *“Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.”*

**Article 21 (f) and (h) of the Liberian Constitution:** *“Every person arrested or detained shall be formally charged and presented before a court (...) within forty-eight hours. Should the court determine the existence of a prima facie case against the accused, it shall issue a formal writ of arrest setting out the charge or charges and shall provide for a speedy trial (...) In all criminal cases, the accused shall have the right to be represented by counsel of his choice (...) He shall not be compelled to furnish evidence against himself and shall be presumed innocent until the contrary is proved.”*

The right to a fair trial is a fundamental aspect of the rule of law and, by extension, of democracy. It requires a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Essential elements of the right to a fair trial include equality before the courts. Otherwise referred to as “equality of arms”, this principle means that both parties have equal rights and opportunities to present their respective arguments at the various stages of the proceedings, to be kept informed of the facts and arguments of the opposing party and to have their arguments heard by the court.

These procedural safeguards are particularly crucial during criminal proceedings – for instance, trials that determine a criminal charge. Such safeguards include <sup>XLII</sup>:

- The presumption of innocence, which means that a person is innocent until proven guilty according to law. This comprises the right to silence and to not incriminate oneself. Therefore, public officials may breach this right if they state or imply publicly – e.g. in the media – that a person is responsible for a crime while criminal proceedings are still pending;
- The right to defend him/herself in person or through legal assistance of his/her own choice. Legal aid must be practical and effective in court but also at the pre-trial stage – i.e. the accused person must have access to the assistance of a lawyer as soon as he/she is under interrogation by the police; and
- The right to examine prosecution witnesses and call witnesses in his or her defence. This procedural safeguard implies that when a witness’s evidence may prove the guilt of the accused person, he/she must be given the opportunity to cross-examine this piece of evidence – if necessary, with the assistance of a lawyer.

#### 2.4.5. Freedom of expression

**Article 19 of the UDHR:** *“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”*

**Article 15 of the Liberian Constitution:** *“Every person shall have the right to freedom of expression, being fully responsible for the abuse thereof (...) The right encompasses the right to hold opinions without interference and the right to knowledge. It includes freedom of speech and of the press, academic freedom to receive and impart knowledge and information and the right of libraries to make such knowledge available. It includes (...) the right to remain silent.”*

Freedom of expression is not only a prerequisite of democracy, it also plays a central role in the protection of other core human rights, such as freedom of thought. It applies to any form of expression intended to express an idea or information, including written or spoken words, but also to pictures, images or actions <sup>XLIII</sup>.

However, freedom of expression is a “derogable right” and, as such, can be restricted – see **Section 3.4.1**. Moreover, it can conflict with other human rights, such as the right to privacy and family life or freedom of religion. When such conflict occurs, the Liberian courts must strike a balance between the competing interests at stake <sup>XLIV</sup>.

Given the paramount importance of this right, however, restrictions should only be made as exceptions, and applied on a case-by-case basis. To assess whether a particular form of expression should be protected, it is essential to take into account the context – political, commercial, artistic –, how the expression is disseminated



- written media, television -, and the targeted audience - adults, children, a particular group. The status of the person or group concerned is also an important criterion that may justify additional protection - see **Box 6** below.

### **Box 6. The specific protection of legislators' freedom of expression**

Freedom of expression is particularly important for legislators as it embodies the essence of their work: legislators can only fulfil their role if they can speak freely on behalf of their constituents. To guarantee their independence, they therefore hold a special status and enjoy specific protection concerning their mandate. This is the concept of parliamentary immunity and it depends on the principle of "non-accountability" or "privilege", whereby legislators must be protected against any legal liability for any statement that they may make during the exercise of their representative functions.

Such protection covers spoken words, as well as actions such as voting or introducing a motion or a bill. Such protection applies to all aspects of their work as representatives during the period of office (starting from election) and continues to apply to that period even after their mandate has ended. However, parliamentary immunity does not mean that legislators are above the law: they are still expected to uphold the highest standards of professional and ethical conduct and can still be legitimately prosecuted for crimes committed during their tenure.

The Inter-Parliamentary Union (IPU) set up a procedure in 1976 to deal with complaints regarding the human rights of parliamentarians. The IPU Committee on the Human Rights of Parliamentarians meets three times a year to examine ongoing cases and new complaints, many of which concern alleged violations of the principle of non-accountability - and by extension of the right to freedom of expression of lawmakers - by the executive <sup>XLV</sup>.

### **2.4.6. The right to privacy and family life**

**Article 12 of the UDHR:** *"No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks."*

**Article 16 of the Liberian Constitution:** *"No person shall be subjected to interference with his privacy of person, family, home or correspondence except by order of a court."*

Often referred to as "the right to be left alone" <sup>XLVI</sup>, the respect for one's private life is central to the notion of freedom and individual autonomy. It includes respect for a person's sexuality; respect for private and confidential information - notably the storing and sharing of such information; the right to not be subject to unlawful state surveillance; and the right to control the dissemination of information about one's private life, including photographs taken covertly. It is particularly important to ensure the right to privacy is well established in the legal mandates and frameworks governing intelligence gathering. Respect for the right to privacy concerns the intelligence services directly because of the nature of their work, but it must also apply to other forms of intelligence gathering carried out by other security institutions, such as criminal intelligence or surveillance carried out by police or financial controllers, or defence intelligence functions within the military.

Major aspects of the right to privacy include:

- The preservation of personal intimacy, which comprises respect for a person's specific identity, such as his/her name, physical appearance and gender. Any form of indoctrination or "brainwashing" to change the identity of people against their will, will necessarily interfere with the right to privacy;
- The protection of individual autonomy, which implies the right to one's own body, including in relation to sexuality and choices that have an impact on the most intimate spheres of people's lives - for example, whether or whom and when to marry or to have children with; and

- The right to found a family and the individual rights of the child that are laid down specifically in the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), both of which have been ratified by Liberia – **see Table 5**. These rights impose several obligations on the Liberian authorities, such as refraining from interfering with the choice of parents for the upbringing of their children.

### 2.4.7. Freedom of thought, conscience and religion

**Article 18 of the UDHR:** *“Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”*

**Article 14 of the Liberian Constitution:** *“All persons shall be entitled to freedom of thought, conscience and religion and no person shall be hindered in the enjoyment thereof except as may be required by law to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. All persons who, in the practice of their religion, conduct themselves peaceably, not obstructing others and conforming to the standards set out herein, shall be entitled to the protection of the law.”*

The right to freedom of thought, conscience and religion includes the right to form one’s own thoughts, opinions, conscience, convictions and beliefs. In particular, it implies the right to change religion or belief; the right to exercise religion or belief publicly or privately, alone or with others; the right to exercise religion or belief in worship, teaching, practice and observance; and the right to have no religion – i.e. to be atheist or agnostic.

In the same way as the right to privacy, it shall be protected against any form of state interference, such as indoctrination or “brainwashing”. However, similarly to freedom of expression, the right to freedom of thought, conscience and religion can easily conflict with other human rights. Therefore, the Liberian courts also need to strike a balance between the competing interests at stake. Equally, the security sector agencies confronting these conflicting interests in the exercise of their duties require a sound legal framework to guide them in their work.

In this regard, the public manifestation of religion or belief may be restricted on legitimate grounds. Such limitations are, however, subject to strictly specified conditions – i.e. they must be prescribed by law and necessary for protecting public order and safety, health or morals. For instance, when such manifestations “amount to propaganda for war or advocacy of national, race or religious hatred that constitutes incitement to discrimination, hostility or violence” <sup>XLVII</sup>.

### 2.4.8. Limitations and restrictions on human rights

While limitations or restrictions may be placed on certain human rights under specific circumstances – for example, during a state of emergency – **see Box 7**, such limitations or restrictions are strictly forbidden for others. The first category of rights is referred to as “derogable rights” while the second is described as “non derogable”. Defining when, how and under what authority human rights are to be limited is a fundamental in creating a legal framework within which the security sector can function without violating the rule of law or the rights of citizens. It is the responsibility of government and legislators to create a legal framework for the security sector and ensure that it is fit for purpose, implemented effectively, and amended as required.

#### a) “Derogable” rights

As indicated in previous sections, although the Liberian government is under legal obligation not to interfere with human rights, it can restrict or limit some of them under specific circumstances. Indeed, every human right carries with it corresponding duties. Therefore, the government may restrict the exercise of such a right if it is misused or if it competes with the rights of others – **see Section 2.4.5**. Such limitations may be placed on the enjoyment of individual rights in the interest of national security and public safety, the prevention of disorder or crime, the protection of the reputation or rights and freedoms of others, or the protection of public health or morals – **see Section 2.4.7**.

The government may also restrict or limit the exercise of individual human rights during public emergencies,



such as armed conflict, riots and natural disasters. Under such exceptional circumstances, governments can temporarily suspend the application of derogable human rights. Article 4 of the International Covenant on Civil and Political Rights (ICCPR) lays down four conditions under which states may derogate from their human rights obligations <sup>XLVIII</sup>:

- The specific measures derogating from an international treaty must be officially notified to the competent international organizations and other States Parties;
- Derogation is permissible only to the extent strictly required by the situation;
- The derogation must be lifted as soon as the situation permits; and
- The rights subject to derogation must not be “absolute” – **see paragraph c) below**.

The derogation of certain human rights in favour of others does not mean that the security sector can ignore human rights altogether: instead it means that for a defined period of time, for a sound reason, and under necessary authority, a decision has been made that defending some human rights is more important than defending others. The derogation of certain human rights is a serious and exceptional circumstance usually linked to moments of crisis and threats to national security and public safety, to which the security sector is also often called into action – **see Box 7**. It is especially important that the security sector is well prepared for such situations and legislators have a critical role to play in making sure the security sector has both the legal framework and the resources it needs to apply basic human rights principles even when the decision is made to derogate from certain rights. Legislators are responsible for ensuring the security sector has an appropriate legal framework within which to work, as well as ensuring budgets provide for sufficient resources to cover necessary preparation, training and equipment. Crucially, legislative oversight is necessary to hold the security sector accountable for respecting human rights principles in times of crisis.

Legislators are responsible for ensuring the security sector is well prepared to respond to the derogation of certain rights in times of crisis by ensuring that:

- The security sector has a clear and well-made legal framework describing how decisions about derogations will be made, on what authority, and for what amount of time they will apply;
- The legal definitions of security sector missions include the necessity to protect human rights even in times of crisis and under conditions of derogation;
- National security sector legislation clearly defines roles and responsibilities for command authority in exceptional circumstances, and provides detailed guidance for the security sector on civilian command authority including defence of human rights principles;
- Legal frameworks protect the security sector from illegal orders that may involve abuse of authority and lead to prosecution.
- Security sector budgets provide appropriate resources for security sector actors to prepare effective and competent responses in crisis situations, for example, training on human rights principles and appropriate tactics;
- The rules are respected through active security sector oversight: in times of emergency, when certain fundamental rights may be suspended, active legislative oversight of the security sector is especially important in protecting people and democracy.

### **Box 7. State of emergency’s potential impact on derogable human rights**

If public order is seriously threatened by situations of violence such as unlawful rallies and riots, the Liberian authorities may decide to declare a “state of emergency” to protect public order. In doing so, they may take measures that infringe on fundamental freedoms, such as the right to peaceful assembly or freedom of



expression and freedom of movement. This should only happen when the country is in a situation of “public emergency which threatens the life of the nation and the existence of which is officially proclaimed” <sup>XLIX</sup>.

A declaration of “state of emergency” by the Liberian government needs to specify both its territorial and temporal scope of application. Under all circumstances, derogations to fundamental freedoms must never affect absolute rights, such as the prevention of torture. In any case, such a decision should be approved by the Legislature <sup>L</sup>, which should regularly reassess the need to maintain a state of emergency.

In 2015, former Liberian president Ellen Johnson Sirleaf declared a state of emergency when the country was grappling with an outbreak of the deadly Ebola virus. Some derogable human rights were suspended as a result, such as the right to liberty and security, to detain people carrying the disease and prevent its dissemination. Liberia’s security sector played a pivotal role in managing the Ebola crisis by providing for public order, safety and security. However, certain elements of the security response were criticised and also accused of violations and abuse. This recent experience illustrates how important is to ensure the security sector can practice full respect for human rights principles in fulfilling its missions in every type situation.

## **b) “Non-derogable” rights**

Although Liberia may derogate from its obligation to respect, protect or fulfil certain derogable rights, either to protect other rights or under exceptional circumstances, Liberia cannot derogate from certain rights, otherwise known as “non-derogable” – for example, the right to life or freedom of thought, conscience and religion.

While non-derogable rights cannot be suspended, however, some of them provide for limitations in their common application. The right to life, for instance, protects individuals from “arbitrary” deprivation of life, which indicates that specific circumstances may justify the taking of life where necessary. For example, the use of lethal force by security and law enforcement agencies will not constitute a breach of the right not to be intentionally deprived of life if it is used to defend someone from unlawful violence. However, it must be absolutely necessary to achieve this authorized purpose and be strictly proportionate.

Because the security sector holds the authority to use coercive force legally, they are most at risk of violating human rights. It is therefore especially important to define the circumstances for when and how certain rights may be limited in the course of security sector actors fulfilling their legal mandate, and to make sure that security sector actors are as well prepared as possible to act in respect of human rights. An up-to-date, detailed and clear legal framework for security provision is a necessary basis, but regulations, codes of conduct, standard operating procedures and appropriate doctrine are also required to translate commitments to human rights principles into effective security provision. Once such basic regulations are in place, security institutions need to make sure these rules are well understood and practiced by their personnel through extensive training, internal assessments, and performance monitoring. Finally, complaints procedures and provisions for internal and external oversight are necessary to make sure high standards are maintained and abuses are punished. While it is primarily executive management departments and ministries that develop such policies and guide their implementation in the security sector, legislators have an essential role to play in holding executive management authorities to account for the quality of administration and management of security institutions. Legislative processes can also provide entry points for engagement with civil society actors on the application of human rights principles by the security sector, for example, through testimony to relevant security and defence committees.

## **c) Absolute rights**

Some human rights are deemed “absolute”, which means that the Liberian government cannot subject them to any form of restriction or limitation under any circumstances. The prohibition of torture and freedom from slavery provide good examples of absolute rights. Any practice associated with torture or slavery is necessarily in breach of the international human rights conventions that Liberia has ratified. This ban applies even during a declared state of emergency or when fighting terrorism.

**To be able to promote these key principles, Liberian legislators also need to be acquainted with the leading international instruments in which they are enshrined.**



## Chapter 3. WHAT are the main human rights instruments?

*“We reaffirm the importance of the Universal Declaration of Human Rights, as well as other international instruments relating to human rights and international law.”<sup>11</sup>*

### The 2030 agenda for Sustainable Development

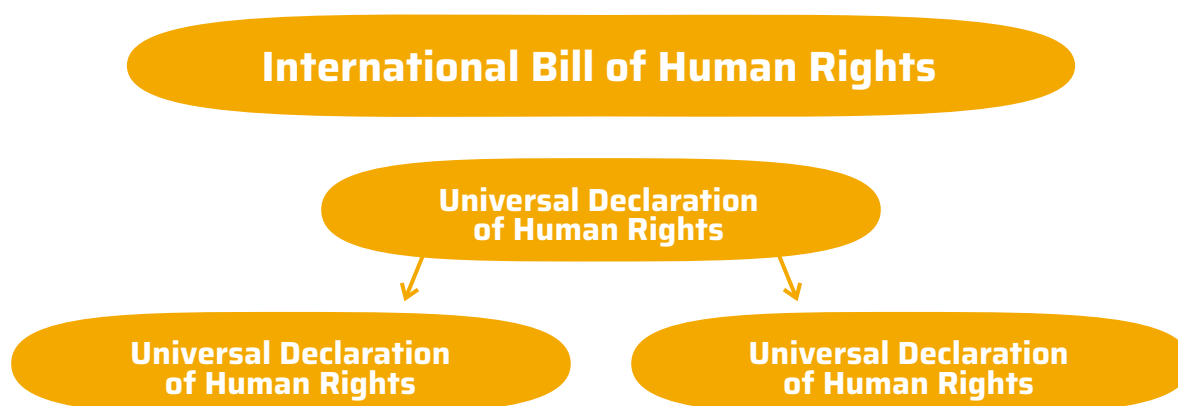


Picture: Staton Winter, UN Photo, Training Officer demonstrates to Liberian National Police recruits how to subdue a criminal suspect using non-violent methods, 19 May 2011

### 3.1. The International Bill of Human Rights

The concept of “human rights”, which had first been conceptualized in the 1941 UN Charter, was further elaborated in the 1948 UDHR. The UDHR contains a variety of civil, political, economic, social and cultural rights, which were later split up and incorporated into two separate human rights instruments – the ICCPR and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Together, the UDHR, ICCPR and ICESCR form the “International Bill of Human Rights”<sup>LII</sup>.

Diagram 3. The International Bill of Human Rights<sup>LIII</sup>



Over time, several other international human rights instruments were developed to strengthen particular rights contained in the International Bill of Human Rights. These subsequent instruments focused either on specific issues, such as racial discrimination or torture, or on the protection of vulnerable groups considered particularly exposed to potential human rights violations, such as women, children, migrant workers, or disabled people.

### 3.2. The nine “core” international human rights instruments

There are nine core treaty-based international human rights instruments and eight optional protocols:<sup>LIV</sup>

- 1) The **International Covenant on Civil and Political Rights (ICCPR)** and its *two optional protocols*;
- 2) The **International Covenant on Economic, Social and Cultural Rights (ICESCR)** and its *optional protocol*;
- 3) The **International Convention on the Elimination of All Forms of Discriminations (ICERD)**;
- 4) The **United Nations Conventions against Torture (UNCAT)** and its *optional protocol*;
- 5) The **Convention on the Elimination of All Forms of Discriminations Against Women (CEDAW)** and its *optional protocol*;
- 6) The **Convention on the rights of the Child (CRC)** and its *two optional protocols*;
- 7) The **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)**;
- 8) The **Convention on the Rights of Persons with Disabilities (CRPD)** and its *optional protocol*; and
- 9) The **International Convention for the Protection of All Persons from Enforced Disappearances (ICPED)**.

These conventions are central to the international system for the promotion and protection of human rights, for three main reasons:

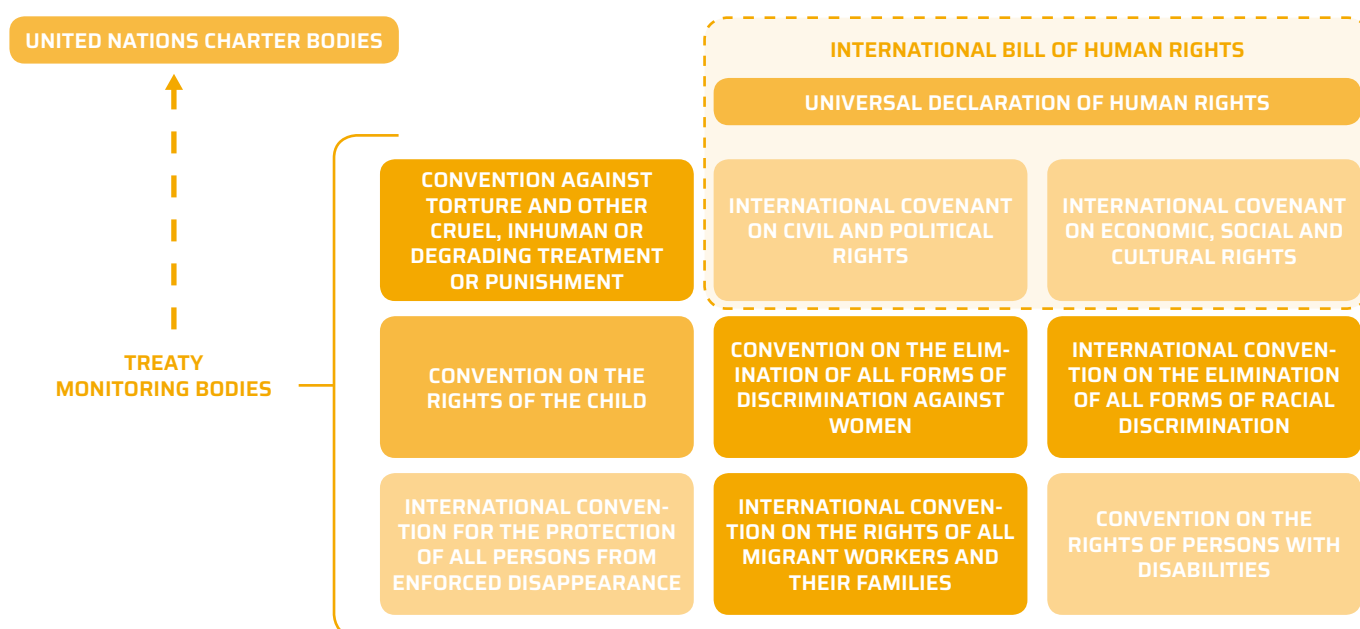


- They take their inspiration from the principles enshrined in the UDHR <sup>LV</sup>;
- They have been ratified by a large number of states internationally and/or regionally; and
- They are binding for all their signatories.

Optional protocols supplement some of these core human rights instruments by either:

- increasing the protection afforded to rights holders in one particular area – e.g. the first additional protocol to the ICCPR aims at the abolition of the death penalty; or
- providing for additional monitoring mechanisms – e.g. UNCAT’s optional protocol establishes an international inspection system for places of detention <sup>LVI</sup>.

**Diagram 4. Core human rights treaties <sup>LVII</sup>**



### 3.3. Regional instruments: focus on Sub-Saharan Africa

#### 3.3.1. Treaties

In Africa, the Americas, the Arab region and Europe, many states have ratified specific instruments that are adapted to regional specificities. These guidelines focus on regional treaties applicable to African states and therefore especially relevant for Liberia <sup>LVIII</sup>.

In 1981, member states of the African Union (AU) adopted the **African Charter on Human and Peoples’ Rights** (AC), which entered into force in October 1986. Since then, the AC has been ratified by 54 member states, including Liberia (on 4 August 1982). In addition to the main civil and political rights mentioned in the previous chapter, the AC provides for the collective rights of the African peoples to equality, self-determination, freedom to dispose of their wealth and natural resources, development, national and international peace and security and a general satisfactory environment favourable to their development <sup>LIX</sup>.

Additionally, there are also other African treaties in the areas of refugee protection, women and children’s rights, such as the African Charter on the Rights and Welfare of the Child (ACRWC) or the additional protocol to the AC



on the Rights of Women in Africa. Although these guidelines will focus on the AC and its monitoring mechanisms, there are abundant resources available on other African instruments dealing with human rights <sup>LX</sup>.

### 3.3.2. Monitoring mechanisms <sup>LXI</sup>

The AC provides for a complaints procedure – **see Section 3.9** – before the African Commission on Human and Peoples’ Rights (ACHPR), which is headquartered in Banjul, The Gambia, and whose work is complemented and supported by the African Court on Human and Peoples’ Rights (ACtHPR).

#### a) African Commission on Human and Peoples’ Rights

Complaints – or “communications” – may be submitted before the ACHPR by a collective entity – for example, a States Party, a non-governmental organization (NGO), communities or any other groups – or an individual. The Commission may receive complaints from alleged victims of human rights abuses who cannot obtain justice in their respective countries after all existing domestic remedies have been exhausted <sup>LXII</sup>. Moreover, the ACHPR examines state reports using a procedure similar to the one before the UN treaty bodies – **see Section 3.5**.

If the ACHPR discovers the existence of a series of severe violations of human rights, it may decide to notify the governing body of the AU – the heads of state and government, which can then request the ACHPR carry out an in-depth inquiry into the situation.

#### Box 8. The exhaustion of domestic remedies: a simple definition

The concept of exhaustion of domestic remedies refers to the requirement that victims of alleged human rights violations first use the complaints procedures available under the national law of the country concerned, before bringing a complaint to the international level. The obligation to exhaust domestic remedies is part of customary international law as confirmed by the International Court of Justice – see, for example, the case of *Interhandel* (Switzerland vs the United States), 1959.

Directly laid down in several international human rights treaties, including the ICCPR (Article 41) and the AC (Articles 50), this rule implies that most supranational human rights bodies will reject a complaint if the applicant cannot prove that he/she has effectively exhausted domestic remedies.

This rule derives from the assumption that the country under the jurisdiction of which the violation has allegedly occurred is primarily responsible for providing redress to victims. It is therefore a critical aspect of the subsidiary nature of international human rights treaties – see, for instance, Article 13 of the European Court of Human Rights.

In Liberia avenues for domestic remedy include the judicial system or complaints to the Independent National Human Rights Commission – **see 4.5.2**.

#### b) African Court on Human and Peoples’ Rights

The ACtHPR was adopted by AU members in 1998 and established by Article 1 of an additional protocol to the African Charter to adjudicate claims of human rights violations, and complements the functions of the ACHPR. The additional protocol to the AC, which was ratified by Liberia in August 1982, came into force on 25 January 2004.

Unlike the decisions of the ACHPR, decisions of the court are binding for signatories that have ratified the protocol. Any of the following entities or individuals may file a complaint to the court regarding both violations of the AC and other relevant human rights treaties: “the African Commission, states party to the Court’s Protocol, African Inter-governmental Organisations, NGOs with observer status before the Commission and individuals” <sup>LXIII</sup>. It may also receive complaints from individuals and NGOs with observer status before the AC, if the country concerned has accepted the court’s jurisdiction to receive such cases – which Liberia has not so far <sup>LXIV</sup>.

### 3.4. Main treaty-based monitoring bodies

Each of the nine core human rights instruments has established monitoring mechanisms to receive complaints either from States Parties or individuals. These mechanisms include specific bodies whose mandate consists of monitoring the implementation of the nine core human rights treaties and their optional protocols by States Parties. These “treaty-based” bodies are distinct from the “Charter-based bodies”, which were established under the UN Charter – [see Section 3.8](#).

Treaty-based monitoring bodies are international committees comprised of independent experts who are elected by their respective States Parties – except for the Committee on Economic, Social and Cultural Rights (CESCR), whose experts are elected by the Economic and Social Council. Membership of the committees ranges from 10 to 25 people, with some committees meeting three times a year and others twice a year.

The bodies’ main activities consist of analysing the reports submitted by the States Parties on the progress made in implementing a given treaty, and issuing observations/recommendations to address potential gaps in implementation. Where provided for in the treaty concerned, monitoring bodies’ mandates also include receiving complaints or “communications” – [see Section 3.9](#), initiating enquiries and conducting investigations on human rights violations through country visits.

**Table 3. Main treaty-based human rights monitoring bodies**

Treaty	Treaty Body
ICCPR	Human Rights Committee (HRC)
ICESCR	Committee on Economic, Social and Cultural Rights (CESCR)
ICERD	Committee on the Elimination of Racial Discrimination (CERD)
UNCAT	Committee against Torture (CAT)
OP-CAT	Subcommittee on Prevention of Torture (SPT)
CEDAW	Committee on the Elimination of Discrimination against Women (CEDAW)
CRC	Committee on the Rights of the Child (CRC)
ICRMW	Committee on the Protection of Migrant Workers (CMW)
CRPD	Committee on the Rights of Persons with Disabilities (CRPD)
ICPED	Committee on Enforced Disappearances (CED)

### 3.5. Charter-based monitoring mechanisms

Unlike treaty-based monitoring mechanisms, which are derived from the specific treaty that created them, charter-based monitoring mechanisms were established under the UN Charter, which Liberia signed on 2 November 1945. The mechanisms are made up of the Human Rights Council (HRC) and the Universal Periodic Review (UPR).

#### 3.5.1. The Human Rights Council

Initially established in 1946, the Commission on Human Rights was replaced by the HRC in 2006 by UN General Assembly Resolution 60/251. The HRC performs several tasks, including undertaking country visits; acting on individual cases and concerns of a broader nature, by sending communications to states and other stakeholders;



conducting thematic studies and convening expert consultations; and contributing to the development of international human rights standards.

The HRC meets three times a year and is made up of 47 member states. It relies on several monitoring mechanisms, including the UPR and the complaints procedure, which are covered in the following sections.

### **3.5.2. The Universal Periodic Review (UPR)**

Created in 2006, the UPR is a unique process which involves a review of the human rights records of all UN member states. Every four and a half years, the human rights record of all 193 UN member states is reviewed and mutually assessed by their peers. Each member state must submit three separate reports: a report presented by the state under review, and two other reports submitted by the OHCHR. The two latest reports drafted by the OHCHR are based on information provided by NGOs and other stakeholders, such as National Human Rights Institutions (NHRIs), while the other one is based on a compilation of conclusions and recommendations drawn up by treaty-monitoring bodies and special procedures.

#### **Box 9. The five steps of the UPR process <sup>LXV</sup>**

1. Preparation of documents, including a national report based on “a broad consultation process at the national level with all relevant stakeholders”, a summary of NGO reports, and information on engagement and compliance with UN-related human rights commitments which is prepared by the OHCHR;
2. Assessment of national reports and preparation of recommendations by recommending states;
3. Presentation by the state under review of its report to the UPR Working Group, which is composed of all member states of the HRC and evaluates the presentation through an interactive dialogue;
4. Preparation and preliminary adoption of a document containing recommendations by member states and voluntary commitments made by the state under review; and
5. Final adoption of the document during a plenary session of the HRC.

## **3.6. Complaints procedures**

Complaints procedures differ from treaty to treaty. They are either provided for in the treaties themselves or in optional protocols. For example, the complaints mechanism before the HRC for alleged violations of the rights contained in the ICCPR was set out in the first optional protocol to the ICCPR, while the complaints mechanism before the CERD is described in Article 14 of the ICERD.

### **3.6.1. Inter-state complaints procedure**

Every States Party has a legal interest in ensuring that other States Parties fulfil the obligations that are enshrined in the UN Charter and the human rights treaties that they have ratified. Therefore, each member state is entitled to file a complaint against another States Party whenever a human rights violation is allegedly committed under its jurisdiction.

International instruments such as the ICCPR, CERD, CAT, CEDAW and CED provide for such procedures. For instance, Article 41 of the ICCPR sets out a procedure for the resolution of disputes between States Parties through the establishment of an ad hoc conciliation commission. This procedure only applies to States Parties to the ICCPR which have made a declaration accepting the competence of the Human Rights Committee in this regard <sup>LXVI</sup>.

### **3.6.2. Individual complaints procedure**

Private individuals are also entitled to file a complaint with the competent treaty-monitoring bodies provided that:



- He/she is subject to the jurisdiction of the States Party against whom he/she seeks to complain – a person subject to the jurisdiction of the States Party is not limited to nationals within a state’s territory but extends to all persons who are directly subject to a state’s exercise of power through its authorities <sup>LXVII</sup>.
- He/she is a victim of an alleged human rights violation; and
- He/she has exhausted all domestic remedies available <sup>LXVIII</sup>.

Individual complaints are called “communications”. As in the case of inter-state complaints, the respective procedures that individual complainants need to follow are either provided for in the treaties themselves or in their additional protocols. For example, to submit a complaint before the CAT, complainants must provide:

- necessary information about the case – including a chronological list of facts;
- the States Party which the claim is directed against;
- the rights set out in the Convention against Torture that were allegedly violated; and
- any potential remedies that he/she would like to obtain if the CAT agrees there has been a violation of the Convention.

**Once familiar with the key human rights principles, as well as with the international instruments and monitoring mechanisms protecting them, Liberian legislators should take concrete implementation steps.**

## Chapter 4. HOW can Liberian legislators promote human rights?

*The work of parliaments acting as human rights defenders follows the categories of work of parliaments across the world: legislating; scrutinising government; and promoting the interests of their constituents (...) This work can be broken down into a number of broad stands and activities."* <sup>LXIX</sup>

**The Westminster Consortium for Parliaments and Democracy, think-tank comprised of leading parliamentary experts**



Picture: Manuel Elias, UN photos, United Nations, UN Assembly, 2020



## 4.1. Promoting the ratification of human rights treaties

According to the 1969 Vienna Convention on the Law of Treaties, there are three ways in which states can be involved in treaties:

- When submitted for ratification, the *signature* of an international treaty does not establish the consent of the signatory state to be bound but only qualifies it to proceed to ratification;
- *Ratification*, on the contrary, defines the international act whereby a state indicates its consent to be bound to a treaty;
- *Accession* is the final process by which a state accepts the offer to become a party to a treaty that has already been negotiated and signed by other states.

Through their legislative function, legislators play a key role in the adoption of treaty-based international human rights. As indicated in **Chapter 1**, although the executive may sign treaties, their ratification must be formally approved by parliament before becoming applicable under domestic law. Liberia is no exception to the rule, as Article 34 (f) of the Liberian Constitution authorizes the Legislature to “approve treaties, conventions and such international agreements negotiated or signed on behalf of the Republic” – see **Section 1.1**.

Although Liberia has signed several core human rights treaties, it has not yet ratified them all – for example, although it has signed the CERD, it has still not ratified it due to its racially-based Constitution, which restricts citizenship to people of “negro decent”<sup>LXX</sup>.

**Table 4: Liberia’s status of ratification of the nine core human rights treaties**

Treaties and optional protocols (OP)	Signature	Accession	Ratification
CAT		22 Sept. 2004	
CAT-OP		22 Sept. 2004	
CCPR	18 Apr. 1967		22 Sept. 2004
CCPR-OP		16 Sept. 2005	
CED			
CEDAW		17 July 1984	
CERD		05 Nov. 1976	
CESCR	18 Apr. 1967		22 Sept. 2004
ICRMW	22 Sept. 2004		
CRC	26 Apr. 1990		04 June 1993
CRC-OP	22 Sept. 2004		
CRPD	30 Mar. 2007		26 July 2012

A state may declare a reservation to one particular article of a treaty that it has ratified. If such a reservation is deemed admissible, the state will not be bound to fulfil that specific provision. Conversely, if the reservation is deemed inadmissible by treaty-based monitoring bodies – for example, if it is found to be contrary to the spirit of the treaty, the state will still be bound by that particular provision<sup>LXXI</sup>. As discussed in **Chapter 1**, parliamentarians are not only well-placed to persuade the executive to initiate the ratification process, they can also deter the



government from making reservations to a human rights treaty that may otherwise undermine fundamental freedoms.

#### **Box 10. How can legislators promote the ratification of human rights instruments? <sup>LXXII</sup>**

- Check whether your government has ratified – at a minimum – the nine core international human rights treaties, and their optional protocols, where relevant;
- If not, ascertain whether your government has the intention of signing these instruments. If not, use parliamentary procedure to determine the reasons for such inaction and to encourage your government to start the signature and ratification process without delay;
- If a signature procedure is underway, check whether your government intends to make reservations to the treaty and, if so, determine whether the reservations are necessary and compatible with the object and purpose of the treaty. If you conclude that the reservations are groundless, take action to bring about a reversal of your government's position;
- Check whether any reservations made by your country to treaties already in force are still necessary. If you conclude that they are not, take action to bring about their withdrawal;
- Check whether your government has made the necessary declarations or ratified the relevant optional protocols (...) with a view to:
  - recognizing the competence of treaty bodies to receive individual complaints (...);
  - recognizing the competence of treaty-monitoring bodies (...) to institute an inquiry procedure;
  - ratifying the optional protocol to UNCAT, which provides for a system of regular visits to detention centres.
- If not, take action to ensure that the declarations are made or the optional protocols (...) ratified;
- Make sure that everyone, including public officials, are aware of human rights treaties that have been ratified and their provisions;
- If your country has not yet signed and ratified the Rome Statute of the ICC (International Criminal Court), take action to see that it does and that it abstains from any agreements reducing the force of the Statute and undermining the Court's authority.

## **4.2. Translating human rights into domestic laws and practices**

In addition to promoting the adoption of international human rights instruments, parliamentarians have an essential role in ensuring their full implementation through national legislation, which is essential in order for the security sector to be able to perform with respect for human rights. In particular, they must ensure that bills brought before them comply with both treaty-based and customary international human rights – for example, many ICCPR provisions related to the right to a fair trial were incorporated into the Criminal Procedure Laws of Liberia (CPL) <sup>LXXIII</sup>. In Liberia, eliminating discrepancies between customary and statutory law in the application of international human rights commitments remains a challenge legislators can take up.

Moreover, once acquainted with the work of the human rights monitoring mechanisms and their recommendations, Liberian legislators should address any inconsistency in national law by ensuring that amendments or new bills are drafted. Similarly, they should ensure that executive decrees do not contradict the spirit of the laws under which they have been issued and the human rights guarantees within them. For security sector legislation, revisions may be necessary as the threat environment or the capacity of the security institutions change and such revisions also need to comply with Liberia's human rights commitments.

Finally, Liberian lawmakers should adopt a holistic approach that does not focus only on the adoption of appropriate legislation but should also look into concrete means to support the proper implementation of human rights in practice. For instance, they should ensure that security sector institutions and the civilian public service responsible for their executive management, are aware of their duties under human rights law and receive adequate training. Similarly, Liberian legislators should seek to inform ordinary citizens about their human rights and involve them in public debates thereto – see **Section 4.6**.

**Table 5. Checklist to incorporate international human rights standards into national legislation** <sup>LXXIV</sup>

No.		Status	
		Yes	No
	Have legislators...		
1	Ratified key international human rights instruments?		
2	Revised national legislation in line with international treaties ratified?		
3	Noted any reservations to treaties that require attention?		
4	Focused on securing human rights in national laws?		
5	Accessed and utilized information on human rights through their research services, library, committee reviews, participation by human rights commissions in the review of laws, making use of disaggregated data by region, gender and ethnic group to support analyses?		
6	Encouraged and provided an opportunity for public participation in human rights standard setting and in the law-making process pursuant to such standard setting?		
7	Set up monitoring and follow-up schemes for adoption and implementation of human rights standards?		

### 4.3. Overseeing the executive

Oversight is one of the three core functions of the Legislature. It enables Liberian lawmakers to hold the executive accountable for its actions and to ensure that it implements policies under the laws and budget adopted by the Legislature. As discussed in **Chapter 1** of the present guidelines, the Legislature is in a unique position to oversee the quality of the security sector's the protection of human rights in Liberia.

Where the executive has developed specific policies relevant to how human rights are applied in the security sector, the legislature can challenge the executive to account for the quality of implementation, the scope of policies, and the rate of progress. Some policies may be specific to the security sector, in which case legislators can ask whether human rights principles are adequately provided for. Other policies may focus on human rights in a national perspective, and in this case legislators need to assess what these policies means for the security sector: for example, the strategic plans for sustainable development and poverty reduction governments develop, or the five year National Human Rights Action Plan Liberia's government introduced in 2018.

Various tools are at the legislator's disposal to help him/her perform this key function effectively, including:

→ **Written and oral questions**

A vital oversight mechanism is the regular questioning of ministers by legislators, both orally and in writing. Such direct questioning also applies to civil servants and other public officials and helps maintain government accountability with regard to ongoing human rights issues.

→ **Interpellations**

The Liberian Legislature also has the power to submit an official request for information or clarification to the



government about policies or practices that have an impact on human rights. In the event of a disagreement between the legislators and the executive over such policies or practices, this may ultimately result in a vote of no confidence, which may cause the government to resign <sup>LXXV</sup>.

#### → **Parliamentary debates**

Liberian legislators can hold debates in plenary sessions to address any human rights matters chosen by the leadership, to assess the reports issued by committees on specific human rights issues or to address a motion to reconsider a question to which the government has not responded within the established time frame.

#### → **Fact-finding enquiries and hearings**

Whenever a human rights issue of major public concern arises, Liberian legislators can appoint a commission of inquiry to address it. This is particularly useful when the issue is not under the scrutiny of a single parliamentary committee or does not depend on a single government department. Alternatively, Liberian lawmakers can pass a resolution to request the Independent National Commission on Human Rights of Liberia (INCHR) to investigate a human rights issue – **see Section 4.5.2**.

**Diagram 5: The four phases of the oversight process** <sup>LXXVI</sup>



## 4.4. Approving the national budget

Another area in which legislators wield considerable oversight, influence to control and direct human rights policies or the actions of government ministries and agencies, including the security sector, is during the formulation and execution of the national budget. The Liberian National Budget is indeed the most important public policy document, and the most powerful tool the Liberian government has to address its development agenda, fund its policy priorities, and meet the needs of its people, especially the poor and vulnerable segments of society, including in terms of human rights.

Budget oversight of the security sector is critical to ensuring human rights principles are respected. The Liberian Legislature should monitor and help define clear spending priorities for the security sector as the budget is being formulated and continue its oversight during expenditure to ensure that security institutions are using public

resources efficiently. As part of this process, Liberian lawmakers should assess whether or not the security sector is drawing disproportionate amounts of funding compared to development priorities that provide services to the poor, such as health and education. Equally, legislators must ask whether initiatives to build respect for human rights within the security sector are reasonably and adequately funded, or whether the Liberian government is providing adequate funding to programmes and services that protect human rights, and how those programmes extend to security sector actors. They should also ensure that the impact of the proposed budget on different social groups that are particularly exposed to human rights violations, such as persons with disabilities, is considered in security sector policy and ensure these provisions are properly monitored.

Similarly, Liberian legislators should ensure that expenditure related to human rights is consistent with the budgetary forecast, not least to prevent overrun or the misuse of funds for any purposes other than those established in the documentation presented in support of the budget vote request. They should also ensure that principles of transparency are applied to budget implementation, especially in public procurement processes <sup>LXXVII</sup>.

## **4.5. Contributing to the work of human rights monitoring bodies**

### **4.5.1. UN treaty bodies**

International and regional human rights monitoring bodies often make recommendations or decisions regarding the human rights situation in Liberia and these statements often concern the performance of the security sector. Liberian lawmakers should regularly follow up on these recommendations and ensure that the executive abides by them. If not, they should take appropriate action, including requesting information from the government to verify the status of cooperation between the government and the monitoring body concerned.

It is equally important for legislators to ensure that national reports required for human rights treaty bodies are submitted regularly, and when such a reporting process is delayed, to use the parliamentary procedure to prompt the government to comply with its obligation. Similarly, Liberian lawmakers should ensure that, when they are duly submitted, such reports are complete and accurate and can use their powers of investigation in security-relevant committees to support this objective. To this end, the Legislature could take the necessary measures to enable some of its members to attend the presentation of the report to the relevant monitoring body <sup>LXXVIII</sup>.

### **4.5.2. The Independent National Commission on Human Rights of Liberia**

The Legislature of Liberia has notably established the Independent National Commission on Human Rights of Liberia (INCHRL) to ensure Liberia's compliance with human rights norms and standards under the Paris Principles <sup>LXXIX</sup>. According to these principles, the INCHRL is to report directly to the Legislature. To this end, both institutions should establish a formal framework for discussion of human rights issues and the security sector <sup>LXXX</sup>.

Moreover, Liberian lawmakers should intensify cooperation with the INCHRL on human rights issues within the security sector by:

- Inviting the INCHRL to appear regularly before the appropriate parliamentary committees to discuss its annual report and the status of respect for human rights within the nation's SSG framework;
- Inviting individual members of NHRIs to meet periodically with them to discuss security matters of mutual interest;
- follow up on and implement recommendations from the INCHRL; and
- Cooperating with the INCHRL on the content and applicability of new security-relevant laws to ensure that human rights norms and principles are reflected therein.

## **4.6. Mobilizing public opinion and supporting public concerns**

Through debates and public hearings, legislators can raise public awareness of human rights and security concerns. This is even more effective when the Legislature works with other national actors involved in human rights activities, notably civil society and the media.



Among the various steps that Liberian lawmakers can take, some should specifically target youth since this a portion of the population most likely to come into conflict with the law. For instance, legislators should ensure that human rights education is part of the curricula in public schools or should organize campaigns to raise awareness of human rights issues on university campuses so that young citizens can form clear expectations about the roles and responsibilities of the security sector in guaranteeing their human rights.

Similarly, Liberian legislators should stimulate both local and national debates on security and human rights issues that have been raised by the general public as matters of concern, by giving interviews in the media or writing articles on human rights for newspapers and magazines. International Human Rights Day (10 December), or Liberia Independence Day (26 July), may serve as particularly powerful vectors to draw public attention to human rights – the same applies to other international days, such as International Women’s Day, to raise public awareness on the specific human rights issues affecting such groups. Similarly, public outreach campaigns by security sector institutions can provide a platform for healthy public dialogue, for instance in the context of open days held by the armed forces or community policing forums.

## 4.7. Next steps and further resources

Liberian legislators have many opportunities to strengthen democracy, development and peace in Liberia by strengthening respect for human rights with the security sector. Below follows a list of resources that may be helpful - *please use Google Chrome as you click on the following weblinks.*

### Useful websites

#### **Liberia country page of the United Nations Office of the High Commissioner for Human Rights**

Provides a wealth of information on Liberia’s human rights track record, the status of ratification of various human rights instruments and reports by experts and Special Rapporteurs on various elements of the human rights situation in Liberia

<https://www.ohchr.org/EN/Countries/AfricaRegion/Pages/LRIndex.aspx>

#### **African Commission on Human and Peoples’ Rights**

The resource page contains a compilation of relevant African laws and agreements including an extensive collection of guidelines and principles for implementing human rights commitments in Africa. Many focus on issues of specific interest to the security sector, for example, decriminalisation of petty offences, conditions of arrest and pre-trial detention and combatting sexual and gender based violence.

<https://www.achpr.org/resources>

#### **DCAF: Geneva Centre for Security Sector Governance**

DCAF’s website contains a large collection of publications available freely for download describing the conditions of good SSG and how security sector reform can enhance respect for human rights principles

<https://www.dcaf.ch>

In particular, readers may want to watch a series of interviews conducted by DCAF where former legislators provide key tips on good security sector governance to their newly elected peers:

<https://www.dcaf.ch/parliamentary-oversight-security-sector-liberia>

### Recommended reading

DCAF, Parliamentary oversight of the security sector: Principles, mechanisms and practices, 2003.

[https://dcaf.ch/sites/default/files/publications/documents/ipu\\_hb\\_english\\_corrected.pdf](https://dcaf.ch/sites/default/files/publications/documents/ipu_hb_english_corrected.pdf)

IPU and OHCHR, Human Rights: Handbook for Parliamentarians, 2016.

<https://www.ipu.org/resources/publications/handbooks/2016-07/human-rights-handbook-parliamentarians>





UNDP/ISSAT, Lessons Identified from the United Nations Mission in Liberia Support to Rule of law in Liberia (Lessons Learned), 2018.

<https://issat.dcaf.ch/download/128723/2634652>

OHCHR, Draft Principles on Parliaments and Human Rights, n.d. [https://www.ohchr.org/Documents/HRBodies/UPR/Parliaments/DraftPrinciplesParliament\\_EN.pdf](https://www.ohchr.org/Documents/HRBodies/UPR/Parliaments/DraftPrinciplesParliament_EN.pdf).



## Endnotes

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Please use Google Chrome as you click on the following weblinks.

<sup>i</sup> The Comprehensive Peace Agreement (CPA) was the final peace accord signed in 2003 in Accra, Ghana, between Liberia's warring parties, thus paving the way for the resignation of Charles Taylor from power, and the installation of a power-sharing interim government. The Agreement marked the end of the Liberian civil conflict.

<sup>ii</sup> See, for instance, the 2013 Strategic Roadmap for National Healing, Peacebuilding and Reconciliation.

<sup>iii</sup> See, for instance, Liberia's Compliance with the ICCPR Report of Civil Society Organizations in Reply to the List of Issues Regarding Impunity for Past Human Rights Violations, for the 123rd Session of the Human Rights Committee, 2 - 27 July 2018, [https://www.hrw.org/sites/default/files/supporting\\_resources/hrcommittee\\_group\\_submission\\_on\\_liberia.pdf](https://www.hrw.org/sites/default/files/supporting_resources/hrcommittee_group_submission_on_liberia.pdf)

<sup>iv</sup> See, for instance, Liberia 2018 Human Rights Report, US Department of State, Bureau of Democracy, Human Rights and Labor.

<sup>v</sup> [https://www.ohchr.org/EN/Countries/AfricaRegion/Pages/LRSummary2018\\_2024.aspx](https://www.ohchr.org/EN/Countries/AfricaRegion/Pages/LRSummary2018_2024.aspx)

<sup>vi</sup> See, for instance, UNDP/ISSAT, Lessons Identified from the United Nations Mission in Liberia Support to Rule of law in Liberia (Lessons Learned), 2018, <https://issat.dcaf.ch/download/128723/2634652>

<sup>vii</sup> SSG refers to the process by which accountable security institutions supply security as a public good via established transparent policies and practices, cf. <https://www.dcaf.ch/about-ssgr>

<sup>viii</sup> Geneva Centre for Security Sector Governance (DCAF), <https://www.dcaf.ch/>

<sup>ix</sup> See DCAF Factsheet: "increasing security sector accountability in Liberia", will add the link to DCAF's website as soon as updated by Severine.

<sup>x</sup> Article 29 of the Constitution of Liberia describes the legislative branch as the "Legislature of Liberia", which consists of two separate houses - the Senate and the House of Representatives.

<sup>xi</sup> Quote from a speech by Steve Zargo, current senator and former chair of the Senate Committee on Defense, Security and Intelligence, at the 2019 ECOWAS Human Rights Day, Monrovia.

<sup>xii</sup> Draft Principles on Parliaments and Human Rights. [https://www.ohchr.org/Documents/HRBodies/UPR/Parliaments/DraftPrinciplesParliament\\_EN.pdf](https://www.ohchr.org/Documents/HRBodies/UPR/Parliaments/DraftPrinciplesParliament_EN.pdf)

<sup>xiii</sup> In 2016, although the country had a female president at the time, the executive director of UN Women, Phumzile Mlambo-Ngcuka, already referred to the problem of the low representation of women in the Liberian parliament, in a public conference held in Monrovia: <https://www.aa.com.tr/en/world/liberia-un-figure-slams-lack-of-women-in-politics/529952>

<sup>xiv</sup> Kofi A. Annan was the 7th Secretary-General of the United Nations and was the founder and chair of the Kofi Annan Foundation. In 2001, he and the United Nations were jointly awarded the Nobel Prize for Peace.

<sup>xv</sup> Annan, Kofi. Speech made at the 2017 Athens Democracy Forum, on 13 September 2017.

<sup>xvi</sup> The term "human rights champion" was initially created by the UN within the framework of Human Rights Day, when people from across the world receive this title for their outstanding contribution to human rights.

<sup>xvii</sup> [https://www.undp.org/content/undp/en/home/librarypage/democratic-governance/parliamentary\\_development/parliaments-and-human-rights-a-primer.html](https://www.undp.org/content/undp/en/home/librarypage/democratic-governance/parliamentary_development/parliaments-and-human-rights-a-primer.html)

<sup>xviii</sup> International Institute for Democracy and Electoral Assistance (IDEA), Democracy and Development: The Role

of the UN, <https://www.idea.int/sites/default/files/publications/democracy-and-development-the-role-of-the-united-nations.pdf>

<sup>xxix</sup> Liberia 2018 Human Rights Report, US Department of State, Bureau of Democracy, Human Rights and Labor.

<sup>xx</sup> Ibid.

<sup>xxi</sup> Address by Nelson Mandela to the Joint Session of the House of Congress, Washington DC, United States, 26 June 1990.

<sup>xxii</sup> See, <https://www.amnesty.org.au/how-it-works/what-are-human-rights/>

<sup>xxiii</sup> Article 1, Universal Declaration of Human Rights. The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 ( [General Assembly resolution 217 A](#) ) as a common standard of achievements for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected and it has been translated into over 500 languages.

<sup>xxiv</sup> OHCHR, What are Human Rights? Available at: <https://www.ohchr.org/en/issues/pages/whatarehumanrights.aspx>

<sup>xxv</sup> Amnesty International, International Human Rights Principles. Available at: <https://www.amnesty.ca/our-work/issues/international-human-rights-principles>

<sup>xxvi</sup> OHCHR, What are Human Rights? Available at: <https://www.ohchr.org/en/issues/pages/whatarehumanrights.aspx>

<sup>xxvii</sup> Ibid.

<sup>xxviii</sup> Human Rights: Handbook for Parliamentarians, No. 26, p. 22, IPU and OHCHR, 2016.

<sup>xxix</sup> UNFPA (2005), Human Rights Principles. Available at: <https://www.unfpa.org/fr/node/9206>

<sup>xxx</sup> See, Women's Rights are Human Rights, OHCHR, <https://www.ohchr.org/Documents/Publications/HR-PUB-14-2.pdf>

<sup>xxxi</sup> See, Parliamentary Oversight of the Security Sector and Gender, Ilja Luciak, DCAF, OSCE/ODIHR, UN-INSTRAW, 2008: [https://www.dcaf.ch/sites/default/files/publications/documents/tool\\_7.pdf](https://www.dcaf.ch/sites/default/files/publications/documents/tool_7.pdf)

<sup>xxxii</sup> Ibid.

<sup>xxxiii</sup> The Advocates for Human Rights, Human Rights Characteristics. Downloaded from: [https://www.theadvocatesforhumanrights.org/human\\_rights\\_basics#HR%20Characteristics](https://www.theadvocatesforhumanrights.org/human_rights_basics#HR%20Characteristics)

<sup>xxxiv</sup> OHCHR, <https://www.ohchr.org/en/professionalinterest/pages/internationalallaw.aspx>

<sup>xxxv</sup> These guidelines focus solely on political rights. For more information on economic rights as enshrined in the ICESCR , please go to [http://www.pwescr.org/PWESCR\\_Handbook\\_on\\_ESCR.pdf](http://www.pwescr.org/PWESCR_Handbook_on_ESCR.pdf)

<sup>xxxvi</sup> Cf. DCAF's Training Manual on Police Integrity: [https://www.dcaf.ch/sites/default/files/publications/documents/DCAF\\_PIBP\\_Training%20Manual\\_ENG\\_2019\\_web\\_0.pdf](https://www.dcaf.ch/sites/default/files/publications/documents/DCAF_PIBP_Training%20Manual_ENG_2019_web_0.pdf)

<sup>xxxvii</sup> OHCHR, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 7 September 1990.

<sup>xxxviii</sup> Ibid.

<sup>xxxix</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984, Article 1.

- <sup>XL</sup> UN Human Rights Committee, Communication No. 854/1999, *Wackenheim vs France*, paragraph 6.3.
- <sup>XLI</sup> Human Rights: Handbook for Parliamentarians, No. 26, p. 136, IPU and OHCHR, 2016.
- <sup>XLII</sup> For a comprehensive overview of the numerous safeguards guaranteed by the right to a fair trial please refer to: <https://www.ohchr.org/Documents/Publications/training9chapter6en.pdf>
- <sup>XLIII</sup> See, for instance, *Steel and Others vs the United Kingdom*, European Court of Human Rights, 23 September 1998.
- <sup>XLIV</sup> See, for instance, *Otto-Preminger-Institut vs Austria*, 20 September 1994, (Application no. 13470/87).
- <sup>XLV</sup> For more information on the IPU's Committee on the Human Rights of Parliamentarians, please visit: <https://www.ipu.org/about-ipu/structure-and-governance/governing-council/committee-human-rights-parliamentarians>
- <sup>XLVI</sup> Human Rights: Handbook for Parliamentarians, No. 26, IPU and OHCHR, 2016.
- <sup>XLVII</sup> Human Rights: Handbook for Parliamentarians, No. 26, IPU and OHCHR, 2016.
- <sup>XLVIII</sup> International Covenant on Civil and Political Rights, 16 December 1966, Article 4, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>
- <sup>XLIX</sup> Ibid.
- <sup>L</sup> Article 86 (a) of the Liberian Constitution.
- <sup>LI</sup> Transforming our world: the 2030 Agenda for Sustainable Development, A/RES/70/1, United Nations, 21 October 2015.
- <sup>LII</sup> <https://www.ohchr.org/documents/publications/compilation1.1en.pdf>
- <sup>LIII</sup> Advocates for Human Rights, "Where do Human Rights Come From": [https://www.theadvocatesforhumanrights.org/human\\_rights\\_basics#Where%20do%20HR%20come%20from](https://www.theadvocatesforhumanrights.org/human_rights_basics#Where%20do%20HR%20come%20from)
- <sup>LIV</sup> See, for instance, OHCHR, The Core International Human Rights Treaties, 2006, <https://www.ohchr.org/Documents/Publications/CoreTreatiesen.pdf>
- <sup>LV</sup> Universal Rights Group, A Rough Guide to the Human Rights Treaty Bodies. Available from: <https://www.universal-rights.org/human-rights-rough-guides/a-rough-guide-to-the-human-rights-treaty-bodies/>
- <sup>LVI</sup> OHCHR, The Core International Human Rights Treaties, 2006, <https://www.ohchr.org/Documents/Publications/CoreTreatiesen.pdf>
- <sup>LVII</sup> <https://blogs.lse.ac.uk/vaw/int/treaty-bodies/>
- <sup>LVIII</sup> See, for instance, European Parliament Directorate-General for External Policies, The Role of Regional Human Rights Instruments, [https://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/410206/EXPO-DROI\\_ET\(2010\)410206\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/410206/EXPO-DROI_ET(2010)410206_EN.pdf)
- <sup>LIX</sup> African Charter on Human and Peoples' Rights, Articles 21 and 22, <https://www.achpr.org/legalinstruments/detail?id=49>
- <sup>LX</sup> See, for instance, Centre for human rights, A Guide to the African Human Rights System, <https://www.corteidh.or.cr/tablas/31712.pdf>
- <sup>LXI</sup> There are other monitoring mechanisms specific to the African region that are not presented in these guidelines – e.g. the ECOWAS Court of Justice. For more information on these instruments, please refer to the IPU Handbook on Human Rights for Parliamentarians: <https://www.ipu.org/resources/publications/handbooks/2016-07/human-rights-handbook-parliamentarians>
- <sup>LXII</sup> ACHPR, Information Sheet No. 2. Guidelines of the Submission of Communications: <https://archives.au.int/>

[bitstream/handle/123456789/2071/ACHPR%20inf%20sheet%20no2\\_E.pdf?sequence=1&isAllowed=y](http://bitstream/handle/123456789/2071/ACHPR%20inf%20sheet%20no2_E.pdf?sequence=1&isAllowed=y)

LXIII <https://www.achpr.org/>

LXIV Of the African Court's 30 member states, only 10 (Benin, Burkina Faso, Côte d'Ivoire, The Gambia, Ghana, Malawi, Mali, Rwanda, Tanzania and Tunisia) have ever made the declaration under Article 34(6) of the African Court's Protocol accepting the competence of the Court to receive cases from individuals and NGOs. Cf. <http://www.african-court.org/en/>

LXV Human Rights: Handbook for Parliamentarians, No. 26, IPU and OHCHR, 2016.

LXVI For more details about inter-state complaints procedures, please refer to: <https://www.ohchr.org/EN/HRBodies/Petitions/Pages/InterStateComplaints.aspx>

LXVII Thus, for example, a national of a States Party residing abroad who has been denied a passport by that state can bring a claim before the Committee, cf. HRC, Human Rights, Civil and Political Rights: The Human Rights Committee Fact Sheet No. 15 (Rev.1), p. 11. Available at: <https://www.ohchr.org/Documents/Publications/Fact-Sheet15rev.1en.pdf>

LXVIII Ibid, p. 57 – NB this admissibility criteria only applies to certain monitoring bodies.

LXIX Human Rights and Parliaments: Handbook for Members and Staff, The Westminster Consortium, UK Aid, March 2011.

LXX See Liberian Constitution, Article 27.

LXXI Ibid.

LXXII Human Rights: Handbook for Parliamentarians, No. 26, IPU and OHCHR, 2016.

LXXIII See, for instance, Article 9 of the ICCPR and §10.10 of the CPL, "procedure of arrest", and Article 14 of the ICCPR and § 2.1 of the PL, "rights of the defendant".

LXXIV Human Rights: Handbook for Parliamentarians, No. 26, IPU and OHCHR, 2016.

LXXV DCAF/ECOWAS Toolkit for Security Sector Reform and Governance in West Africa, n° 5, Parliamentary oversight of the security sector, p.14.

LXXVI Ibid.

LXXVII Ibid.

LXXVIII For more, see Human Rights: Handbook for Parliamentarians, No. 26, IPU and OHCHR, 2016.

LXXIX Adopted in 1993 by the UN General Assembly, the Paris Principles provide the international benchmark against which national human rights institutions (NHRIs) can be accredited by the Global Alliance of National Human Rights Institutions (GANHRI).

LXXX Human Rights: Handbook for Parliamentarians, No. 26, IPU and OHCHR, 2016.



