



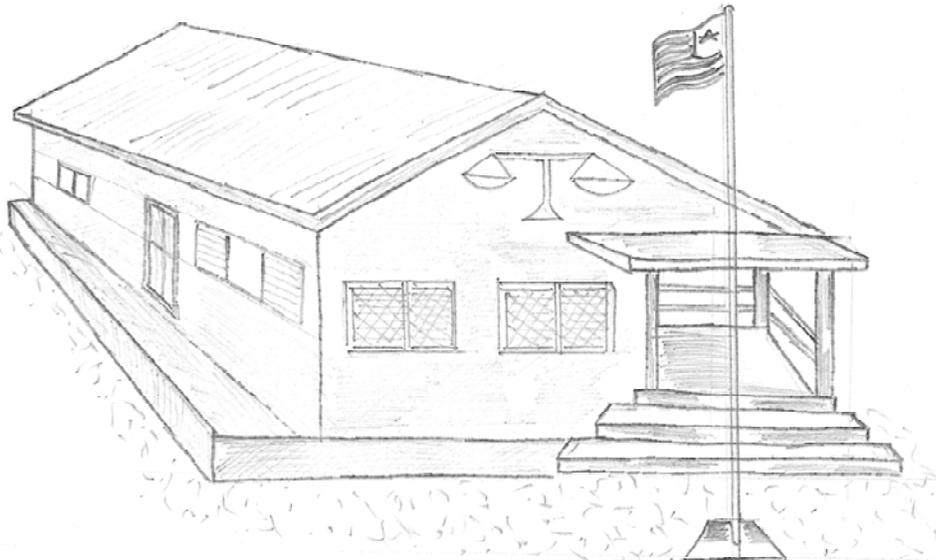
The Ministry of Justice

THE  
CARTER CENTER



# Handbook for Civil Society Partners

Community Education and Awareness Program  
on the Rule of Law



December 2008

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## PROGRAM GOALS

Working under a Memorandum of Understanding with Ministry of Justice and in collaboration with relevant stakeholders, The Carter Center is helping to create a working and responsive justice system consistent with local needs and human rights, paying special attention to rural areas and the needs of women. It does this by strengthening the long-term capacity of the Ministry of Justice; supporting effective legal reform by engaging government, traditional leaders, and stakeholders in dialogue on issues surrounding the rule of law; improving access to justice; and increasing legal literacy.

In the last area of focus, The Carter Center works primarily in rural areas through partners in Liberian civil society. Using inclusive techniques such as town-hall meetings and participatory drama, Carter Center partners discuss with communities a series of messages developed in partnership with the Ministry of Justice and including citizens' fundamental rights and responsibilities under the law and the operations of the formal justice system. Partner organizations also encourage dialogue on informal justice practices in rural areas, including finding alternatives to harmful traditional practices.

This training manual is designed for Carter Center partners who talk to communities about their legal rights. It is the result of a collaboration among all those working to bring justice into the lives of ordinary Liberians. In particular, we have drawn on the expertise of partners in the Liberian Ministry of Internal Affairs, Flomo Theater, the Legal and Judicial System Support Division



of the United Nations Mission in Liberia, the Canadian International Institute of Applied Negotiation, and the American Bar Association Rule of Law Initiative. We thank George Moore for the artwork. The manual was made possible through the support of Humanity United, UNHCR (through the UN Peace Building Fund), OSIWA, DfID, and Irish Aid.

## COMMUNITY LEGAL ADVISORS

The injustices facing ordinary people in rural Liberia are plenty. To help people solve their problems in the formal justice system as well as according to customary law and on their own, The Carter Center works in partnership with the Catholic Justice and Peace Commission (JPC) on a program of community legal advisors. JPC staff members work with people to find actual solutions to their problems. They do this by:

- ⇒ Providing information and education on rights and the law;
- ⇒ Assisting people with interactions with government and courts;
- ⇒ Mediating small-scale conflicts; and
- ⇒ Making referrals to the JPC's Legal Aid Counsel, who can talk cases in court.

The JPC has offices and mobile teams in the five counties of the south-east—Sinoe, Grand Gedeh, River Gee, Grand Kru, and Maryland—as well as in the central Liberian counties of Bong, Lofa, and Nimba.



### MEDIATION

To help bring peace into communities, JPC county monitors sometimes **mediate\*** cases. A chief or another authority has the power to call parties together and judge some cases, but mediation is different. Mediation happens only when all parties *voluntarily* agree to talk a problem with the help of an impartial mediator. In the same way, a mediator does not make decisions—she only helps the parties find a solution for themselves.

Mediation is best for **civil\*** matters—disputes among people. In some cases, parties may seek mediation even in the case of certain petty petty crimes. In cases like persistent non-support, it is better for everyone if the father supports his child than if he goes behind bars, where he cannot pay anything at all. **Bad, bad crimes—like rape and murder—must never be mediated or compromised.**

Mediation is not strange to Liberia. In Liberia, when a dispute arises between parties, both sides can be called on to explain their story. **Witnesses\*** may testify and the elders may pour libations for the ancestors. At the end, one party may pay the other for the trouble he has been through. Or they may make peace by eating kola nuts or through apology. A religious leader may pray for both parties and ask them to forgive each other.

Countless numbers of disputes have been resolved peacefully in our communities around the night fire, under the palaver hut, in town meetings, or at the waterside. Let these traditions and customs take place with fairness and according to everyone's rights under the law, but let them continue to do the good job they have done for many years.

# THE ROLE OF THE RULE-OF-LAW EDUCATOR IN LIBERIA

## Entering a Community

Before you enter a new community, make sure to learn as much about it as possible. Ask around about the customs and traditions there. Also, try to learn the taboos, so you can avoid these things or find good ways to talk about them.

Consider how the community is different from ones you have been to before. Which parts of our message are likely to make them suspicious? Which parts might they

agree to immediately, given their customs?

.....  
■ DON'T THINK OF YOUR WORK AS ■  
■ ALWAYS IMPOSING SOMETHING NEW ■  
■ UPON THE PEOPLE. INSTEAD, LOOK ■  
■ FOR THE WAYS THEY ARE ALREADY ■  
■ DEMONSTRATING THE VALUES WE ■  
■ ARE TRYING TO SHARE. ■  
.....

If you are entering a place that speaks a language unfamiliar to you, you may need to carry an interpreter along. Make sure it is not a person considered to be a rogue in the community. Try to take an older person with you when you first approach elders.

Enter communities with an open mind, remembering that none of us has all the answers. Be careful not to judge people based on stereotypes about their tribe or community.

## Respecting Local Authority

Respect for chiefs, elders, and other local authorities is very important for our work. People will be ready to listen when their leaders give you their blessing. But not just that. In many small villages, chiefs, elders, and local leaders administer justice every day in the absence of a court. **We want these people on our side so they can judge with a fair hand and with knowledge of people's rights under the law.** For this reason, they are some of the most important people in our program.

The chiefs and local leaders may be the first people you call upon when you enter a new community. You should approach them with confidence, but also with a humble spirit. You will have more luck if you show knowledge of their customs or traditions. And they will take you seriously if they know that your messages have the authority of the Ministry of Justice.

When you are with the general community, let them know you have spoken to the chiefs and elders and have their blessing. Encourage the leaders to be present at your discussion to demonstrate their cooperation.

You may have a circumstance in which a chief or elder rejects what you are saying. In this case, avoid arguing with them. **Don't embarrass them in their own community.** Instead, seek them out after your main program. Let them know that you recognize their authority and want their cooperation and understanding. Try to have a good relationship with all layers of authority in any community.



### **Speaking in Schools**

If you think you will be gathering people together in government school buildings during your outreach campaign, pay a visit first to the **County Education Officer** or **District Education Officer** to explain your mission. When you reach the school, meet first with the school authorities.

One of the main problems people have with the idea of human rights is their belief that it gives freedom to children to misbehave and show disrespect to their parents and teachers. You will surely face this if you are speaking to students, teachers, or school officials. You may remind them that living in a society governed by the rule of law implies **responsibilities** as well as **rights**. Just as parents have a responsibility to treat their children fairly and with humanity, children have a responsibility to respect

#### **Tips for building good relationships with chiefs and civic authorities**

- Sit with them and show whatever sign of respect is appropriate—maybe remove your slippers or share kola with them.
- Tell them why you have come to see them.
- Ask and receive their permission before you begin your program in their community.
- Explain your message and ask them what they think.
- Encourage their participation by asking for their help in gathering an audience together.
- Listen to the questions they ask and create a dialogue by encouraging them to find answers among themselves.

and obey their parents and teachers and to contribute to the work of the home and classroom.

For example, some people think that human rights people do not want children to work. In fact, there's nothing wrong with children who carry water in the home, mind their parents' store, or help to brush the farm. The law simply says that children under 16 should not work for wages unless they are working after school hours and the boss can show a certificate proving they are in school. A child who is working for wages should also be able to read and write.

In the same way, children should mind their teachers and help with the chores of the classroom. Human rights is not freedom to ignore one's elders.

Human rights also does not prevent parents from using small discipline with their child. Not every time a parent lays hand on a child is **child abuse**\*. There is more information on this in the chapter about Violence.

**Responsibilities of the Child**

- Liberia has signed both the African Charter on Human and Peoples' Rights as well as the African Charter on the Rights and Welfare of the Child. These documents say that children have certain responsibilities in addition to their many rights. These responsibilities include:
- ⇒ working to keep the family together and strong;
- ⇒ respecting parents, superiors and elders and giving them help when they need it;
- ⇒ serving the country and trying to keep it strong;
- ⇒ promoting African cultural values; and
- ⇒ working to keep Africa strong and unified.
- Liberia signed the two charters in 1982 and 1992, respectively.

**Key points:**

- ✓ Ask permission from local leaders or school authorities before entering a community and show the appropriate signs of respect.
- ✓ Look for ways in which the community is already demonstrating the values we are educating on.
- ✓ When local leaders, elders, or human rights people **mediate**\* a dispute, they should do it with fairness and with knowledge of people's rights under the law.
- ✓ Human rights doesn't mean children can't help in the home, in the classroom, on the farm, or by making small business. These things are okay—so long as they don't happen when the child is supposed to be at school.

## Education through Participatory Drama

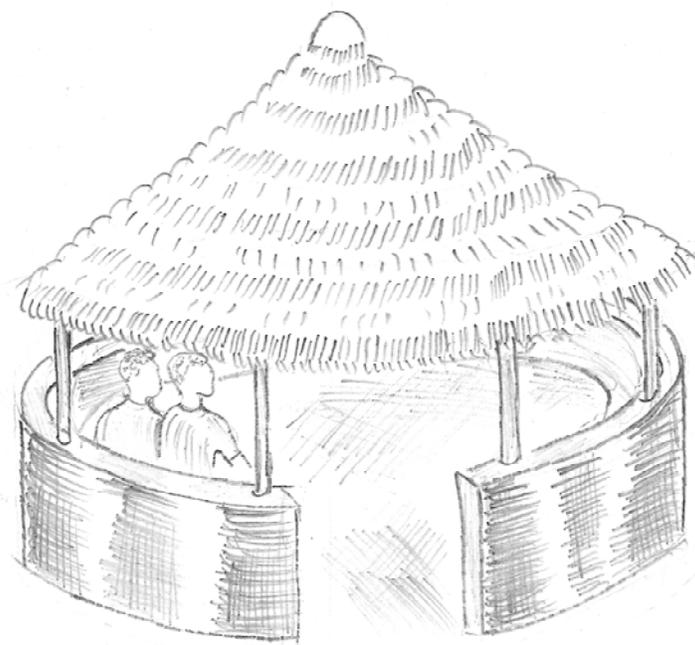
One way to spread a message in a community is through drama. Drama makes your message interesting to people and guarantees that you speak to the people in their own Liberian way. Our partners have been trained in what we call *forum theater*. Unlike formal theater that imposes on the audience or spectators, forum theater combines spectators and actors into *specactors*, so that everyone can participate in the show.

Forum theater does not have to be written down on paper beforehand. It can be improvised, or thought up on the spot. But still it requires preparation and planning. Before you go into a community, think about how you want the drama to be to get your message across.

When we act, we put our whole selves into motion. We use our voice, the movement of our body, and the expression on our faces so the situation can be real. If you make your drama realistic, the people will enjoy your program and listen to your message.

### Rules of Stage Performance

- Be time conscious. Don't waste time or delay when you are called onto stage.
- Speak to the audience and face them so they can hear you.
- Be serious by being active.
- Be realistic and credible.
- Know your role well.
- Do not directly and openly correct your partner on stage. If necessary, do it indirectly and professionally.



# WHAT IS DEMOCRACY?

## What is Democracy?

Democracy really means “rule by the people.” In a democracy, the people themselves decide what laws will govern them and who will hold political power. The work of the government of a democracy is to uphold the interests and welfare of all the people. If the government does not do so, the people can remove government officials and replace them with new ones during regular elections. In a democracy, all people who are **citizens\*** of a country are treated equally under the law. One of the basic goals of a democracy is to protect both the rights of the individual person as well as the well-being of the whole society.



In democracies, the **Constitution\*** describes how the government of that country will be structured. The Constitution describes the structure of the government, who has power to do what in the government, and what things different parts of the government can and cannot do. The Constitution is the national plan for how democracy in Liberia should work.

The Constitution of Liberia says that power should be divided equally among three separate branches of government: the Executive, the Legislative, and the Judiciary. This is called the “separation of powers.” Power is separated among them so that if one branch of government abuses its power, another branch will make it correct its behavior.

## The Legislative Branch

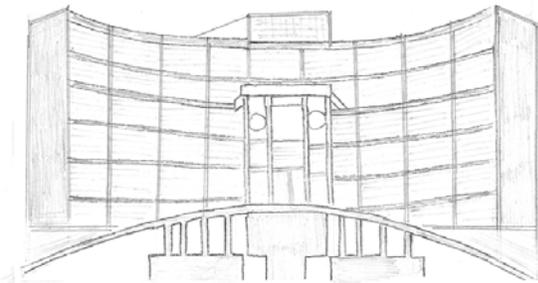
The role of the **Legislature\*** is to make law. In Liberia, the Legislature consists of the House of Representatives and the Senate. The House of Representatives has 64 members, one from each electoral district in Liberia. Members of the House of Representatives serve in government for six years. The Senate has 30 members, a junior and a senior Senator from each county. All Senators serve for nine years (except in the case of the special elections in 2005 where senior Senators serve 9 years and junior Senators 6 years). The Legislature also has the power to monitor the Judicial and Executive branches of government to see if they are carrying out the laws that they make.

### The Ministry of Justice

The Executive branch, through the Ministry of Justice, can protect society by prosecuting criminals under the criminal laws that the Legislature makes. But it cannot arrest or take someone to court for anything that is not said to be illegal in the law. Even when someone is arrested for breaking the law, the Executive branch must always respect that person’s human rights, which includes the right to have a lawyer and to defend oneself.

## The Executive Branch

The role of the Executive branch of government is to carry out the law that is made by the Legislature. The Constitution says that the President—as the head of this branch—is the head of state and the commander-in-chief of the Armed Forces of Liberia. It also says that the President can appoint high level government officials, such as cabinet ministers, to help her with her work. The Liberian Constitution is clear in saying that the President cannot rule any way she wants to—she has to follow the Constitution and all the laws of the country.



## The Judicial Branch

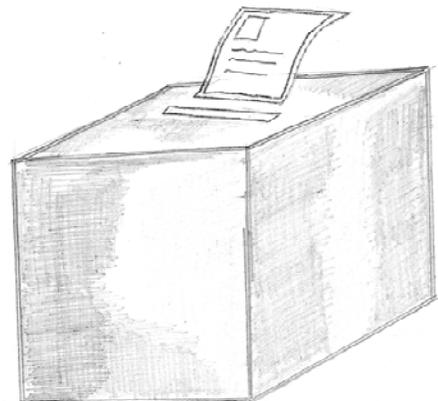
The most important role of the Judiciary is to interpret the law—that is, this branch of government has the power to say what the law means. They do this through the courts. For example, if the Legislature passes a law that is confusing, the Judiciary will interpret what the law means when a case comes before it. The Judiciary also has the power to review the behavior and actions of the other branches of government and to determine if their behavior follows the Constitution or not. The head of the Judicial Branch is the Chief Justice of the Supreme Court.

behavior and actions of the other branches of government and to determine if their behavior follows the Constitution or not. The head of the Judicial Branch is the Chief Justice of the Supreme Court.

## Responsibilities of Citizens in a Democracy

For democracy to work in Liberia, the citizens must hold all three branches of government accountable to the laws they make and interpret, especially the Constitution of Liberia. This includes making sure that the representatives you elect from your county—both for the Senate and the House of Representatives—are doing a good job and making new laws that are in the best interest of the people. If not, then a citizen should ask them to do better or may decide to vote for someone else in the next election.

Citizens can participate in their government and society in different ways. First, they can join civil society organizations, religious organizations, labor unions, social movements, or community sensitization activities where they can encourage conversations about what is going on in the country, the work of the government, and the needs of their communities. They can also participate in political parties or help organize town hall meetings between elected officials and the people who elected them. On the most basic level, all citizens should vote in elections, and some may decide to run for office. Citizens can also petition government officials to make changes in laws or policies that they don't agree with.



# MARRIAGE AND FAMILY

## MARRIAGE AND DOWRY

Marriages happen when a couple wants to build their lives together and raise a family. But they are also the way people secure their rights—rights to property and to their children. In the old laws of Liberia, a woman married in a church had more rights than one married the traditional way. Recently, though, some laws have been rewritten to give country wives more of the rights of church wives.

Marriages happen when both parties are ready. Two people may born children together and live together, but if there has been no dowry or religious or government ceremony, then they are not married. To protect your rights, get married before you begin building a life with someone else.

**Dowry is a gift**, a gesture of goodwill upon marriage. It is not a transaction like buying bread. You do not own your wife because you pay dowry for her. She is not a slave or property.

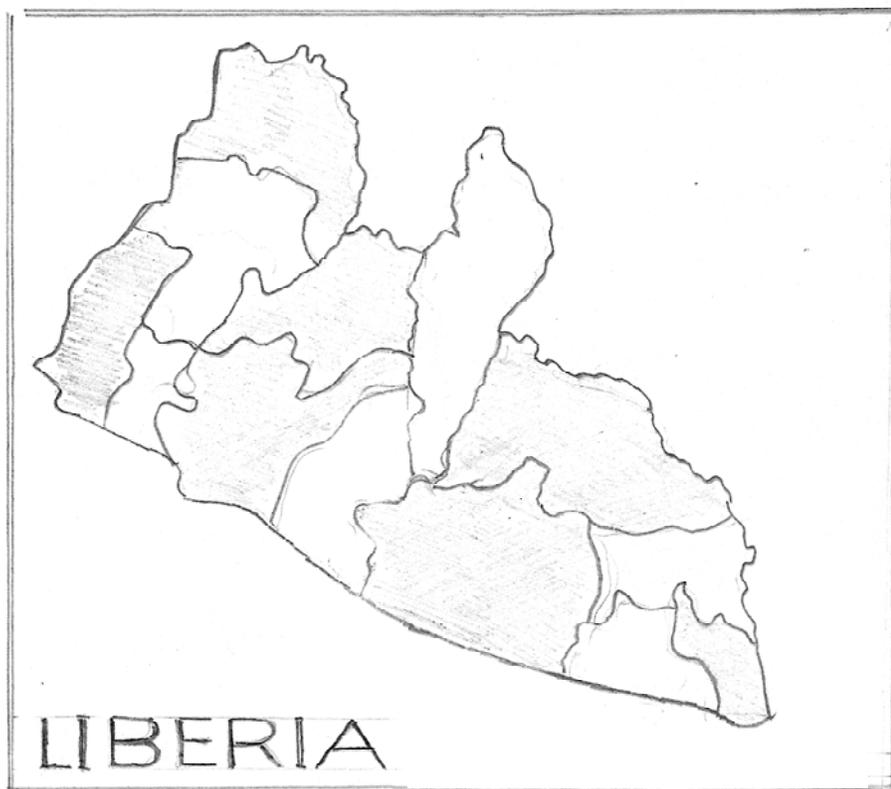
When a husband and wife go their own way, the wife and her family **do not have to give back the dowry** they received at the time of the marriage. This is clear in Section 2.2 of the Equal Rights of the Customary Marriage Law, sometimes called the inheritance law, which was passed in 2003. Remember, dowry is a gift. When a couple breaks up, there is no reason to take that gift back.

## DIVORCE

The end of a marriage is often a sad and confusing time. It can also be complicated when there are children and properties to be divided. Generally, men and women have the same rights when dividing up property. Because societies all over the world often give preference to men instead of women, Liberian law sometimes names the rights that women have in order to make things more equal. But these are rights that men already have. The law does not favor women over men.



In the case of **divorce**, the general principle of Liberian law is that a husband and wife must split evenly—50/50—the property **they were owning together** when they were married. If the woman wins a case in court, though, she might take as much as 1/3 of the property that was owned by the man alone. Dividing property this way requires everyone to sit together under the palaver hut and come to an agreement.



Maybe the families or the chiefs or community elders will be there, too. In some cases, when there can be no agreement, the matter can be settled in court or with the help of a human rights group like the JPC.

### **INHERITANCE**

Many of the rights about property after death or divorce are in the inheritance law (Appendix IV). Section 2.3 and Section 3.2 talk about what happens when someone dies. If a man dies, the law says the wife is entitled to one third (1/3) of his property. If he had several wives, all the wives split one third of his property. The children are always entitled to two thirds (2/3) of the property.

- **Suppose a man dies. He leaves behind a widow and the children he born with her. But there is also a child with another woman, from a previous marriage. Does this child have a right to his late father's property?**
- Yes. Two thirds (2/3) of the late man's property goes to his children. Not just the children of his current wife, but the children of all his wives.
- Sometimes, it will not be clear exactly how to divide a late person's property. Maybe both parents die at the same time, so there is no widow to take one third. Or maybe there are no children to take two thirds. In these cases, the families should talk

the problem and **negotiate\*** a solution. They may ask the chief to **mediate\*** or even take the matter to the court. If the JPC is around, they can help, too.

Section 3.4 of the same inheritance law says that if a man dies, his widow does not have to marry his relative. Of course, she may marry a relative and stay in the family if she wants to. The law says, though, that she has a choice.

If she leaves the family, she can take one third of her late husband's property with her. She also can take her children with her. The law says that when a parent dies, the children should stay with the living parent—whether mother or father, so long as that parent is able to take care of the child.

**Do country women really have the same rights as church wives?**

The Liberian **legislature\*** has rewritten some laws in recent years to give more rights to a woman married with dowry. They have had the idea to make the rights equal in all kinds of marriages.

In fact, this is not easy to do. For example, Liberian law allows a man in a country marriage to take more than one wife, and in such a family all the wives must divide their third of a late husband's property. So it is not exactly true that a woman in a country marriage has the same rights to property as a woman married the church way. The law also says that though a customary widow or widows can stay in the house of their husband after he dies, that same house should go back to his children if they marry a new man again.

There are also some parts of the new law that are not too clear. The part of the law that talks about marriage says that when a man and woman marry with dowry, each owns one-third of the other's property immediately. But another part of the law says that a woman can keep her things for her alone. Then, the part of the law that talks about death business mentions what happens when a husband dies, but does not say so much about what a man deserves when his wife dies.

The Liberian legislature can revise a law any time, and some people are asking it to think again about the inheritance law. For now, we can talk about the part of the law that is more clear. And we can talk to the people who represent us in the legislature to let them know what we think of the law.

**Can I claim damages against a woman who has been loving to me for several years and then leaves me?**

No. But you may be able to get her to share the costs of raising the child if you born children together.

**If a husband and wife die simultaneously and leave no children or will\* behind, who will take their properties?**

In this case the families will divide the property between them. They may have to sit with community leaders to reach agreement acceptable to all sides.

**Who will take care of a woman after her husband dies if she does not stay in her husband's family?**

If a woman chooses not to stay in the family, she is taking responsibility for herself. Her late husband's family is not required to take care of her. But she is still entitled to one third of his property.

**Do married women have the right to inherit property from their late father?**

Yes. Children take two thirds of their late parent's property whether they are young or old, married or single, men or women.

**Do parents have a right to claim money from a man who deflowers their daughter?**

No. There is no crime like this. But if the man is 18 years or older and the girl is younger than 18, then sex between them fits the definition of rape. The parent may want to take this matter to the police. Look at the rape law to know more about this.

**Do I have the right to take to court someone who impregnates my daughter and refuses to send her to school?**

If a man and woman are not married, then the man does not have any responsibility to the woman. This is why we say that peoples' rights are protected best inside marriage.

**What if I have children with a man and he refuses to dowry me?**

You cannot force someone to marry you or pay your dowry. To protect your rights, you should wait until you are married before you begin having children with someone.

## CUSTODY OF A CHILD

When a husband and wife go different ways, they have to decide who will keep the children. If the parents were married, the law says that usually the father will take the children. And if the parents were not married, usually the mother will take the children.

But for a matter like this, it is best that everyone agree and consider the best interests of the children, too. If one of the parents is sick or not able to support the child, the other parent may take responsibility. If there can be no agreement, the parents should call their families or the community leaders or the JPC to talk the problem. They may even go to court.

No matter who takes the children—mother or father—both parents should pay the costs of raising the child. This is

**If the child is more than 7 years old, does it not belong to the father no matter what?**

The business about a child under or over 7 years is a misconception. Liberian law does not have anything to say about how old a child should be to stay with the mother or father after a separation or divorce. The thing that matters is whether the parents were married and who is most able and morally fit to take care of the child.

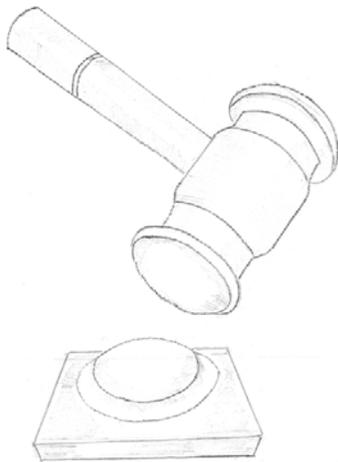
called **child support\***. The law usually does not force a father to support his outside child, though in some cases it might. It can do this if he has adopted the child or he agreed the child is for him. It can also do this if he married the mother later. Even if he does not agree, the court may decide that he is the rightful father and force him to pay to support the child.

### Key points:

- ✓ If a man dies, his wife is entitled to one third of her late husband's property. The children take two thirds.
- ✓ If a woman's husband dies, she is not required to marry his relative.
- ✓ A parent has responsibility for a child even if the child does not live with him or her.
- ✓ Death and divorce are confusing times. The law does not have an answer for every different family. Know your rights under the law, and apply the spirit of the law when there is a death or a divorce.

# COURTS

The goal of the government and the Ministry of Justice is to help Liberia become a society governed by the **rule of law**\*. This means a society in which laws are in charge, not big men or violence. In a place governed by the rule of law, big men, small men, women and children all agree to live by the same laws, and these laws are applied fairly to all of them.



A court system is necessary in a society governed by the rule of law. Justice does not take place only in the court – it also happens in the home, in the chief’s compound, in the police station, and on the streets. Even so, courts are necessary for public order when people cannot find a peaceful solution on their own or when crimes committed threaten the whole community.

In court we have criminal matters and civil matters. In a **civil\* matter**, you go to the court to settle some palaver, a dispute you are having with someone. Maybe you don’t agree who a piece of land is for, or who should take what things when a husband and wife go their different ways.

Or maybe there is a business dispute. In these cases, a lawyer can help you, because he or she will know the law very well. But if you cannot pay for one, or if there is no lawyer in your village, you can still take the matter to court and argue for yourself. The JPC, too, can talk to you about what the law says about the problem you are facing.

**Criminal matters** often deal with matters of security and public order—things like assault, theft, rape and murder. When you commit a crime, it is no more just palaver among people—the government itself has a problem. When the government says this, they should assign a lawyer to go through the case. If you are raped or if your friend is murdered, the government has the job of finding out what happened. If the person they say has done the thing cannot pay for his own lawyer, then the government should give him one, or a human

## Rights of People Accused of a Crime

The **Constitution\*** says that people who are accused of a crime – whether guilty or innocent, have rights such as:

- the right to justice without extensive delays or corruption;
- the right not to be seized or searched or to have your property searched without a lawful **warrant\*** authorized by a court;
- the right to a lawyer in criminal cases whether or not you can afford it;
- the right not to be charged excessive **bail\*** or fines or to have an excessive punishment imposed; and
- the right not to be tortured or treated inhumanely, among other things.

rights group like the JPC might be able to do it. You do not have to pay for a lawyer to have justice in a criminal matter.

Another thing you must know is that when you are in a criminal matter, you do not have to pay any money at all—**no court fees**.

The government will pay the cost of putting the person in front of the court and also of defending the person. Don't confuse **bond\*** with a fee. You may be allowed to pay bond so you can walk around while you wait for your trial. But when the court time is finished, your bond money comes back to you—it's not a fee. The one exception is that a **Justice of the Peace\*** can ask a small fee for approving bond. This fee goes in his pocket, because he does not take salary from the government.

In civil matters, you may have to pay some fees. So the first thing to ask the court is if you are accused of a crime (by the government), or accused of a civil matter (by another person).

One responsibility of **citizens\*** is to sit on a **jury\***. Citizens participate in the judicial branch of government by sitting on juries, just like they participate in other branches by voting for lawmakers or the president. It is not big men who decide when to prosecute a person, or if a person is guilty or innocent. Ordinary people do this by sitting on juries. If you are accused of a crime, you will want fair-minded people to decide your fate. So when you are asked to sit on a jury, let justice and fairness be your motivation, and don't waste time asking the court for a big sitting fee. Jurors cannot accept fees from any of the parties to a case; this is a bribe. Just as the government serves you with roads and schools, you serve the government by paying taxes, voting, and sitting on juries.



Finally, when a citizen sees **a problem inside the court**, he or she has a responsibility to speak about it. If people are kept in prison for long times without trial, or if court officials are asking for bribes, or if a judge is abusing his power by bullying people, then people should know.

As civil society organizations, you can advocate alone or together for fair play. You should report the problems to the authorities in the Ministry of Justice or in the Temple of Justice. Human rights groups like the JPC can help you file a complaint like this.



**Key points:**

- ✓ You do not have to hire a lawyer to access justice. In criminal matters, the government must provide lawyers, or you can defend yourself. In civil matters, you can represent yourself if you can not find a lawyer.
- ✓ There are no court fees for criminal matters except in the court of the Justice of the Peace. There are some fees in civil matters.
- ✓ Speak out against corruption and abuse of authority in the courts.
- ✓ When you are called for jury duty, go. This is one of the duties of a citizen.

## SASSYWOOD AND TRIAL BY ORDEAL

Chiefs and elders in Liberia have been using their traditions to solve problems ever since, and they should continue to do so. The courts play a very important role in protecting people and helping to uphold the rule of law in Liberia, but not every small, small thing needs to go to court. The chiefs and elders and other leaders should solve problems in their villages the same way they always have, maybe by asking **witnesses\*** to look into a matter. But some ways of looking into cases—such as sassywood and trial by ordeal—are not working like they used to. The government of Liberia is working now to build a fair system for everyone.

When we start to talk about sassywood, people can be scary that we are taking their own African traditions away from them. But all

around the world, people were using their own kinds of trial by ordeal until they found they were no longer working again. Way, way back, in Europe, people used to tie rocks around the neck of an accused witchcraft or someone suspected of loving to a married person. If he sank in the river and drowned, then they said he was guilty. If he lived, he went free.

### How will we find people who commit crimes if we don't have sassywood?

Liberians have many traditions other than sassywood to investigate cases and resolve disputes. Maybe the community can put people together and tell some parables, or the chief can judge the case. This is better than one person who plays magic and through a secret process decides that someone is guilty.

A community should not handle serious cases like murder but should report them to the police. The community should seek the consent of a rape survivor (by asking the person if they agree) to report the case to the police, too.

### You say sassywood is illegal, but, in court, people are asked to kiss the Bible. Is this not the same sassywood?

No. Kissing the Bible does not put anyone's life in danger. Even so, no one should be forced to kiss the Bible if they don't want to. There are other ways to show you will be honest than kissing the Bible.



Things like this were happening all over the world. But over time, people saw that they were not helping them the way they were before. In Liberia today, sassywood has become commercialized. It's time for people to stop disrespecting the traditions and culture by carrying medicine pots on their head or acting as sassywood people and telling people that they are zoes. The real zoe can not go around telling people that this is what he is. The people will see his work and go to him instead.

**But sassywood is allowed under the Hinterland Regulations. Is it not our right as Liberians to use sassywood?**

In fact, Article 73 of the **Rules and Regulations Governing the Hinterland\*** states clearly that trial by ordeal using sassywood bark or other plant things is illegal. Also, anything called sassywood or trial by ordeal that threatens someone's life such as hot cutlass, hand in oil, or drinking the sassywood bark, is illegal under the Hinterland Regulations. This means that it is a crime and a person can be punished for it.

More importantly, the **Liberian Supreme Court\*** said sassywood is illegal ever since 1916. Under the **Liberian Constitution\***, the Supreme Court has the job of considering all the laws, and when they decide that one does not go well with the Constitution, that law is no more. The Supreme Court has decided that sassywood violates a Liberian person's right not to be tortured and not to give **evidence\*** against oneself.

The government of Liberia treats sassywood as a crime. For instance, in October, 2007, the Circuit Court in Margibi County handed down guilty verdicts in the case of six people who were killed with sassywood in Flewroken, River Gee County. Now 14 young people are serving life sentences in prison for the murders. And in March, 2008, a **jury\*** in Maryland County convicted two men of terroristic threats and aggravated assault for parading a woman at gunpoint through the streets of Harper, claiming her black cat was proof that she was a witchcraft. The judge sentenced them each to five years in prison.

**Key points:**

- ✓ Sassywood has been commercialized and is not like it was before.
- ✓ Sassywood and trial by ordeal are illegal in Liberia.
- ✓ Nobody's life should be put in danger to find out if the person is guilty or innocent. Liberians have a right not to be tortured.

# VIOLENCE

Communities have their own ways of solving problems, and they have worked well ever since. But there are some matters that are beyond the ability of the community—and above the **jurisdiction\*** of the chiefs, elders, or community leaders who keep the peace in their areas.



When there is a big problem—like **rape**—the community people should get the consent of the **victim\*** to call the police. **Murder**, too, is a matter for the police, every time.

Some people don't believe that rape belongs in this category of bad crimes. But rape is not like a dispute that can be

compromised. It is an act of violence that may harm a person's body and mind for years.

In Liberia, women suffer the most from violence in the community. A national survey in 2007 found that almost half of grown women had experienced physical violence since turning 15. Nearly one in five had experienced sexual violence, and one in 10 said that their first time knowing about life was forced against their will.

## Can a woman rape a man?

The law's definition of rape includes many different kinds of penetration, not just penis and vagina. Therefore a woman can clearly rape a man under the law.

Liberia's rape law is the product of many months of discussion among UNMIL, the

## The penalties for rape:

When we talk about rape, we have two categories of rape.

- What they call **first-degree rape** has a maximum sentence of life in prison. It includes all the worst kinds of rape, including rape of someone younger than 18 years, gang rape, using a weapon to do the rape, and rape that causes serious injury to the victim.
- There is also **second-degree rape**. All other rapes that do not meet the conditions above are considered second-degree rape. The maximum sentence for second-degree rape is 10 years in prison.

National Transitional Legislative Assembly, and civil society. The law was published in 2006. The legislation put in place strict penalties for **gang rape** and the **rape of minors\***. Rape, under the law, also includes any sex, even with consent, between someone 18 or older and someone younger than 18 years. This is called **statutory rape**.

Liberia's previous rape law contained one exception for forced sex: it said that if a husband forces his wife to have sex, it was not a crime. But the new law **does not** have that exception, which means that **a husband (or wife) can be found guilty of rape for forcing his or her spouse** to have sex.

The time when big men could go out with any woman they wanted is over in Liberia. A

**city solicitor\*** from Bong County is serving a life sentence in prison for loving to an underage woman—statutory rape. The same thing is happening to a **magistrate\*** from Lofa County.

**But the Hinterland Regulations say a woman may marry at 15 years. Can she not marry anyone once she reaches that age? Can two people under 18 marry?**

The rape law was published in 2006 and at the end it says "any law to the contrary notwithstanding." This means that it overrules parts of the Hinterland Regulations.

The law is designed to help people, and believes that people can make decisions about their future best when they are 18. In Liberia, sometimes people get married before they are 18, and the police are not interested in putting those people in jail as long as everyone is all right with it. The government is not about to break up homes and marriages.

But if a young person in such a marriage feels that his or her rights are not being respected, he or she may seek help from the law. And according to the law books, 18 years is the age at which legal sexual relationships—including marriage—can take place.

**What if my wife refuses sex for weeks and weeks? What am I to do?**

This is a problem to resolve with words, not force. Talk to her. If that doesn't solve the problem, call her family or the chief and discuss with them. But whatever you do, don't force her. That's rape.

Assault is another violent crime that has been around ever since. To beat someone—even your wife or your child—is a crime called assault. The law does provide a "limited defense" for parents and teachers punishing a child. But when that discipline crosses into serious injury, the courts have a

job inside that one.

Marriage is a consensual agreement between two people who care for and respect each other. Your wife is not your property or your slave. She is your partner.

In some cases, people have been convicted of murder for beating family members so severely that they died. This happened to a man in Logan Town, Monrovia, who beat his son for failing a math test, and to a man from Grand Bassa County, who beat his wife until she died because she had not prepared any food for him when he came from on the farm.

**How can you think you are helping a woman by throwing her husband in jail for wanting sex? Then who will provide for her?**

Wanting sex is no problem, but husbands and wives must respect each other. If you threaten to harm your wife if she does not want to have sex, then she has the right to ask the police for protection. If you are having palaver that you can resolve with the help of your families or with the chief, then nobody will go to jail. But once rape has occurred, there can be no compromise. It is something for the police.

**We are not Americans. It is our custom to beat children. Otherwise they will not be disciplined.**

It is okay to use small force to discipline a child. Even so, there are better ways to punish a child that will not bring violence into the home. A parent can send a child to bed or not allow her to go to the football game.

If you start teaching children how to behave when they are very young, they will grow up behaving well. But if you try to discipline a child later in life through beating, that child will never learn. And when you beat a child, you teach that child that problems should be resolved with violence, which can cause problems to the whole society.

**Key points:**

- ✓ The police (and then the circuit court) are the only ones who can handle the worst crimes – like rape and murder. These can not be compromised by families or settled by chiefs or other local authorities.
- ✓ There is a new law in Liberia that puts in place tough penalties against rape. Rape can not be compromised. It is a serious crime.
- ✓ Beating your wife or child is a crime, which is called assault and goes to the circuit court.

# **APPENDIX I**

## **GLOSSARY OF IMPORTANT WORDS**

## GLOSSARY OF IMPORTANT WORDS

**Bail/Bond:** Bail is the guarantee you provide for yourself or someone else to make sure the person shows up in court when he or she is supposed to. To be out on bail means to be released from custody after the guarantee money has been paid. Bail/bond is supposed to be returned to the person who pays it at the end of the court process, regardless of the judge's decision on someone's guilt or innocence.

**Child abuse:** Child abuse occurs when a parent or guardian mistreats a child by beating, neglecting, or sexually molesting him or her. Child abuse falls under the crime of assault and is punishable by law.

**Child support:** Child support is the share that a parent pays for the costs of raising a child, usually when the child is living with the other parent or someone else.

**Citizen:** An individual member of a democracy. Citizens contribute to their society by agreeing to respect its rules and laws, paying taxes, sitting on juries, and choosing their public officials. In return, the government provides public services such as roads and schools, protects their safety, and represents citizens' interests when writing laws. In Liberia, you must be of African descent to be a citizen.

**City Solicitor:** An attorney employed by the government to prosecute cases in the magisterial courts.

**Civil:** The word "civil" means something that relates to the private rights of people, not those related to the nation or the government. Civil law suits are different from criminal ones, which always involve the government.

Civil law and criminal law try to do two different things. Civil law is used to help people by making people who violate their rights pay them back with money or by fixing the situation they were responsible for messing up. In civil law, the person who does the wrong thing is not punished in a jail or prison. He or she only suffers so much harm as is necessary to make good the wrong he or she has done.

In criminal law, the main point is to punish the wrongdoer and to make him or her understand why he or she should never commit that crime again. In some cases, the person is punished by going to prison. In other cases, there could be a monetary fine.

**Constitution:** The fundamental law of a country that describes the institutions of government and says how much power the government has in different areas. The constitution also guarantees individual rights and liberties.

**County Attorney:** An attorney employed by the government to prosecute cases in

the circuit court.

**Criminal justice system:** The criminal justice system includes all the institutions which an accused person passes through. The system typically has three parts: 1) law enforcement including police and sheriffs, 2) the judicial process, judges, prosecutors, defense lawyers, and 3) corrections, prison officials, probation officers, and parole officers.

**Criminal law:** The laws that define offenses against the community at large, regulating how suspects are investigated, charged, and tried and establishing punishments for convicted offenders. Also termed penal law.

**Defendant:** A person sued under civil law or accused in a criminal proceeding.

**Domestic violence:** Domestic violence means any kind of violence that happens between members of a household, usually spouses. This could include an assault or other violent act committed by one member of a household against another, or threat that physical injury or harm will be inflicted by a parent or a member or former member of a household.

**Dower:** A wife or husband's right, upon the death of her or his spouse, to one-third of the property that he or she owned.

**Due process (of law):** Following due process means going through the legal proceedings according to the established rules and principles that protect people's rights. This includes being notified about any charge against you and having a fair hearing before a tribunal or jury. As a part of due process, a person must be given the opportunity to defend their actions.

**Evidence:** Evidence is something that helps to prove or disprove the existence of an alleged fact. Evidence can include testimony, documents, and tangible objects. The evidence is all of the things presented before a tribunal or jury in a dispute.

**Habeas corpus:** The words habeas corpus refer to a type of writ used to bring a person before a court, most frequently to ensure that if the person has been imprisoned, that detention is legal. A writ of habeas corpus also can be used to have a review of the process of law followed, the right to or amount of bail, or the jurisdiction of a court that has imposed a criminal sentence.

**Grand jury:** A body of 15 people who sit, usually for a term of court, and who sometimes decide whether to start a criminal case (by indictment). An indictment by a grand jury is usually required before a person can be tried for serious offenses.

**Indictment:** An indictment is a formal accusation initiating a criminal case, presented by a grand jury and usually required for felonies and other serious crimes.

**Jurisdiction:** A court's power to decide a case or issue a decree. The rules of jurisdiction say what kind of authority a court has within the larger judicial system.

**Justice of the Peace:** A justice of the peace is a local judicial officer having jurisdiction over minor criminal offenses and minor civil disputes.

**Jury:** A jury is a group of people selected according to law and given the power to decide questions of fact and return a verdict in the case submitted to them.

**Juvenile court:** A court having jurisdiction over cases involving children under 18 years old.

**Legislature:** One of three branches of the Liberian government. The role of the legislature is to make law. In Liberia, the Legislature consists of two houses—the Senate and the House of Representatives. Citizens elect senators and representatives to be members of the Legislature.

**Magistrate's court:** A court with limited jurisdiction over minor criminal and civil matters.

**Mediation:** A voluntary process in which two parties with a dispute ask a third party (the mediator) to help them talk the case. The mediator does not judge who is right or wrong. Instead, the parties come to an agreement themselves. The agreement may be binding or non-binding.

**Minor:** A person who has not reached full legal age; child or juvenile. In Liberia full legal age is 18 years.

**Negotiation:** A voluntary process in which two parties with a dispute talk the problem themselves.

**Original jurisdiction:** A court's power to hear and decide a matter before any other court can review the matter.

**Original writ:** An original writ is a court's written order to commence an action and directing the defendant to appear in court. It contains a summary statement of the cause of complaint, and requires the sheriff in most cases to command the defendant to fix the problem or else appear in court to account for fixing it.

**Plaintiff:** The person who brings a civil suit in a court of law.

**Precedent:** A precedent is a judicial decision which contains a legal principle. It is this legal principle that is used in other cases where the law is not always clear. In this way, establishing a precedent is like making new rules in the process of administering justice. This new rule, or legal principle, will be used for determining later cases involving similar facts or issues.

In Liberia, sassywood is illegal based partly on precedent. In 1916 the Supreme Court of Liberia judged that sassywood was illegal because it is a practice administered through the executive branch of government, the Ministry of Internal Affairs. The Court said that only the Judiciary (the courts) can administer judgments. The Supreme Court made a new law in its judgment—that is, they set a precedent, so that now whenever the issue of sassywood is before the courts, they will look back at the 1916 Supreme Court case and see that it has been made illegal by the Court.

**Preliminary examination:** An initial review of an issue, usually to see what the facts of the case are and to prepare a search report.

**Probable cause:** In criminal law, probable cause means that there are good reasons to suspect that a person has committed or is committing a crime or that a place contains specific items connected with a crime. Probable cause has to be more than just a suspicion that someone is involved, but does not have to include all of the evidence proving so. Probable cause must be determined before an arrest warrant or search warrant may be issued.

**Probate court:** A court with the power to declare wills valid or invalid, to oversee the distribution of property to relatives, and in some places, to appoint guardians and approve the adoption of children.

**Prosecutor:** An attorney who represents the government in criminal proceedings.

**Rule of law:** The rule of law is a state of order in a society or country in which everyday living is guided by the laws of the country. To establish the rule of law means to help set up a society that obeys the laws and that resolves conflicts through peaceable means like going to the police and using the court system instead of turning to violence.

**Rules and Regulations Governing the Hinterland:** A series of rules and procedures governing life in rural Liberia. The Hinterland Regulations grant some judicial authority to chiefs and other local officials and provide for the use of customary law.

But, Liberian law states that when statutory law made by the Legislature conflicts with customary law (as laid out in the Hinterland Regulations) statutory law always takes priority. Because of this some of the sections of the Hinterland Regulations are no longer valid.

**Sheriff:** A sheriff is an officer in the circuit court who, among other duties, brings prisoners into the court, summons juries, and accepts and cancels bonds filed by defendants. The sheriff works in the Judicial branch of government.

**Supremacy clause:** A supremacy clause is a rule that says that the Constitution is the highest law of the land and that any law that goes against the Constitution is not valid. In Liberia, Article 2 of the Constitution is the supremacy clause.

**Supreme Court:** The court of last resort whose members are appointed by the President and approved by the Senate.

**Suspect:** A person believed to have committed a crime or offense.

**Tort:** A tort is a wrongful act - not including breaking a contract - that results in injury to another's person or to property or someone's reputation, among other things. The person who is injured by a tort is entitled to compensation.

**Victim:** A person harmed by a crime, tort, or other wrong.

**Warrant:** A warrant is a document, issued by a court, that authorizes a police officer or sheriff to make an arrest, seize property, make a search, or carry out a court's judgment.

**Will:** A document by which a person directs his or her property or estate to be distributed upon death.

**Witness:** A witness is a person who sees, knows, or vouches for something, or a person who gives testimony under oath, in person or in writing.

**Writ:** A court's written order, in the name of the government or other competent authority, that commands a person to do or refrain from doing something.

**APPENDIX II**

**CONSTITUTION OF LIBERIA**



## CONSTITUTION OF THE REPUBLIC OF LIBERIA

### PREAMBLE

We the People of the Republic of Liberia:

Acknowledging our devout gratitude to God for our existence as a Free, Sovereign and Independent State, and relying on His Divine Guidance for our survival as a Nation;

Realizing from many experiences during the course of our national existence which culminated in the Revolution of April 12, 1980, when our Constitution of July 26, 1847 was suspended, that all of our people, irrespective of history, tradition, creed, or ethnic background are of one common body politic;

Exercising our natural, inherent and inalienable rights to establish a framework of government for the purpose of promoting unity, liberty, peace, stability, equality, justice and human rights under the rule of law, with opportunities for political, social, moral, spiritual and cultural advancement of our society, for ourselves and for our posterity; and

Having resolved to live in harmony, to practice fraternal love, tolerance and understanding as a people and being fully mindful of our obligation to promote African unity and international peace and cooperation,

Do hereby solemnly make, establish, proclaim, and publish this Constitution for the governance of the Republic of Liberia.

## CHAPTER I

### STRUCTURE OF THE STATE

#### **Article 1**

All power is inherent in the people. All free governments are instituted by their authority and for their benefit and they have the right to alter and reform the same when their safety and happiness so require. In order to ensure democratic government which responds to the wishes of the governed, the people shall have the right at such period, and in such manner as provided for under this Constitution, to cause their public servants to leave office and to fill vacancies by regular elections and appointments.

#### **Article 2**

This Constitution is the supreme and fundamental law of Liberia and its provisions shall have binding force and effect on all authorities and persons throughout the Republic.

Any laws, treaties, statutes, decrees, customs and regulations found to be inconsistent with it shall, to the extent of the inconsistency, be void and of no legal effect. The Supreme Court, pursuant to its power of judicial review, is empowered to declare any inconsistent laws unconstitutional.

#### **Article 3**

Liberia is a unitary sovereign state divided into counties for administrative purposes. The form of government is Republican with three separate coordinate branches: the Legislative, the Executive and Judiciary. Consistent with the principles of separation of powers and checks and balances, no person holding office in one of these branches shall hold office in or exercise any of the powers assigned to either of the other two branches except as otherwise provided in this Constitution; and no person holding office in one of the said branches shall serve on any autonomous public agency.

## CHAPTER II

### GENERAL PRINCIPLES OF NATIONAL POLICY

#### **Article 4**

The principles contained in this Chapter shall be fundamental in the governance of the Republic and shall serve as guidelines in the formulation of legislative, executive and administrative directives, policy-making and their execution.

#### **Article 5**

The Republic shall:

- a) aim at strengthening the national integration and unity of the people of Liberia, regardless of ethnic, regional or other differences, into one body politic; and the Legislature shall enact laws promoting national unification and the encouragement of all citizens to participate in government;
- b) preserve, protect and promote positive Liberian culture, ensuring that traditional values which are compatible with public policy and national progress are adopted and developed as an integral part of the growing needs of the Liberian society;
- c) take steps, by appropriate legislation and executive orders, to eliminate sectionalism and tribalism, and such abuses of power as the misuse of government resources, nepotism and all other corrupt practices.

#### **Article 6**

The Republic shall, because of the vital role assigned to the individual citizen under this Constitution for the social, economic and political well being of Liberia, provide equal access to educational opportunities and facilities for all citizens to the extent of available resources. Emphasis shall be placed on the mass education of the Liberian people and the elimination of illiteracy.

#### **Article 7**

The Republic shall, consistent with the principles of individual freedom and social justice enshrined in this Constitution, manage the national economy and the natural resources of Liberia in such manner as shall ensure the maximum feasible participation of Liberian citizens under conditions of equality as to advance the general welfare of the Liberian people and the economic development of Liberia.

#### **Article 8**

The Republic shall direct its policy towards ensuring for all citizens, without discrimination, opportunities for employment and livelihood under just and humane conditions, and towards promoting safety, health and welfare facilities in employment.

#### **Article 9**

The Republic shall encourage the promotion of bilateral and regional cooperation between and among Liberian and other nations and the formation and maintenance of regional organizations aimed at the cultural, social, political and economic development of the peoples of Africa and other nations of the world.

#### **Article 10**

The Republic shall ensure the publication and dissemination of this Constitution throughout the Republic and the teaching of its principles and provisions in all institutions of learning in Liberia.

## CHAPTER III

### FUNDAMENTAL RIGHTS

#### **Article 11**

- a) 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, of pursuing and maintaining and security of the person and of acquiring, possessing and protecting property, subject to such qualifications as provided for in this Constitution.
- b) All persons, irrespective of ethnic background, race, sex, creed, place of origin or political opinion, are entitled to the fundamental rights and freedoms of the individual, subject to such qualifications as provided for in this Constitution.
- c) All persons are equal before the law and are therefore entitled to the equal protection of the law.

#### **Article 12**

No person shall be held in slavery or forced labor within the Republic, nor shall any citizen of Liberia nor any person resident therein deal in slaves or subject any other person to forced labor, debt bondage or peonage; but labor reasonably required in consequence of a court sentence or order conforming to acceptable labor standards, service in the military, work or service which forms part of normal civil obligations or service exacted in cases of emergency or calamity threatening the life or well-being of the community shall not be deemed forced labor.

#### **Article 13**

- a) Every person lawfully within the Republic shall have the right to move freely throughout Liberia, to reside in any part thereof and to leave there from subject however to the safeguarding of public security, public order, public health or morals or the rights and freedoms of others.
- b) Every Liberian Citizen shall have the right to leave and to enter Liberia at any time. Liberian citizens and non-Liberian residents may be extradited to foreign country for prosecution of a criminal offense in accordance with the provisions of an extradition treaty or other reciprocal international agreements in force. Non-Liberian residents may be expelled from the Republic of Liberia for cause.

#### **Article 14**

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. No religious denomination or sect shall have any exclusive privilege or preference over any other, but all shall be treated alike; and no religious tests shall be required for any civil or military office or for the exercise of any civil right. Consistent with the principle of separation of religion and state, the Republic shall establish no state religion.

#### **Article 15**

- a) Every person shall have the right to freedom of expression, being fully responsible for the abuse thereof. This right shall not be curtailed, restricted or enjoined by government save during an emergency declared in accordance with this Constitution.
- b) 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 non-interference with the use of the mail, telephone and telegraph. It likewise includes the right to remain silent.
- c) In pursuance of this right, there shall be no limitation on the public right to be informed about the government

and its functionaries.

d) Access to state owned media shall not be denied because of any disagreement with or dislike of the ideas expressed. Denial of such access may be challenged in a court of competent jurisdiction.

e) This freedom may be limited only by judicial action in proceedings grounded in defamation or invasion of the rights of privacy and publicity or in the commercial aspect of expression in deception, false advertising and copyright infringement.

#### **Article 16**

No person shall be subjected to interference with his privacy of person, family, home or correspondence except by order of a court of competent jurisdiction.

#### **Article 17**

All persons, at all times, in an orderly and peaceable manner, shall have the right to assemble and consult upon the common good, to instruct their representatives, to petition the Government or other functionaries for the redress of grievances and to associate fully with others or refuse to associate in political parties, trade unions and other organizations.

#### **Article 18**

All Liberian citizens shall have equal opportunity for work and employment regardless of sex, creed, religion, ethnic background, place of origin or political affiliation, and all shall be entitled to equal pay for equal work.

#### **Article 19**

No person other than members of the Armed Forces of Liberia or of the militia in active service shall be subject to military law, or made to suffer any pains or penalties by virtue of that law, or be tried by courts-martial.

#### **Article 20**

a) 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. Justice shall be done without sale, denial or delay; and in all cases not arising in courts not of record, under courts-martial and upon impeachment, the parties shall have the right to trial by jury.

b) The right of an appeal from a judgment, decree, decision or ruling of any court or administrative board or agency, except the Supreme Court, shall be held inviolable. The legislature shall prescribe rules and procedures for the easy, expeditious and inexpensive filing and hearing of an appeal.

#### **Article 21**

a) No person shall be made subject to any law or punishment which was not in effect at the time of commission of an offense, nor shall the Legislature enact any bill of attainder or ex post facto law.

b) No person shall be subject to search or seizure of his person or property, whether on a criminal charge or for any other purpose, unless upon warrant lawfully issued upon probable cause supported by a solemn oath or affirmation, specifically identifying the person or place to be searched and stating the object of the search; provided, however, that a search or seizure shall be permissible without a search warrant where the arresting authorities act during the commission of a crime or in hot pursuit of a person who has committed a crime.

c) Every person suspected or accused of committing a crime shall immediately upon arrest be informed in detail of the charges, of the right to remain silent and of the fact that any statement made could be used against him in a court of law. Such person shall be entitled to counsel at every stage of the investigation and shall have the right not to be interrogated except in the presence of counsel. Any admission or other statements made by the accused in the absence of such counsel shall be deemed inadmissible as evidence in a court of law.

d)

(i) All accused persons shall be bailable upon their personal recognizance or by sufficient sureties, depending upon the gravity of the charge, unless charged for capital offenses or grave offenses as defined by law.

(ii) Excessive bail shall not be required, nor excessive fines imposed, nor excessive punishment inflicted.

e) No person charged, arrested, restricted, detained or otherwise held in confinement shall be subject to torture or inhumane treatment; nor shall any person except military personnel, be kept or confined in any military facility; nor shall any person be seized and kept among convicted prisoners or treated as a convict, unless such person first shall have been convicted of a crime in court of competent jurisdiction. The Legislature shall make it a criminal offense and provide for appropriate penalties against any police or security officer, prosecutor, administrator or any other public 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 therefore, exclusive of any criminal penalties imposed.

f) Every person arrested or detained shall be formally charged and presented before a court of competent jurisdiction 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. There shall be no preventive detention.

g) The right to the writ of habeas corpus, being essential to the protection of human rights, shall be guaranteed at all times, and any person arrested or detained and not presented to court within the period specified may in consequence exercise this right.

h) No person shall be held to answer for a capital or infamous crime except in cases of impeachment, cases arising in the Armed Forces and petty offenses, unless upon indictment by Grand Jury; and in all such cases, the accused shall have the right to a speedy, public and impartial trial by a jury of the vicinity, unless such person shall, with appropriate understanding, expressly waive the right to a jury trial. In all criminal cases, the accused shall have the right to be represented by counsel of his choice, to confront witnesses against him and to have compulsory process for obtaining witnesses in his favor. He shall not be compelled to furnish evidence against himself and he shall be presumed innocent until the contrary is proved beyond a reasonable doubt. No person shall be subject to double jeopardy.

i) The right to counsel and the rights of counsel shall be inviolable. There shall be no interference with the lawyer-client relationship. In all trials, hearings, interrogatories and other proceedings where a person is accused of a criminal offense, the accused shall have the right to counsel of his choice; and where the accused is unable to secure such representation, the Republic shall make available legal aid services to ensure the protection of his rights.

There shall be absolute immunity from any government sanctions or interference in the performance of legal services as a counselor or advocate; lawyers' offices and homes shall not be searched or papers examined or taken save pursuant to a search warrant and court order; and no lawyer shall be prevented from or punished for providing legal services, regardless of the charges against or the guilt of his client, no lawyer shall be barred from practice for political reasons.

j) Any person who, upon conviction of a criminal offense, was deprived of the enjoyment of his civil rights and liberties, shall have the same automatically restored upon serving the sentence and satisfying any other penalty imposed, or upon an executive pardon.

## **Article 22**

a) Every person shall have the right to own property alone as well as in association with others; provided that only Liberian citizens shall have the right to own real property within the Republic.

b) Private property rights, however, shall not extend to any mineral resources on or beneath any land or to any lands under the seas and waterways of the Republic. All mineral resources in and under the seas and other waterways shall belong to the Republic and be used by and for the entire Republic.

c) Non-citizen missionary, educational and other benevolent institutions shall have the right to own property, as long as that property is used for the purposes for which acquired; property no longer so used shall escheat to the Republic)

d) The Republic may, on the basis of reciprocity, convey to a foreign government property to be used perpetually for its diplomatic activities. This land shall not be transferred or otherwise conveyed to any other party or used for any other purpose, except upon the expressed permission of the Government of Liberia. All property so conveyed may escheat to the Republic in the event of a cessation of diplomatic relations.

### **Article 23**

a) The property which a person possesses at the time of marriage or which may afterwards be acquired as a result of one's own labors shall not be held for or otherwise applied to the liquidation of the debts or other obligations of the spouse, whether contracted before or after marriage; nor shall the property which by law is to be secured to a man or a woman be alienated or be controlled by that person's spouse save by free and voluntary consent.

b) The Legislature shall enact laws to govern the devolution of estates and establish rights of inheritance and descent for spouses of both statutory and customary marriages so as to give adequate protection to surviving spouses and children of such marriages.

### **Article 24**

a) While the inviolability of private property shall be guaranteed by the Republic, expropriation may be authorized for the security of the nation in the event of armed conflict or where the public health and safety are endangered or for any other public purposes, provided:

(i) that reasons for such expropriation are given;

(ii) that there is prompt payment of just compensation;

(iii) that such expropriation or the compensation offered may be challenged freely by the owner of the property in a court of law with no penalty for having brought such action; and

(iv) that when property taken for public use ceases to be so used, the Republic shall accord the former owner or those entitled to the property through such owner, the right of first refusal to reacquire the property.

b) All real property held by a person whose certificate of naturalization has been cancelled shall escheat to the Republic unless such person shall have a spouse and/or lineal heirs who are Liberian citizens, in which case the real property shall be transferred to them in accordance with the intestacy law.

c) The power of the Legislature to provide punishment for treason or other crimes shall not include a deprivation or forfeiture of the right of inheritance, although its enjoyment by the convicted person shall be postponed during a term of imprisonment judicially imposed; provided that if the convicted person has minor children and a spouse, the spouse or next of kin in the order of priority shall administer the same. No punishment shall preclude the inheritance, enjoyment or forfeiture by others entitled thereto of any property which the convicted person at the time of conviction or subsequent thereto may have possessed.

### **Article 25**

Obligation of contract shall be guaranteed by the Republic and no laws shall be passed which might impair this right.

### **Article 26**

Where any person or any association alleges that any of the rights granted under this Constitution or any legislation or directives are constitutionally contravened, that person or association may invoke the privilege and benefit of court direction, order or writ, including a judgment of unconstitutionality; and anyone injured by an act of the Government or any person acting under its authority, whether in property, contract, tort or otherwise, shall have the

right to bring suit for appropriate redress. All such suits brought against the Government shall originate in a Claims Court; appeals from judgment of the Claims Court shall lie directly to the Supreme Court.

## CHAPTER IV

### CITIZENSHIP

#### **Article 27**

- a) All persons who, on the coming into force of this Constitution were lawfully citizens of Liberia shall continue to be Liberian citizens.
- b) In order to preserve, foster and maintain the positive Liberian culture, values and character, only persons who are Negroes or of Negro descent shall qualify by birth or by naturalization to be citizens of Liberia.
- c) The Legislature shall, adhering to the above standard, prescribe such other qualification criteria for the procedures by which naturalization may be obtained.

#### **Article 28**

Any person, at least one of whose parents was a citizen of Liberia at the time of the Person's birth, shall be a citizen of Liberia; provided that any such person shall upon reaching maturity renounce any other citizenship acquired by virtue of one parent being a citizen of another country. No citizen of the Republic shall be deprived of citizenship or nationality except as provided by law; and no person shall be denied the right to change citizenship or nationality.

## CHAPTER V

### THE LEGISLATURE

#### **Article 29**

The legislative power of the Republic shall be vested in the Legislature of Liberia which shall consist of two separate houses: A Senate and a House of Representatives, both of which must pass on all legislation. The enacting style shall be: "It is enacted by the Senate and House of Representatives of the Republic of Liberia in Legislature assembled."

#### **Article 30**

Citizens of Liberia who meet the following qualifications are eligible to become members of the Legislature.

- a) for the Senate, have attained the age of 30 years and for the House of Representatives, have attained the age of 25 years;
- b) be domiciled in the country or constituency to be represented not less than one year prior to the time of the election and be a taxpayer.

#### **Article 31**

Each member of the Legislature, before taking his seat and entering upon the duties of office, shall take and subscribe to a solemn oath of affirmation, before the presiding officer of the House to which such person was elected and in the presence of other members of that House, to uphold and defend the Constitution and laws of the Republic and to discharge faithfully the duties of such office.

#### **Article 32**

- a) The Legislature shall assemble in regular session once a year on the second working Monday in January.
- b) The President shall, on his own initiative or upon receipt of a certificate signed by at least one-fourth of the total membership of each House, and by proclamation, extend a regular session of the Legislature beyond the date for

adjournment or call a special extraordinary session of that body to discuss or act upon matters of national emergency and concern. When the extension or call is at the request of the Legislature, the proclamation shall be issued not later than forty-eight hours after receipt of the certificate by the President.

### **Article 33**

Simple majority of each House shall constitute a quorum for the transaction of business, but a lower number may adjourn from day to day and compel the attendance of absent members. Whenever the House of Representatives and the Senate shall meet in joint session, the presiding officer of the House of Representatives shall preside.

### **Article 34**

The Legislature shall have the power:

- a) to create new counties and other political sub-division, and readjust existing county boundaries;
- b) to provide for the security of the Republic;
- c) Armed Forces of the Republic, and to make appropriations therefore provided that no appropriation of money for that use shall be for a longer term than on year; and to make rules for the governance of the Armed Forces of the Republic;
- d) to levy taxes, duties, imports, exercise and other revenues, to borrow money, issue currency, mint coins, and to make appropriations for the fiscal governance of the Republic, subject to the following qualifications:
  - (i) all revenue bills, whether subsidies, charges, imports, duties or taxes, and other financial bills, shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills. No other financial charge shall be established, fixed, laid or levied on any individual, community or locality under any pretext whatsoever except by the expressed consent of the individual, community or locality. In all such cases, a true and correct account of funds collected shall be made to the community or locality;
  - (ii) no monies shall be drawn from the treasure except in consequence of appropriations made by legislative enactment and upon warrant of the President; and no coin shall be minted or national currency issued except by the expressed authority of the Legislature. An annual statement and account of the expenditure of all public monies shall be submitted by the office of the President to the Legislature and published once a year;
  - (iii) no loans shall be raised by the Government on behalf of the Republic or guarantees given for any public institutions or authority otherwise than by or under the authority of a legislative enactment;
- e) to constitute courts inferior to the Supreme Court, including circuit courts, claims courts and such courts with prescribed jurisdictional powers as may be deemed necessary for the proper administration of justice throughout the Republic;
- f) to approve treaties, conventions and such other international agreements negotiated or signed on behalf of the Republic;
- g) to regulate trade and commerce between Liberia and other nations;
- h) to establish laws for citizenship, naturalization and residence;
- i) to enact the election laws;
- j) to establish various categories of criminal offenses and provide for the punishment thereof;
- k) to enact laws providing pension scheme for various categories of government officials and employees in accordance with age and tenure of service; and
- l) to make other laws which shall be necessary and proper for carrying into execution the foregoing powers, and all

other powers vested by this Constitution in the Government of the Republic, or in any department or officer thereof.

#### **Article 35**

Each bill or resolution which shall have passed both Houses of the Legislature shall, before it becomes law, be laid before the President for his approval. If he grants approval, it shall become law. If the President does not approve such bill or resolution, he shall return it, with his objections, to the House in which it originated. In so doing, the President may disapprove of the entire bill or resolution or any item or items thereof. This veto may be overridden by the re-passage of such bill, resolution or item thereof by a veto of two-thirds of the members in each House, in which case it shall become law. If the President does not return the bill or resolution within twenty days after the same shall have been laid before him it shall become law in like manner as if he had signed it, unless the Legislature by adjournment prevents its return.

No bill or resolution shall embrace more than one subject which shall be expressed in its title.

#### **Article 36**

The Senators and Representatives shall receive from the Republic remuneration for their services to be fixed by law, provided that any increase shall become effective at the beginning of the next fiscal year.

#### **Article 37**

In the event of a vacancy in the Legislature caused by death, resignation, expulsion or otherwise, the presiding officer shall within 30 days notify the Elections Commission thereof. The Elections Commission shall not later than 90 days thereafter cause a by-election to be held; provided that where such vacancy occurs within 90 days prior to the holding of general elections, the filling of the vacancy shall await the holding of such general elections.

#### **Article 38**

Each House shall adopt its own rules of procedure, enforce order and with the concurrence of two-thirds of the entire membership, may expel a member for cause. Each House shall establish its own committees and sub-committees; provided, however, that the committees on revenues and appropriations shall consist of one member from each County. All rules adopted by the Legislature shall conform to the requirements of due process of law laid down in this Constitution.

#### **Article 39**

The Legislature shall cause a census of the Republic to be undertaken every ten years.

#### **Article 40**

Neither House shall adjourn for more than five days without the consent of the other and both Houses shall always sit in the same city.

#### **Article 41**

The business of the Legislature shall be concluded in the English language or, when adequate preparations shall have been made, in one more of the languages of the Republic as the Legislature may by resolution approve.

#### **Article 42**

No member of the Senate or House of Representatives shall be arrested, detained, prosecuted or tried as a result of opinions expressed or votes cast in the exercise of the functions of his office. Members shall be privileged from arrest while attending, going to or returning from sessions of the Legislature, except for treason, felony or breach of the peace. All official acts done or performed and all statement made in the Chambers of the Legislature shall be privileged, and no Legislator shall be held accountable or punished therefore.

#### **Article 43**

The power to prepare a bill of impeachment is vested solely in the House of Representatives, and the power to try all impeachments is vested solely in the Senate. When the President, Vice President or an Associate Justice is to be tried, the Chief Justice shall preside; when the Chief Justice or a judge of a subordinate court of record is to be tried, the President of the Senate shall preside. No person shall be impeached but by the concurrence of two-thirds of the total membership of the Senate. Judgments in such cases shall not extend beyond removal from office and disqualification to hold public office in the Republic; but the party may be tried at law for the same offense. The Legislature shall prescribe the procedure for impeachment proceedings which shall be in conformity with the requirements of due process of law.

#### **Article 44**

Contempt of the Legislature shall consist of actions which obstruct the legislative functions or which obstruct or impede members or officers of the Legislature in the discharge of their legislative duties and may be punished by the House concerned by reasonable sanctions after a hearing consistent with due process of law. No sanctions shall extend beyond the session of the Legislature wherein it is imposed, and any sanction imposed shall conform to the provisions on Fundamental Rights laid down in the Constitution. Disputes between legislators and non-members which are properly cognizable in the courts shall not be entertained or heard in the Legislature.

#### **Article 45**

The Senate shall composed of Senators elected for a term of nine years by the registered voters in each of the counties, but a Senator elected in a by-election to fill a vacancy created by death, resignation, expulsion or otherwise, shall be so elected to serve only the remainder of the unexpired term of office. Each county shall elect two Senators and each Senator shall have one vote in the Senate. Senators shall be eligible for re-election.

#### **Article 46**

Immediately after the Senate shall have assembled following the elections prior to the coming into force of this Constitution, the Senators shall be divided into two categories as a result of the votes cast in each county. The Senator with the higher votes cast shall be the Senator from a county shall be placed in the same category. The seats of Senators of the first category shall be vacated at the expiration of the ninth year. In the interest of legislative continuity, the Senators of the second category shall serve a first term of six years only, after the first elections. Thereafter, all Senators shall be elected to serve a term of nine years.

#### **Article 47**

The Senate shall elect once every six years a President Pro Tempore who shall preside in the absence of the President of the Senate, and such shall officers as shall ensure the proper functioning of the Senate. The President Pro Tempore and other officers so elected may be removed from office for cause by resolution of a two-thirds majority of the members of the Senate.

#### **Article 48**

The House of Representatives shall be composed of members elected for a term of six years by the registered voters in each of the legislative constituencies of the counties, but a member of the House of Representatives elected in a by-election to fill a vacancy created by death, resignation or otherwise, shall be elected to serve only the remainder of the unexpired term of the office. Members of the House of Representatives shall be eligible for re-election.

#### **Article 49**

The House of Representative shall elect once every six years a Speaker who shall be the presiding officer of that body, a Deputy Speaker, and such other officers as shall ensure the proper functioning of the House. The speaker, the Deputy Speaker and other officers so elected may be removed from office for cause by resolution of a two-thirds majority of the members of the House.

## CHAPTER VI

### THE EXECUTIVE

#### **Article 50**

The Executive Power of the Republic shall be vested in the President who shall be Head of State, Head of Government and Commander-in-Chief of the Armed Forces of Liberia. The president shall be elected by universal adult suffrage of registered voters in the Republic and shall hold office for a term of six years commencing at noon on the third working Monday in January of the year immediately following the elections. No person shall serve as President for more than two terms.

#### **Article 51**

There shall be a Vice-President who shall assist the President in the discharge of his functions. The Vice-President shall be elected on the same political ticket and shall serve the same term as the President. The Vice-President shall be President of the Senate and preside over its deliberations without the right to vote, except in the case of a tie vote. He shall attend meetings of the cabinet and other governmental meetings and shall perform such functions as the President shall delegate or deem appropriate; provided that no powers specifically vested in the President by the provisions of this Constitution shall be delegated to the Vice-President.

#### **Article 52**

No person shall be eligible to hold the office of President or Vice-President, unless that person is:

- a) a natural born Liberian citizen of not less than 35 years of age;
- b) the owner of unencumbered real property valued at not less than twenty-five thousand dollars; and
- c) resident in the Republic ten years prior to his election, provided that the President and the Vice-President shall not come from the same County.

#### **Article 53**

- a) The President and the Vice-President shall, before entering on the execution of the duties of their respective offices, take a solemn oath or affirmation to preserve, protect and defend the Constitution and laws of the Republic and faithfully execute the duties of the office. The oath or affirmation shall be administered in joint convention of both Houses of the Legislature by the Chief Justice or, in his absence, the most senior Associate Justice.
- b) In an emergency where the Chief Justice and the Associate Justice are not available, such oath or affirmation shall be administered by a judge of a subordinate court of record.

#### **Article 54**

The President shall nominate and, with the consent of the Senate, appoint and commission —

- a) cabinet ministers, deputy and assistant cabinet ministers;
- b) ambassadors, ministers, consuls; and
- c) the Chief Justice and Associate Justice of the Supreme Court and judges of subordinate courts;
- d) superintendents, other county officials and officials of other political sub-divisions;
- e) members of the military from the rank of lieutenant of its equivalent and above; and
- f) marshals, deputy marshals, and sheriffs.

## **Article 55**

The President shall appoint and commission Notaries Public and Justices of the Peace who shall hold office for a term of two years but may be removed by the President for cause. They shall be eligible for appointment.

## **Article 56**

a) All cabinet ministers, deputy and assistant cabinet ministers, ambassadors, ministers and consuls, superintendents of counties and other government officials, both military and civilian, appointed by the President pursuant to this Constitution shall hold their offices at the pleasure of the President.

b) There shall be elections of Paramount, Clan and Town Chiefs by the registered voters in their respective localities, to serve for a term of six years. They may be re-elected and may be removed only by the President for proved misconduct. The Legislature shall enact laws to provide for their qualifications as may be required.

## **Article 57**

The President shall have the power to conduct the foreign affairs of the Republic and in that connection he is empowered to conclude treaties, conventions and similar international agreements with the concurrence of a majority of each House of the Legislature.

## **Article 58**

The President shall, on the fourth working Monday in January of each year, present the administration's legislative program for the ensuing session, and shall once a year report to the Legislature on the state of the Republic. In presenting the economic condition of the Republic the report shall cover expenditure as well as income.

## **Article 59**

The President may remit any public forfeitures and penalties suspend and fines and sentences, grant reprieves and pardons, and restore civil rights after conviction for all public offenses, except impeachment.

## **Article 60**

The President and the Vice-President shall receive salaries which shall be determined by the Legislature and be paid by the Republic. Such salaries shall be subject to taxes as defined by law and shall neither be increased nor diminished during the period for which the President and the Vice-President shall have elected.

## **Article 61**

The President shall be immune from any suits, actions or proceedings, judicial or otherwise, and from arrest, detention or other actions on account of any act done by him while President of Liberia pursuant to any provision of this Constitution or any other laws of the Republic. The President shall not, however, be immune from prosecution upon removal from office for the commission of any criminal act done while President.

## **Article 62**

The President and the Vice-President may be removed from office by impeachment for treason, bribery and other felonies, violation of the Constitution or gross misconduct.

## **Article 63**

a) Whenever a person elected to the office of President dies or is otherwise incapacitated before being inaugurated into office, the Vice-President elected shall succeed to the office of President, and this accession shall commence a term.

b) Whenever the office of the President shall become vacant by reason of death, resignation, impeachment, or the

President shall be declared incapable of carrying out the duties and functions of his office, the Vice-President shall succeed to the of the President to complete the unexpired term. In such a case, this not constitute a term.

c) The Legislature shall, no later than one year after the coming into force of this Constitution, prescribe the guidelines and determine the procedure under which the President, by reason of illness, shall be declared incapable of carrying out the functions of his office.

d) Whenever the office of the Vice-President becomes vacant by reason of death, resignation, impeachment, inability or otherwise, the President shall, without delay, nominate a candidate who, with the concurrence of both Houses of the Legislature, shall be sworn in and hold office as Vice-President until the next general elections are held. Whenever the Vice-President elect dies, resigns, or is incapacitated before being inaugurated, the President elected on the same ticket with him, shall, after being inaugurated into office, nominate without delay a candidate who, with the concurrence of both Houses of the Legislature, shall be sworn in an hold office as Vice-President until the next general elections are held.

#### **Article 64**

Whenever the office of the President and of the Vice-President shall become vacant by reason of removal, death, resignation, inability or other disability of the President and Vice-President, the Speaker of the House of Representatives shall be sworn in as Acting President until the holding of elections to fill the vacancies so created. Should the Speaker be legally incapable or otherwise unable to assume the office of Acting President, then the same shall devolve in order upon the Deputy speaker and members of the Cabinet in the order of precedence as established by law. The Elections Commission shall within ninety days conduct elections for a new President and a new Vice-President.

### **CHAPTER VII**

#### **THE JUDICIARY**

#### **Article 65**

The Judicial Power of the Republic shall be vested in a Supreme Court and such subordinate courts as the legislature may from time to time establish. The courts shall apply both statutory and customary laws in accordance with the standards enacted by the Legislature. Judgments of the Supreme Court shall be final and binding and shall not be subject to appeal or review by any other branch of Government. Nothing in this Article shall prohibit administrative consideration of the Justiciable matter prior to review by a court of competent jurisdiction.

#### **Article 66**

The Supreme Court shall be final arbiter of constitutional issues and shall exercise final appellate jurisdiction in all cases whether emanating from courts of record, courts not of record, administrative agencies, autonomous agencies or any other authority, both as to law and fact except cases involving ambassadors, ministers, or cases in which a country is a party. In all such cases, the Supreme Court shall exercise original jurisdiction. The Legislature shall make no law nor create any exceptions as would deprive the Supreme Court of any of the powers granted herein.

#### **Article 67**

The Supreme Court shall comprise of one Chief Justice and four Associate Justice, a majority of whom shall be deemed competent to transact the business of the Court. If a quorum is not obtained to enable the Court to hear any case, a circuit judge in the order of seniority shall sit as an ad hoc justice of the Supreme Court.

#### **Article 68**

The Chief Justice and Associate Justice of the Supreme Court shall, with the consent of the Senate, be appointed and commissioned by the President; provided that any person so appointed shall be:

a) a citizen of Liberia and of good moral character; and

b) a counselor of the Supreme Court Bar who has practiced for at least 5 years.

#### **Article 69**

The judges of subordinate courts of record shall, with the consent of the Senate, be appointed and commissioned by the President, provided that any person so appointed shall be:

a) a citizen of Liberia and of good moral character; and

b) an Attorney-at-Law whom has practiced for at least 3 years, or a counselor of the Supreme Court Bar.

#### **Article 70**

The Chief Justice and the Associate Justices of the Supreme Court and all judges of subordinate courts shall, before assuming the functions of their office, subscribe to a solemn oath or affirmation to discharge faithfully and impartially the duties and functions of their office and to preserve, protect and defend the Constitution and laws of the Republic. The oath or affirmation shall be administered by the president or his designee.

#### **Article 71**

The Chief Justice and Associates Justices of the Supreme Court and the judges of subordinate courts of record shall hold office during good behavior. They may be removed upon impeachment and conviction by the Legislature based on proved misconduct, gross breach of duty, inability to perform the functions of their office, or conviction in a court of law for treason, bribery or other infamous crimes.

#### **Article 72**

a) The Justices of the Supreme Court and all other judges shall receive such salaries, allowances and benefits as shall be established by law. Such salaries shall be subject to taxes as defined by law, provided that they shall not otherwise be diminished. Allowances and benefits paid to Justices of the Supreme Court and judges of subordinate courts may by law be increased but may not be diminished except under a national program enacted by the Legislature; nor shall such allowance and benefits be subject to taxation.

b) The Chief Justice and the Associate Justices of the Supreme Court and judges of subordinate courts of record shall be retired at the age of seventy; provided, however, that a justice of judge who has attained that age may continue in office for as long as may be necessary to enable him to render judgment or perform any other judicial duty in regard to proceedings entertained by him before the attained that age.

#### **Article 73**

No judicial official shall be summoned, arrested, detained, prosecuted or tried civilly or criminally by or at the instance of any person or authority on account of judicial opinions rendered or expressed, judicial statements made and judicial acts done in the course of a trial in open court or in chambers, except for treason or other felonies, misdemeanor or breach of the peace. Statements made and acts done by such officials in the course of a judicial proceeding shall be privileged, and, subject to the above qualification, no such statement made or acts done shall be admissible into evidence against them at any trial or proceeding.

#### **Article 74**

In all matters of contempt of court, whether in the Supreme Court or in other courts, the penalties to be imposed shall be fixed by the Legislature and shall conform to the provision on Fundamental Rights laid down in this Constitution.

#### **Article 75**

The Supreme Court shall from time to time make rules of court for the purpose of regulating the practice, proce-

dures and manner by which cases shall be commenced and heard before it and all other subordinate courts. It shall prescribe such code of conduct for lawyers appearing before it and all other subordinate courts as may be necessary to facilitate the proper discharge of the court's functions. Such rules and code, however, shall not contravene any statutory provisions or any provisions of this Constitution.

#### **Article 76**

a) Treason against the Republic shall consist of:

(1) levying war against the Republic;

(2) aligning oneself with or aiding and abetting another nation or people with whom Liberia is at war or in a state of war;

(3) acts of espionage for an enemy state;

(4) attempting by overt act to overthrow the Government, rebellion against the Republic, insurrection and mutiny; and

(5) abrogating or attempting to abrogate, subverting or attempting or conspiring to subvert the Constitution by use of force or show of force or any other means which attempts to undermine this Constitution.

The Legislature shall have the power to declare the punishment for treason; provided, however, that such punishment shall not include a deprivation or forfeiture of the right of inheritance by the convicted person of any property although he may not be entitled to enjoyment thereof for as long as he continues to serve the term of imprisonment imposed after conviction in a court of competent jurisdiction. The right to enjoyment of any property inherited or otherwise conveyed to or acquired by such convicted person shall be automatically restored upon serving the term of imprisonment or other punishment, or upon an executive pardon by the President. No punishment shall preclude the inheritance and enjoyment, or cause the forfeiture by others entitled thereto, of any property which the convicted person at the time of any conviction or subsequent thereto may have possessed or been seized.

### **CHAPTER VIII**

#### **POLITICAL PARTIES AND ELECTIONS**

#### **Article 77**

a) Since the essence of democracy is free competition of ideas expressed by political parties and political groups as well as by individuals, parties may freely be established to advocate the political opinions of the people. Laws, regulations, decrees or measures which might have the effect of creating a one-party state shall be declared unconstitutional.

b) All elections shall be by secret ballot as may be determined by the Elections Commission, and every Liberian citizen not less than 18 years of age, shall have the right to be registered as a voter and to vote in public elections and referenda under this Constitution. The Legislature shall enact laws indicating the category of Liberians who shall not form or become members of political parties.

#### **Article 78**

As used in this Chapter, unless the context otherwise requires, an "association" means a body of persons, corporate or other, which acts together for a common purpose, and includes a group of people organized for any ethnic, social, cultural, occupational or religious objectives; a "political party" shall be an association with a membership of not less than five hundred qualified voters in each of at least six counties, whose activities include canvassing for votes on any public issue or in support of a candidate for elective public office; and an "independent candidate" shall be a person seeking electoral post or office with or without his own organization, acting independently of a political party.

#### **Article 79**

No association, by whatever name called, shall function as a political party, nor shall any citizen be an independent

candidate for election to public office, unless:

- a) the association or independent candidate and his organization meet the minimum registration requirements laid down by the Elections Commission and are registered with it. Registration requirements shall include filing with the Elections Commission a copy of the constitution of the association and guidelines of the independent candidate and his organization, a detailed statement of the names and addresses of the association and its officers or of the independent candidate and the officers of his organization, and fulfillment of the provision of sub-sections (b), (c), (d) and (e) hereof. Registration by the Elections Commission of any association or independent candidate and his organization shall vest in the entity or candidate and his organization so registered legal personality, with the capacity to own property, real, personal or mixed, to sue and be sued and to hold accounts. A denial of registration or failure by the Elections Commission to register any applicant may be challenged by the applicant in the Supreme Court;
- b) the membership of the association or the independent candidate's organization is open to every citizen of Liberia, irrespective of sex, religion or ethnic background, except as otherwise provided in this Constitution.
- c) the headquarters of the association or independent candidate and his organization is situated:
  - (i) in the capital of the Republic where an association is involved or where an independent candidate seeks election to the office of President or Vice-President;
  - (ii) in the headquarters of the county where an independent candidate seeks election as a Senator; and
  - (iii) in the electoral center in the constituency where the candidate seeks election as a member of the House of Representatives or to any other public office;
- d) the name, objective, emblem or motto of the association or of the independent candidate and his organization is free from any religious connotations or divisive ethnic implications and that the activities of the association or independent candidate are not limited to a special group or, in the case of an association, limited to a particular geographic area of Liberia;
- e) the constitution and rules of the political party shall conform to the provisions of this Constitution, provide for the democratic elections of officers and/or governing body at least once every six years, and ensure the election of officers from as many of the regions and ethnic groupings in the country as possible. All amendments to the Constitution or rules of a political party shall be registered with the Elections Commission no later than ten days from the effective dates of such amendments.

#### **Article 80**

- a) Parties or organizations which, by reason of their aims or the behavior of their adherents, seek to impair or abolish the free democratic society of Liberia or to endanger the existence of the Republic shall be denied registration.
- b) Parties or organization which retain, organize, train or equip any person or group of persons for the use or display of physical force or coercion in promoting any political objective or interest, trained or equipped, shall be denied registration, or if registered, shall have their registration revoked.
- c) Every Liberian citizen shall have the right to be registered in a constituency, and to vote in public elections only in the constituency where registered, either in person or by absentee ballot; provided that such citizen shall have the right to change his voting constituency as may be prescribed by the Legislature.
- d) Each constituency shall have an approximately equal population of 20,000, or such number of citizens as the legislature shall prescribe in keeping with population growth and movements as revealed by a national census; provided that the total number of electoral constituencies in the Republic shall not exceed one hundred.
- e) Immediately following a national census and before the next election, the Elections Commission shall reapportion the constituencies in accordance with the new population figures so that every constituency shall have as close to the same population as possible; provided, however, that a constituency must be solely within a county.

#### **Article 81**

Any citizen, political party, organization, or association, being resident in Liberia, of Liberian nationality or origin and

not otherwise disqualified under the provisions of this Constitution and laws of the land, shall have the right to canvass for the votes for any political party or candidate at any election, provided that corporate and business organizations and labor unions are excluded from so canvassing directly or indirectly in whatsoever form.

## **Article 82**

a) Any citizen or citizens, political party association or organization, being of Liberian nationality or origin, shall have the right to contribute to the funds or election expenses of any political party or candidate; provided that corporate and business organizations and labor unions shall be excluded from making and contribution to the funds or expenses of any political party. The Legislature shall by law prescribe the guidelines under which such contributions may be made and the maximum amount which may be contributed.

b) No political party or organization may hold or possess any funds or other assets outside of Liberia; nor may they or any independent candidates retain any funds or assets remitted or sent to them from outside Liberia unless remitted or sent by Liberian citizens residing abroad. Any funds or other assets received directly or indirectly in contravention of this restriction shall be paid over or transferred to the Elections Commission within twenty-one days of receipt. Information on all funds received from abroad shall be filed promptly with the Elections Commission.

c) The Elections Commission shall have the power to examine into and order certified audits of the financial transactions of political parties and independent candidates and their organizations. The Commission shall prescribe the kinds of records to be kept and the manner in which they shall be conducted by a certified chartered public accountant, not a member of any political party.

## **Article 83**

a) Voting for the President, Vice-President, members of the Senate and members of the House of Representatives shall be conducted throughout the Republic on the second Tuesday in October of each election year.

b) All elections of public officers shall be determined by an absolute majority of the votes cast. If no candidate obtains an absolute majority in the first ballot, a second ballot shall be conducted on the second Tuesday following. The two candidates who received the greatest numbers of votes on the first ballot shall be designated to participate in the run-off election.

c) The returns of the elections shall be declared by the Elections Commission not later than fifteen days after the casting of ballots. Any party or candidate who complains about the manner in which the elections were conducted or who challenges the results thereof shall have the right to file a complaint with the Elections Commission. Such complaint must be filed not later than seven days after the announcement of the results of the elections.

The Elections Commission shall, within thirty days of receipt of the complaint, conduct an impartial investigation and render a decision which may involve a dismissal of the complaint or a nullification of the election of a candidate. Any political party or independent candidate affected by such decision shall not later than seven days appeal against it to the Supreme Court.

The Elections Commission shall within seven days of receipt of the notice of appeal, forward all the records in the case to the Supreme Court, which not later than seven days thereafter, shall hear and make its determination. If the Supreme Court nullifies or sustains the nullification of the election of any candidate, for whatever reasons, the Elections commission shall within sixty days of the decision of the Court conduct new elections to fill the vacancy. If the court sustains the election of a candidate, the Elections Commission shall act to effectuate the mandate of the Court.

d) Every political party shall, on September 1 of each year, and every candidate of such political party and every independent candidate shall, not later than thirty days prior to the holding of an election in which he is a candidate, publish and submit to the Elections Commission detailed statements of assets and liabilities. These shall include the enumeration of sources of funds and other assets, plus lists of expenditures. Where the filing of such statements is made in an election year, every political party and independent candidate shall be required to file with the Elections Commissions additional detailed supplementary statements of all funds received and expenditures made by them from the date of filing of the original statements to the date of the elections. Any political party or independent candidate who ceases to function shall publish and submit a final financial statement to the Elections Commission.

#### **Article 84**

The Legislature shall by law provide penalties for any violations of the relevant provisions of this Chapter, and shall enact laws and regulations in furtherance thereof not later than 1986; provided that such penalties, laws or regulations shall not be inconsistent with any provisions of this Constitution.

### **CHAPTER IX**

#### **EMERGENCY POWERS**

#### **Article 85**

The President, as Commander-in-Chief of the Armed Forces, may order any portion of the Armed Forces into a state of combat readiness in defense of the Republic, before or after the declaration of a state of emergency, as may be warranted by the situation. All military power or authority shall at all times, however, be held in subordination to the civil authority and the Constitution.

#### **Article 86**

a) The President may, in consultation with the Speaker of the House of Representatives and the President Pro Tempore of the Senate, proclaim and declare the existence of a state of emergency in the Republic or any part thereof. Acting pursuant thereto, the President may suspend or affect certain rights, freedoms and guarantees contained in this Constitution and exercise such other emergency powers as may be necessary and appropriate to take care of the emergency, subject, however, to the limitations contained in this Chapter.

b) A state of emergency may be declared only where there is a threat or outbreak of war or where there is civil unrest affecting the existence, security or well-being of the Republic amounting to a clear and present danger.

#### **Article 87**

a) Emergency powers do not include the power to suspend or abrogate the Constitution, dissolve the Legislature, or suspend or dismiss the Judiciary; and no constitutional amendment shall be promulgated during a state of emergency. Where the Legislature is not in session, it must be convened immediately in special session and remain in session during the entire period of the state of emergency.

b) The writ of habeas corpus shall remain available and exercisable at all times and shall not be suspended on account of any state of emergency. It shall be enjoyed in the most free, easy, inexpensive, expeditious and ample manner. Any person who suffers from a violation of this right may challenge such violation in a court of competent jurisdiction.

#### **Article 88**

The President shall, immediately upon the declaration of a state of emergency, but not later than seven days thereafter, lay before the Legislature at its regular session or at a specially convened session, the facts and circumstances leading to such declaration. The Legislature shall within seventy-two hours, by joint resolution voted by two-thirds of the membership of each house, decide whether the proclamation of a state of emergency is justified or whether the measures taken thereunder are appropriate. If the two-thirds vote is not obtained, the emergency automatically shall be revoked. Where the Legislature shall deem it necessary to revoke the state of emergency or to modify the measures taken thereunder, the President shall act accordingly and immediately carry out the decisions of the Legislature.

### **CHAPTER X**

#### **AUTONOMOUS PUBLIC COMMISSIONS**

#### **Article 89**

The following Autonomous Public Commissions are hereby established:

- A. CIVIL SERVICE COMMISSION;
- B. ELECTIONS COMMISSION; and
- C. GENERAL AUDITING COMMISSION

The Legislature shall enact laws for the governance of these Commissions and create other agencies as may be necessary for the effective operation of Government.

## CHAPTER XI

### MISCELLANEOUS

#### **Article 90**

- a) No person, whether elected or appointed to any public office, shall engage in any other activity which shall be against public policy, or constitute conflict of interest.
- b) No person holding office shall demand and receive any other perquisites, emoluments or benefits, directly or indirectly, on account of any duty required by Government.
- c) The Legislature shall, in pursuance of the above provision, prescribe a Code of Conduct for all public officials and employees, stipulating the acts which constitute conflict of interest or are against public policy, and the penalties for violation thereof.

## CHAPTER XII

### AMENDMENTS

#### **Article 91**

This Constitution may be amended whenever a proposal by either (1) two-thirds of the membership of both Houses of the Legislature or (2) a petition submitted to the Legislature, by not fewer than 10,000 citizens which receives the concurrence of two-thirds of the membership of both Houses of the Legislature, is ratified by two-thirds of the registered voters, voting in a referendum conducted by the Elections Commission not sooner than one year after the action of the Legislature.

#### **Article 92**

Proposed constitutional amendments shall be accompanied by statements setting forth the reasons therefore and shall be published in the Official Gazette and made known to the people through the information services of the Republic. If more than one proposed amendment is to be voted upon in a referendum they shall be submitted in such manner that the people may vote for or against them separately.

#### **Article 93**

The limitation of the Presidential term of office to two terms, each of six years duration, may be subject to amendment; provided that the amendment shall not become effective during the term of office of the incumbent President.

## CHAPTER XIII

### TRANSITIONAL PROVISIONS

#### **Article 94**

- a) Notwithstanding anything to the contrary in this Constitution, any person duly elected to any office provided for under this Constitution and under the laws in force immediately before the coming into force of this Constitution shall be deemed to have been duly elected for the purpose of this Constitution and to have assumed the position so occupied on the date of coming into existence of this Constitution.

b) Notwithstanding anything to the contrary in this Constitution, elections for the President, Vice–President and members of the Legislature, prior to the coming into force of this Constitution, shall be held on the 3<sup>rd</sup> Tuesday in January 1985. The person so elected President of Liberia shall be inaugurated on the 12<sup>th</sup> day of April 1985. The President, Vice–President and members of the Legislature who are elected for the first term prior to the coming into force of this Constitution, shall serve their respective terms less approximately three months. This Constitution shall come into force simultaneously with that inauguration.

c) Notwithstanding anything to the contrary in this Constitution, the People’s Redemption Council shall by decree convene a session of the newly elected Legislature before the 12<sup>th</sup> day of April 1985, to enable the Senate and House of Representatives to organize and elect their officers. Such elections shall be conducted in accordance with the rules and procedures laid down by the Legislature under the suspended Constitution until changed by the new Legislature.

d) Any person who, under the laws extant immediately before the coming into force of this Constitution, held an appointment or was acting in an office shall be deemed to have been appointed, as far as it is consistent with the provisions of this Constitution, to hold or to act in the equivalent office under this Constitution until appointments otherwise provided for under this Constitution shall have been made.

#### **Article 95**

a) The Constitution of the Republic of Liberia which came into force on the 26<sup>th</sup> day of July 1847, and which was suspended on the 12<sup>th</sup> day of April 1980, is hereby abrogated. Notwithstanding this abrogation, however, any enactment or rule of law in existence immediately before the coming into force of this Constitution, whether derived from the abrogated Constitution or from any other source shall, in so far as it is not inconsistent with any provision of this Constitution, continue in force as if enacted, issued or made under the authority of this Constitution.

b) All treaties, executive and other international agreements and obligations concluded by the Government of the People’s Redemption Council or prior governments in the name of the Republic prior to the coming into force of this Constitution shall continue to be valid and binding on the Republic unless abrogated or cancelled or unless otherwise inconsistent with this Constitution.

c) All foreign and domestic debts or other loans and obligations contracted by the Government of the People’s Redemption Council or Prior governments or any agency or other authority in the name of the Republic of Liberia prior to the coming into existence of this Constitution, shall continue to be binding on the enforceable by the Republic of Liberia.

#### **Article 96**

Notwithstanding anything to the contrary in this Constitution:

a) The People’s Supreme Court of Liberia and all subordinate courts operating prior to the effective date of this Constitution shall continue to so operate, and the Chief Justice, Associate Justices of the People’s Supreme Court and judges of subordinate courts holding appointments in such courts shall continue to hold such appointments after the coming into existence of this Constitution until their successors are appointed and qualified; provided, however, that all judges of subordinate courts shall remain and preside in their respective resident circuits pending the reconstruction of the Supreme Court. The appointment by the President, with the consent of the Senate, of the Chief Justice and Associate Justices of the Supreme Court and judges of subordinate courts, shall be made as soon as possible after the coming into force of this Constitution. The Chief Justice and Associate Justices of the People’s Supreme Court and judges of subordinate courts holding office prior thereto, unless reappointed, shall cease to hold office and their function shall automatically devolve upon the newly appointed Chief Justice, Associate Justices of the Supreme Court and judges of subordinate courts, respectively.

b) Where any legal or administrative proceeding has been commenced, or a person seeks action by any authority or one acting under the authority of the Government, that matter may be carried on and completed by the person or authority having power or by his successor-in-office; and it shall not be necessary for any such proceeding to be commenced *de novo*. Any act completed by any person or authority having power under the existing law shall not be made the subject of review or commenced anew by anyone assuming the authority of that office after the com-

ing into force of this Constitution.

### Article 97

a) No executive, legislative, judicial or administrative action taken by the People's Redemption Council or by any persons, whether military or civilian, in the name of that Council pursuant to any of its decrees shall be questioned in any proceedings whatsoever; and, accordingly, it shall not be lawful for any court or other tribunal to make any order or grant any remedy or relief in respect or any such act.

b) No court or other tribunal shall entertain any action whatsoever instituted against the Government of Liberia, whether before or after the coming into force of this Constitution or against any person or persons who assisted in any manner whatsoever in bringing about the change of Government of Liberia on the 12<sup>th</sup> day of April, 1980, in respect of any act or commission relating to or consequent upon:

(i) The overthrow of the government in power in Liberia before the establishment of the government of the People's Redemption Council;

(ii) The suspension of the Constitution of Liberia of July 26, 1847;

(iii) The establishment, functioning and other organs established by the People's Redemption Council;

(iv) The imposition of any penalties, including the death penalty, or the confiscation of any property by or under the authority of the People's Redemption Council under a decree made by the Council in pursuance of but not limited to the measures undertaken by the Council to punish persons guilty of crimes and malpractices to the detriment of the Liberian nation, the people, the economy, or the public interest; and

(v) The establishment of this Constitution.

### SCHEDULE

1. This Schedule shall form and be an integral part of this Constitution and shall have the same force as any other provision thereof.

2. All public officials and employees, whether elected or appointed, holding office of public trust, shall subscribe to a solemn oath or affirmation as follows:

"I, \_\_\_\_\_, do solemnly swear (affirm) that I will support, uphold, protect and defend the Constitution and laws of the Republic of Liberia, bear true faith and allegiance to the Republic, and will faithfully, conscientiously and impartially discharge the duties and functions of the office of \_\_\_\_\_ to the best of my ability. SO HELP ME GOD."

COMPLETED THIS 19<sup>TH</sup> DAY OF OCTOBER, A. D. 1983  
IN THE CITY OF GBARNGA, BONG COUNTY, REPUBLIC OF LIBERIA  
BY THE CONSTITUTIONAL ADVISORY ASSEMBLY

Edward Binyah Kesselly (Lofa County)  
Chairman  
Charles H. Williams (Grand Bassa County)  
Deputy Chairman

The Liberia 1986 Constitution replaced the Liberia 1847 Constitution which was suspended on April 12, 1980, following the coup d'etat which overthrew the presidency of H. E. William R. Tolbert, Jr. The process of writing a new constitution began on April 12, 1981, when Dr. Amos Sawyer, political scientist at the University of Liberia, was appointed chairman of the National Constitution Committee (NCC), the 25-member body that was given the responsibility of drafting a new constitution for Liberia. The NCC completed its work in December 1982, and submitted the draft constitution to the The People's Redemption Council (PRC) in March 1983; subsequently, the PRC published the draft Constitution for public debate. The PRC also appointed a 59-member Constitutional Advisory Committee (CAA) to review the draft constitution. The CAA completed its work on October 19, 1983. On July 3, 1984, the new constitution was submitted to a national referendum and approved. On January 6, 1986 the Constitution came into force.

**APPENDIX III**

**RAPE LAW 2005**

**An Act to Amend the New Penal Code Chapter 14 Sections 14.70 and 14.71  
and to Provide for Gang Rape**

**Approved December 2005**

It is enacted by the National Transitional Legislative Assembly of the Liberia National Transitional Government of the Republic of Liberia in Legislature Assembled:

**Section 1:** Effective Date of Amendment

That immediately after the passage and publication in handbills of this Act, Chapter 14 of the New Penal Code is hereby amended.

**Section 2:** Sections 14.70 and 14.71 are hereby repealed and are replaced by the following:

**14.70**

1. **Offense:** A person who has sexual intercourse with another person (male or female) has committed rape if:
  - a) i. He intentionally penetrates the vagina, anus, mouth or any other opening of another person (male or female) with his penis, without the victim's consent; or,  
ii. He/She intentionally penetrates the vagina or anus of another person with a foreign object or with any other part of the body (other than the penis), without the victim's consent.
  - b) The victim is less than eighteen years old , provided the actor is eighteen years of age or older.
2. **Gang Rape:** A person has committed Gang Rape, a first degree felony, if: He or she purposely promotes or facilitates rape or agrees with one or more Persons to engage in or cause the performance of conduct which shall constitute Rape.

**3. Definitions**

a) **Sexual Intercourse**

- i. Penetration, however slight, of the vagina, anus or mouth, or any other opening of another person by the penis; or

b) **Consent**

- i. For the purposes of this felony, a person consents if he/she agrees by choice and has freedom and capacity to make that choice.
- ii. There shall be a presumption of lack of consent in the following Circumstances:
  - a. Any person, at the time of the relevant act or immediately before it began, was using violence would be used against the victim or causing the victim to fear that immediate violence would be used against him/her;

- b. Any person, at the time of the relevant act or immediately before it began, was causing the victim of fear that violence was being used, or that violence would be used, against another person;
- c. The victim detained at the time of the relevant act;
- d. The victim was asleep or otherwise unconscious at the time of the relevant act;
- e. Because of the victim's physical disability, he or she could not have been able at the time of the relevant act to communicate to the perpetrator whether he or she consented;
- f. Where the victim had been administered or caused to take with out his or her consent, a substance which, having regard to when it was administered or taken, was capable of causing or enabling him or her to be stupefied or overpowered at the time of the relevant act;
- g. The defendant intentionally induced the victim to consent to the relevant Act by impersonating a person known personally to the victim.

#### **4. Grading and sentencing**

- a) Rape is a felony of the first degree where:
  - i. The victim was less than 18 years of age at the time the offense was committed; or,
  - ii. The offense involves gang rape as defined in sub-paragraph 2 above; or,
  - iii. The act of rape complained of results in either permanent disability or serious bodily injury to the victim; or,
  - iv. At the time of the relevant act or immediately before it began the defendant threatened the victim with a firearm or other deadly weapon.
- b) The maximum sentence for the first-degree rape shall be life imprisonment; And for the purposes of bail it shall be treated as per capital offenses under Section 13.1.1: Capital Offenses of the Criminal Procedure Law.
- c) Rape is a second-degree felony where the conditions set out in 4 (a) (i)-(iv) above are not met. The maximum sentence for second-degree rape shall be ten (10) years imprisonment.

#### **5. Other Miscellaneous Provisions**

- a) The trial of all cases under section 14.70 shall be heard in camera.
- b) Section 14.78 (3) and 14.78 (4) of the New Penal Code are hereby repealed.

**ANY LAW TO THE CONTRARY NOTWITHSTANDING.**

**APPENDIX IV**

**INHERITANCE LAW 2003**

**An Act to Govern the Devolution of Estates and Establish Rights of Inheritance for Spouses of Both Statutory and Customary Marriages**

**Approved October 2003**

Whereas, the Constitution of the Republic guarantees that "All persons are equal before the law and are therefore entitled to the equal protection of the law;" and

Whereas, since the inception of this Republic over a century ago, there has been a dichotomy of legal rights between the customary wife/widow regarding dower rights and the administration of their deceased husband's estates; and

Whereas, it is a political truism that the quality of justice a nation metes out to its citizens determines the degree of democracy of that country; and

Whereas, according to law extent, the customary wife is considered a chattel, the property of her husband, which doctrine is repugnant not only to the Universal Declaration of Human Rights, but also the Liberian Constitution which provides that "...No person shall be held in slavery or forced labor within this Republic, nor shall any citizen of Liberia or any person resident therein deal in slaves or subject any other person to forced labor, debt, bondage, or personage..."; and

Whereas, the Constitution of this Republic mandates the Legislature to "...enact laws to govern the devolution of estates and establish rights of inheritance and decent for spouses of both statutory and customary marriages so as to give adequate protection to surviving spouses and children of such marriages";

Now, therefore;

It is enacted by the Liberian National Legislature of the Government of the Republic of Liberia in Legislature Assembled:

Section 1—TITLE OF ACT – This Act shall be cited as the EQUAL RIGHTS OF THE CUSTOMARY MARRIAGE LAW OF 1998.

CHAPTER 1. DEFINITIONS

Section 1 - In this Act, unless the context otherwise requires:

"Customary marriage" means marriage between a man and a woman performed according to the tribal tradition of the locality;

"Tradition" means those values, norms, and customs which a tribe or a locality has practiced over the ages and is considered their way of life;

"Dower" means the one-third (1/3) interest of the tribal husband's property to which his widow is entitled as of right regardless of whether or not the widow and children for her late husband, or whether or not she assisted in acquiring the property;

"Widow" means a woman whose husband is dead;

"In loco parentis" means those persons standing in the place of a person, or a substitution of parents;

"Letters of Administration" means the authority given by the Probate Court to a tribal widow/widows, children of tribal marriage, or next of kin to take care of, or control the property of the deceased which he left at the time of his death;

"Estate" means the total amount of property, real, personal and mixed, which a person

died seized of at the time of his death;  
"Intestate estate" means the property left by one who has died without leaving a Last Will and Testament describing how said property is to be divided;  
"Tribal or customary spouse" means either the husband or wife who is married according to the tribal tradition;  
"To confess" means for a woman, whether married or not, to call the name of a man, other than her husband or boyfriend, with whom she has illicit sexual intercourse;  
"Christian marriage" means that marriage which is performed either in the Church, at home, or any place by a Priest, Pastor, or Judge, according to the statute;  
"Inchoate dower" means a wife's vested interest in the property of her husband immediately upon marriage during his lifetime, which may become a right of dower after his demise.

## CHAPTER 2. RIGHTS, DUTIES, AND LIABILITIES OF CUSTOMARY MARRIAGE

### Section 2.1 – Equal Right to be Accorded Customary Wife

All customary marriages shall be legal within this Republic, and the rights, duties, and liabilities of the statutory wife shall likewise be accorded to all customary wives, consistent with and pursuant to the provisions contained in the Act Adopting A New Domestic Relations Law, known as Title 9 of the Liberian Code of Laws Revised, 1973, and which is hereby fully incorporate, as if quoted verbatim herein.

### Section 2.2 – Recovery of Dowry Prohibited

The recovery of dowry (token) from the wife or her parents by the husband is hereby prohibited. Any husband who collects or attempts to collect dowry from his wife or her parent by use of force, directly or indirectly, has committed a felony of the first degree, and upon conviction in a court of competent jurisdiction, shall be fined the amount of not less than LD\$500.00 nor more than LD\$1,000.000, including restitution, if any dowry was refunded.

### Section 2.3 – Husband/Wife's Inchoate Dower

Immediately upon marriage, the customary wife shall be entitled to one-third of her husband's property, personal or real, and vice versa regardless whether or not he/she helped him/her to acquire said property.

### Section 2.4 – Compulsory Wife Labor Prohibited

It shall be the responsibility of customary spouses to work in partnership and adequately maintain and support their household, according to their financial or physical means.

### Section 2.5 – Wife's Human Right to be Respected

Every customary husband shall respect his wife's human rights; any violation of this Section shall entitle the wife to seek redress in a court of law.

### Section 2.6 – Wife's Property Exclusively Her Own

The property acquired or owned by a customary woman either before or during marriage, belongs to her exclusive of her husband and she is therefore free to do any lawful business in her own name, including the right to contract with third parties but to the full knowledge and consent of her husband.

Any man who attempts to control his wife's property, or prevents her from operating her lawful business, has committed a felony of the second degree (Theft of Property), and upon conviction in a court of competent jurisdiction, shall be fined the amount of not less than LD\$200.00 nor more than LD\$500.00 including restitution of property of the wife converted to his personal use.

#### Section 2.7 – Confession Damages Prohibited

No customary husband shall aid, abet, or create the situation for his customary wife to have illicit sexual intercourse with another man for the sole purpose of collecting damages. Any customary husband who shall violate this Section has committed a felony of the first degree, and upon conviction in a court of competent jurisdiction, shall be fined the amount of not less than LD\$200.00, nor more than LD\$500.00 including restitution of the damages collected, if any.

#### Section 2.8 – Confession Names Unlawful

It shall be unlawful for any customary person or husband to compel or demand any female of legal age, whether or not she is his customary wife, to "confess" or call the name of her lover with whom she has had illicit sexual intercourse in order to collect damages from said lover, for interference with domestic relations, either spouse may seek redress through a court of competent jurisdiction or tribal court. Any violation of this Section shall constitute a felony of the second degree, and the offender shall, upon conviction in a court of competent jurisdiction be fined the amount of not less than LD\$500.00, nor more than LD\$1,000.00.

#### Section 2.9

It shall be unlawful for any customary female under the age of 16 to be given in customary marriage to a man; any tribal person who violates this Section has committed a felony of the first degree, and upon conviction, shall be fined the amount of not less than LD\$500.00, nor more than LD\$1,000.00.

#### Section 2.10 – Unlawful for Parents to Choose Daughter's Husband

Every customary female of legal age shall have the unrestricted right to marry the man of her choice. It shall be unlawful for any tribal parents to choose a husband for his/her daughter, or compel the daughter or other female relative to marry a man not her choice.

Any tribal parent or next of kin who shall violate Section 2.10 (a) of this Act has committed a felony of the first degree, and upon conviction, is punishable by a fine of not less than LD\$500.00 nor more than LD\$1,000.00.

### CHAPTER 3. DEVOLUTION OF ESTATES AND RIGHTS OF INHERITANCE

#### Section 3.1 – Decedent Estates Law Applicable to Customary Marriage.

The provision as contained in Title 8 of the Liberian Code of Laws Revised of 1972, known as the Decedents Estates Law including a probate court procedure code, are here by incorporated as if quoted verbatim, and which shall equally apply to all native customary marriages immediately after the passage of this Act.

#### Section 3.2 – Widow's Dower Rights

Upon the husband's death, the widow or multiple widows shall be entitled to only one-third

(1/3) of their late husband's property; the balance two thirds (2/3) of the decedent's property shall descent to his children, if any, or to his collateral heirs according to the Decedents Estates Law.

### Section 3.3 – Widow's Liberty not Restricted After Husband's Death

After the death or burial of her/their husband, the customary widow or multiple widows shall be at liberty either to remain on the premises of her/their late husband to administer said estate, or she/they may take another husband of her/their choice and shall vacate the premises of the late husband in as much the new marriage entered automatically reverse said rights and same property return to the heirs or children of the late husband.

### Section 3.4 – Compulsory Marriage of Widow to Deceased Husband's Kin Unlawful

No family member of the deceased husband shall compel the widow or widows to remain within the family, or marry a kin of her/their late husband;

Any family member who shall compel widow to marry one of her last husband's relatives against her will in order for said widow to be able to subsist or earn a livelihood, has committed a felony of the first degree, and upon conviction in a court of competent jurisdiction, shall be fined the amount of not less than LD\$500.00, nor more than LD\$1,000.00.

### Section 3.5 – Widow to Administer Deceased Husband's Estate

Widow or multiple widows collectively, children or collateral heirs, shall have the unrestricted right to petition the Probate Court in their jurisdiction of Letters of Administration to administer the property of said decedent, and which right shall not be denied by Probate Court within the Republic. Any denial of this right shall entitle the aggrieved party to appeal to the Supreme Court of Liberia.

### Section 3.6 – Right of Tribal Inhabitants to Make Last Will and Testament

Every male and female of legal age under customary or tribal law shall have the right to make his/her Last Will and Testament, describing how his/her property is to be distributed after his/her death.

### Section 3.7 – Custody of Minor Children Right of Spouse

Upon the death of either spouse (husband or wife), said children, if minors, shall remain with the house of the spouse living as of right; no member of the deceased family shall deprive the spouse living of the right to custody of said minor children, taking into consideration the best interest of the child.

## Section 2 – Repealers

Section 404 (paragraph 2-3) Sections 405 and 406 of Title 1 of the Liberian Code of Laws for 1956, known as the Aborigines Law, and all Regulations of the Ministry of Internal Affairs governing tribal citizens of this Republic which are repugnant to any provision of this Act are hereby declared repealed.

## Section 3 – Effective Date of Act

This act shall take effect immediately upon publication in handbills.

**APPENDIX V**

**THE LIBERIAN  
CRIMINAL JUSTICE SYSTEM**

**Introduction to the Criminal Justice System**  
**Lemuel E. A. Reeves, Sr. - Counsellor-at-Law**

The Criminal Justice System is the system of legislation, practices and organizations, used by government, which are all directed to maintain social control, deter and control crime, and sanctioning those who violate the law.

The primary agencies charged with these responsibilities are the **police** (law enforcement), **the courts**, and **corrections**, which administers punishments for those found guilty. These agencies must operate within the rule of law.

POLICE: The entry point of the criminal justice system:

The Liberian National Police is under the supervision of the Ministry of Justice (section 22.70 of the Executive Law as found in Volume III of the Liberian Codes of Law revised).

For our purposes, one can safely say that the entry point to the criminal justice system is through the police. This is the first contact an offender has with the criminal justice system.

The police and other law enforcement agencies learn about crime from the reports of victims or other citizens, from discovery by a police officer in the field, from informants, or from investigative and intelligence work.

The police and other law enforcement agencies are empowered to use force and other forms of legal coercion and legal means to effect public and social order. Any force used by the police must be "reasonable."

Once a law enforcement agency (i.e. the police) has established that a crime has been committed, a suspect must then be identified and apprehended for the case to proceed through the criminal justice system. Sometimes the suspect is apprehended at the scene of the crime; however, identification of a suspect sometimes requires an extensive investigation. Often, no one is identified or apprehended. However in the case where a criminal case is established and suspect/s identified and apprehended, law enforcement agencies present information about the case and about the suspect to the prosecutor, who will decide if formal charges will be filed with the court.

If no charges are filed, the accused must then be released. The prosecutor can also drop charges after making efforts to prosecute.

Arrest is the taking of a person into custody in order that he may be forthcoming to answer for the commission of an offense. Under Liberian laws there are two types of arrest: (1) arrests with warrant & (2) arrests without warrant.

An arrest may be made anywhere within the jurisdiction of the Republic of Liberia. If the offense is a felony, the arrest may be made on any day and at any time of the day or night. If it is any other offense, the arrest cannot be made at night, unless such a direction is endorsed upon a warrant of arrest, except when the offense is committed in the presence of the arresting officer.

The right to counsel, of an person who has been accused of an offense and arrested, is inviolable. There shall be no interference with the lawyer-client relationship. Any statement or admission made by an accused in the absence of counsel shall be deemed inadmissible as evidence in a court of law. Article 21 of the Constitution of Liberia provides that everyone accused of the commission of a crime must be brought before a magistrate or judge within 48 hours after his/her arrest.

Article 21(b) of the Liberian Constitution stipulates that no person shall be subject to search or seizure of his person or property unless upon a warrant lawfully issued upon probable cause. It further provides that a search or seizure may be permissible without a search warrant where the arresting authorities act during the commission of a crime or in hot pursuit of a person who has committed a crime.

A search warrant may be issued to search for & seize the following property:

- Stolen or embezzled property;
- Illicit, forfeited, or prohibited property;
- Contraband; or
- Instruments or other articles designed or intended for use, or which are or have been used as a means of committing a criminal offense.

A search warrant may be issued by a magistrate, justice of the peace, or any other judicial officer empowered to perform such function whose jurisdiction encompasses the area where the property sought is located.

#### COURTS: The second component of the criminal justice system

The courts serve as the venue wherein disputes are then settled and justice is administered. With regards to criminal justice, there are a number of critical players in any court setting. These include the judge, prosecutor, and the defense attorney.

The structure of the Liberian court system from the lowest to the highest:

- Justices of the Peace Courts;
- Magistrates Courts;
- Specialized Courts: Juvenile, Traffic, National Labour Court, Tax/Revenue Court, Debt Court, Probate Court;
- Circuit Courts;
- Supreme Court.

The **prosecutor** is the lawyer who brings charges against a criminal. It is the prosecutor's duty to explain to the court what crime was committed and to detail what evidence has been found which incriminates the accused. The prosecutor should not be confused with a **plaintiff** or **plaintiff's counsel**. Although both serve the function of bringing a complaint before the court, the prosecutor is a servant of the state who accuses criminals while the plaintiff is the complaining party in civil disputes.

A **defence counsel** normally represents the defendant at his initial appearance before a magistrate. If he cannot afford one under the constitution and statutory laws the court shall appoint one for him.

The stages of the Liberian criminal justice procedure:

1. A decision as to pre trial release (bail/bond) is made at the **initial appearance**. Pre-trial release or bail is intended to ensure that the defendant will appear for trial or when needed by the court. It may occur at any other hearings or may be changed at another time during the process. The admission to bail is a matter of right under Liberian law, except if the defendant is charged for a capital offense. Even a person charged for a capital offense may be admitted to bail if the proof is not evident or the presumption great that the defendant is guilty of the offense charged against him/her (See section 13.1 of the CrPL).

There are four ways a criminal defendant may be released from pre-trial detention or on bail: on his own recognizance; through cash bond; property valuation bond; or insurance bond.

2. The initial appearance is followed by a **preliminary examination** (if the defendant requests it). The main function of the preliminary examination is to make a determination if there is probable cause to believe that the accused committed the offense alleged against. Here the prosecution does not have to prove its case beyond a reasonable doubt. It just has to establish probable cause for the defendant to be held to answer for the offense alleged against him. If the court determines that there is no probable cause to hold the defendant to answer, the court will dismiss the case.
3. If however, the magistrate determines that there is probable cause or the defendant waives the right to preliminary examination the case is then forwarded to the circuit court of the county for the grand jury to review the merits of the case. The **grand jury** is composed of 15 persons who sit and hear evidence against the accused presented by the prosecutor and decides if there is sufficient evidence to cause the accused to be brought to trial.
4. If the grand jury finds that sufficient evidence has been presented to warrant a formal trial, it submits an **indictment**, which is a written statement of the essential facts of the offense charged against the defendant. It is a formal accusation originating with a prosecutor and issued by a grand jury against a party.
5. If no indictment is found against the defendant by the grand jury, the foreman shall endorse "**Ignoramus**" on the draft of the indictment and return same to the judge in open court.
6. Once an indictment has been found and filed with the court, the accused is then scheduled for arraignment. **Arraignment** is the procedure whereby the accused or defendant is brought before the court to plead to the criminal charge in the indictment. The charge is read to him/her and he/she is asked to enter a plea of "guilty" or "not guilty." An arraignment is done in open court during which time the indictment is read to the defendant before he enters a plea after being advised, by the court, of his rights under the law.

7. If the defendant pleads not guilty then the case goes to trial, and a trial date is set. A person accused of a serious crime or capital offense is guaranteed a **jury trial** as a matter of right under the Liberian Constitution. This means that he/she is tried before a petit or trial jury. The petit or trial jury is composed of twelve persons and three alternates. They are to decide issues of facts, whereas the judge decides issues of law.

Persons accused of lesser offenses have the option to choose if they want a jury trial or a "**bench trial**" - a trial in which there is no petit jury; the judge serves as judge and jury. In either case the prosecution and defence present evidence through witness testimonies and presentation of various exhibits. Witnesses are put through direct examination as well as cross examination.

8. The trial results in either a **conviction or acquittal** of the defendant. If the trial results in a conviction the judge then renders final judgment and **sentences** the defendant to serve a penalty prescribed by law. The rendition of final judgment and sentencing must take place within five days following the handing down of a verdict by the trial or petit jury. The sentencing choices available to judges and juries include one or more of the following:
- the death penalty;
  - incarceration in a prison, jail or other confinement facility;
  - probation—allowing the convicted person to remain at liberty, but subject to certain conditions and restrictions such as reporting to a probation officer, performing community services etc.;
  - fines—primarily applied as penalties in minor offenses such as infractions;
  - restitution—requiring the offender to pay compensation to the victim.

For sentencing purposes, crimes are classified as:

- Felonies: Offenses for which a sentence of death or imprisonment for a period of more than one year is authorized. Felonies are graded as 1st degree; 2nd degree & 3rd degree.
  - Misdemeanours: Offenses for which a term of imprisonment of one year or less is authorized. Misdemeanours are graded as 1st degree & 2nd degree.
  - Infractions: Offenses for which a sentence of imprisonment is not authorized. The penalty on conviction of an infraction is normally the payment of a fine.
9. If the trial results in a conviction, the defendant has the right to **appeal** to the Supreme Court against the conviction or sentence imposed by the court.

#### CORRECTIONS: The third component of the criminal justice system

Corrections refers to the discipline, treatment and rehabilitation of offenders through confinement, parole, probation, counselling etc. It refers to one of the components of the criminal justice system that serves to punish criminal offenders.

In Liberia, the correctional system is controlled and supervised by the Ministry of Justice through the Division of Rehabilitation headed by the Assistant Minister of Justice for Rehabilitation.

**Parole** is release from jail, prison or other confinement after actually serving only part of a sentence, generally under supervision of a parole officer. A parole may be revoked if the parolee fails to observe conditions of the parole order, such as residence in a particular place or remain within certain geographic limits. Parole is usually granted depending on factors such as the prisoner's ability and readiness to assume obligations and undertake responsibilities, the prisoner's family status, the prisoner's employment history and occupational skills, etc.

**Pardon** is an act of grace, proceeding from the power entrusted with the execution of the law (executive), which exempts the individual on whom it is bestowed from punishment imposed on him/her for a violation of the law. The rights of the individual are normally restored upon a pardon.

**Reprieve** is temporary relief from or postponement of execution of criminal punishment or sentence. It does no more than stay the execution of a sentence.

**Commutation** in criminal law is the change of a punishment to one which is less severe, as from execution to life imprisonment.

**Suspended sentence or suspension of sentence** is the withholding or postponing of the sentence of a prisoner after the conviction, or a postponing of the execution of the sentence after it has been pronounced. A suspended sentence in criminal law means in effect that defendant is not required at the time sentence is imposed to serve the sentence.