

**Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on violence against women, its causes and consequences and the Working Group on discrimination against women and girls**

Ref.: AL LBR 2/2022  
(Please use this reference in your reply)

10 February 2022

Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Special Rapporteur on violence against women, its causes and consequences and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 42/22, 42/16, 43/20, 41/17 and 41/6.

In this connection, we would like to bring to the attention of your Government information we have received concerning the **abduction of a 16-year old girl by traditional leaders of the Sande secret society for forceful initiation, which included being subjected to female genital mutilation.**

According to information received:

On 28 September 2021, [REDACTED], a 16-year-old girl, was forcibly taken by traditional leaders (called zoes), including [REDACTED] and [REDACTED] and 25 other women, to be conscripted and initiated into the Sande bush society in Mount Barclay Community. [REDACTED] was taken alongside four girls for forceful initiation as punishment for their perceived unruly behaviours in the community. The Sande is an ancient female traditional secret society in West Africa and initiation includes undergoing female genital mutilation.

On 29 September 2021, the child's mother reported the abduction to the Liberia National Police, the Magisterial Court in Johnsonville Township and the Ministry of Internal Affairs, but no action was taken. The officers of the Women and Children Protection Section of the Liberia National Police (LNP) and the Magistrate of the Ministerial Court informed the child's mother that they could not intervene in the matter because it was of a traditional nature and beyond their control.

On the same day, the child's mother reported the abduction to the Ministry of Internal Affairs, which has authority over traditional societies. The group of zoes are licensed by the Government through the Ministry of Internal affairs.

His Excellency  
Mr. Dee-Maxwell Saah Kemayah  
Minister for Foreign Affairs

The Ministry confirmed the conscription and initiation of the girls but noted that nothing could be done to release them until after three to four weeks. The Ministry officials informed that no criminal action would be taken against the zoes, while stating the zoes' responsibility to provide food for the girls until they were released. The Ministry justified not taking action claiming that this is a traditional matter, and that the culture should be respected and protected.

The girls are reportedly severely ill from the initiation process, suffering from anaemia. An NGO provided money to cover the costs of medicines for the girls. The same organization paid a fee to the zoes to secure the release of the girls, but the zoes refused to do so after receiving the money.

The zoes also forced the girls' parents to pay a fee for each girl that has been initiated, and food for them had to be provided every day by their parents.

On 10 November, [REDACTED] and the other girls managed to escape from where they were being detained. With the support of an NGO, the girls were taken to a safe home to receive counselling and medical care. On January 2022, the girls' parents were informed that the safe home did not have sufficient resources to continue assisting them, and that the girls would be returned to their families in February. The girls missed school for months as a result of the kidnapping.

We would like to express our deepest concern over these allegations, which include serious violations of the victims' rights to life; physical integrity; liberty; not to be subjected to torture or other cruel, inhuman, or degrading treatment or punishment; health, particularly sexual and reproductive health, and non-discrimination. We are dismayed that the victims were subjected to female genital mutilation, a grave form of violence against women and girls that is mainly motivated and perpetuated by gender inequality and discriminatory social norms. Female genital mutilation has long-term negative effects on women and girls' enjoyment of a range of human rights and poses a serious obstacle to achieving gender equality. We are also concerned at the lack of proper response from the authorities, who seem to condone serious human rights violations against girls under the pretence of protecting tradition and culture. Failure to take measures to prevent and prosecute instances of female genital mutilation by private persons contravene the State's obligation to prevent and prohibit torture and ill-treatment. In addition, enforced disappearances violate numerous substantive and procedural provisions of the Covenant and constitute a particularly aggravated form of arbitrary detention.<sup>1</sup> Failure to take measures to prevent and investigate the abduction of individuals by private persons contravene the State's obligation to protect the right to liberty of person against deprivations by third parties.<sup>2</sup>

The facts included in these allegations would be in direct contradiction to Liberian law, which criminalizes under its Penal Law acts such as kidnapping, interference with custody of a child and endangering the welfare of a child; and prohibits in its Children's Law subjecting a child to any practice that may inflict physical, psychosocial, or emotional pain to the child or otherwise violate or endanger

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1 CCPR/C/GC/35, par. 17. See also Opinions No. 5/2020, No. 6/2020, No. 11/2020, No. 13/2020, No. 52/2020, No. 25/2021, and No. 34/2021.

2 CCPR/C/GC/35, par. 7.

her or his bodily integrity, life, health, and dignity. This would also contradict Liberia's obligations under international human rights law, particularly the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the African Charter on Human and Peoples' Rights, the Protocol to The African Charter on Human and People's Rights on the Rights of Women in Africa and the African Charter on the Rights and Welfare of the Child.

We therefore call upon your Government to take urgent and comprehensive measures to protect women and girls from violence, and particularly to prevent harmful practices such as female genital mutilation from being committed against women and girls. We also urge your Government to ensure that traditional, historical, religious or cultural attitudes are not used to justify discrimination against women and girls and violations of their human rights.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter, which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information or comments in relation to the above-mentioned allegations;
2. Please provide information on the physical and mental health conditions of [REDACTED] and the other presumed victims of the forceful initiation as well as the medical treatment received and made available to them in this connection;
3. Please provide information on the Government's refusal to intervene to release [REDACTED] and the other presumed victims, and its compatibility with the Government's obligations under international law to protect everyone from arbitrary deprivation of liberty;
4. Please provide information on the measures your Government has implemented to provide support and reparations to the victim, including access to mental and physical health services and ensuring they can continue their regular studies;
5. Please provide information on steps taken to hold the perpetrators of the aforementioned human rights violations to account, including by pressing criminal charges against them. If no measures are being taken, please explain how this is compatible with Liberia's international human rights obligations;

6. Please provide information on measures being taken to investigate the responsibility of Government and justice system officials for their alleged lack of response to the allegations;
7. Please provide information on the steps your Government is undertaking in accordance with its obligations under international human rights law to prevent the forcible initiation of young girls into secret societies and female genital mutilation, among other harmful practices.

This communication and any response received from your Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We would like to inform your Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Government to clarify the issue/s in question.

Please accept, Excellency, the assurances of our highest consideration.

Elina Steinerte  
Chair-Rapporteur of the Working Group on Arbitrary Detention

Tlaleng Mofokeng  
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable  
standard of physical and mental health

Nils Melzer  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or  
punishment

Reem Alsalem  
Special Rapporteur on violence against women, its causes and consequences

Melissa Upreti  
Chair-Rapporteur of the Working Group on discrimination against women and girls

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to draw your attention to the Convention on the Elimination of All Forms of Discrimination Against Women, which Liberia is a State Party to since 18 June 2004. The Convention requires States parties to “take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women”, art. 2(f) and “to modify social and cultural patterns... with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority of either of the sexes.” Art. 5(a).

The Declaration on the Elimination of Violence against Women, which was adopted by the United Nations General Assembly defines violence against women in its article 2 as encompassing, but not limited to, physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women. The Declaration states that women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. These rights include, inter alia, (a) the right to life; (b) the right to equality; (c) the right to liberty and security of person; and (d) the right to equal protection under the law (article 3). In its article 4 (g), the Declaration notes the responsibility of States to work to ensure, to the maximum extent feasible in the light of their available resources and, where needed, within the framework of international cooperation, that women subjected to violence have specialized assistance, such as rehabilitation, assistance in child care and maintenance, treatment, counselling, and health and social services, facilities and programmes, as well as support structures, and should take all other appropriate measures to promote their safety and physical and psychological rehabilitation.

In the Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/ General Comment No. 18 of the Committee on the Rights of the Child (2014) on harmful practices, the Committees highlight that harmful practices, including female genital mutilation, are grounded in discrimination based on sex, gender and age, among other things, and have often been justified by invoking sociocultural and religious customs and values, in addition to misconceptions relating to some disadvantaged groups of women and children. Overall, harmful practices are often associated with serious forms of violence or are themselves a form of violence against women and children. The Committees noted that many victims of female genital mutilation may require treatment or surgical interventions to address the short-term and long-term physical consequences. Finally, the Committees recommend that the States parties to the Conventions ensure that any efforts undertaken to tackle harmful practices and to challenge and change underlying social norms are holistic, community based and founded on a rights-based approach that includes the active participation of all relevant stakeholders, especially women and girls. States parties should also provide specialized training to healthcare providers, social workers, police officers and others who may provide services to victims of female genital mutilation.

The CEDAW Committee, in its General Recommendation No. 24 (1999) on the right to health, stressed the need for States parties to address the health rights of women taking into account the distinctive features and factors that make their needs and interests different from men's. In particular, it notes how some cultural or traditional practices, such as female genital mutilation, put girl children and adolescent risks in particular risk, including of death and disability. Such harmful traditional practices may also expose girls and women to the risk of contracting HIV/AIDS and other sexually transmitted diseases. The Committee reminded States parties' obligation to protect rights relating to women's health, including by enacting and effectively enforcing laws that prohibit female genital mutilation and the marriage of girl children.

In its General Recommendation No. 35 (2017) on gender-based violence against women, the CEDAW Committee clarifies that States parties are under an obligation to act with due diligence to investigate all crimes perpetrated against women and girls, to prosecute and punish perpetrators, and to provide effective reparations without delay. States parties are responsible for acts or omissions of its organs and agents that constitute gender-based violence against women. This includes the acts or omissions of officials in its executive, legislative and judicial branches. Furthermore, States are responsible for investigating, prosecuting and applying appropriate legal or disciplinary sanctions, as well as providing reparation, in all cases of gender-based violence against women, including those constituting international crimes, and in cases of failure, negligence or omission on the part of public authorities.

In her report on domestic violence against women (E/CN.4/1996/53), the Special Rapporteur on violence against women noted that female genital mutilation is one of the most pernicious forms of violence committed against women and girls. She stressed the severe health complications, both physical and mental, that derive from it, and stressed the need for engagement of community and religious leaders to prevent it. She recommended that States should adopt legislation which makes female genital mutilation a crime and implement education programmes to prevent the practice.

In its General Recommendation No. 2 (2008), the Committee Against Torture has made clear that where State authorities or others acting in official capacity or under colour of law, know or have reasonable grounds to believe that acts of torture or ill-treatment are being committed by non-State officials or private actors and they fail to exercise due diligence to prevent, investigate, prosecute and punish such non-State officials or private actors consistently with the Convention, the State bears responsibility and its officials should be considered as authors, complicit or otherwise responsible under the Convention for consenting to or acquiescing in such impermissible acts. Since the failure of the State to exercise due diligence to intervene to stop, sanction and provide remedies to victims of torture facilitates and enables non-State actors to commit acts impermissible under the Convention with impunity, the State's indifference or inaction provides a form of encouragement and/or de facto permission. The Committee has applied this principle to States parties' failure to prevent and protect victims from gender-based violence, such as rape, domestic violence, female genital mutilation, and trafficking.

The Convention on the Rights of the Child, ratified by Liberia on 4 June 1993 provides in its article 24 (3) that "States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the

health of children.” Furthermore, the Maputo Protocol, ratified by Liberia on 14 December 2007, provides in its article 5 that States parties must “prohibit and condemn all forms of harmful practices which negatively affect women and which are contrary to recognized international standards”, and explicitly requires States parties to prohibit through legislative measures, backed by sanctions, all forms of female genital mutilation.

We would like to also recall that article 5 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) ratified by Liberia on 14 December 2007, requires States Parties to “prohibit and condemn all forms of harmful practices which negatively affect the human rights of women and which are contrary to recognised international standards”. This includes in particular, the “Prohibition, through legislative measures backed by sanctions, of all forms of female genital mutilation, scarification, medicalisation and para-medicalisation of female genital mutilation and all other practices in order to eradicate them” (article 5, b) and the “Provision of necessary support to victims of harmful practices through basic services such as health services, legal and judicial support, emotional and psychological counselling as well as vocational training to make them self-supporting” (article 5, c). Under article 3 (4), States Parties commit to “adopt and implement appropriate measures to ensure the protection of every woman’s right to respect for her dignity and protection of women from all forms of violence...” The Maputo Protocol also requires States Parties to, inter alia, “enact and enforce laws to prohibit all forms of violence against women” [article 4(2) (a)]; “punish the perpetrators of violence against women and implement programmes for the rehabilitation of women victims” [article 4(2)(e)] and “establish mechanisms and accessible services for effective information, rehabilitation and reparation for victims of violence against women” [article 4(2)(f)].

In its Resolution 44/16 on the elimination of female genital mutilation, the Human Rights Council recognized that all harmful practices, including female genital mutilation, when perpetrated against girl children, have particular detrimental consequences for their health and growth, and recalled in that regard the need to guarantee the right of girl children to be free from all forms of violence. It also recognized that the practice of female genital mutilation continued to have an adverse effect on the economic, legal, health and social status of all women and girls and that they are an impediment to the full realization of gender equality. The Council called upon States to take comprehensive, multisectoral and rights-based measures to prevent and eliminate female genital mutilation; and to develop and strengthen accountability systems, including by ensuring timely and effective remedies for victims.

In its Concluding observations on Liberia (CEDAW/C/LBR/CO/7-8), in 2015, the CEDAW Committee expressed its concern at the persistence of adverse cultural practices and traditions, as well as patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in society and in the family, which are perpetuated by secret tribal societies such as the Sande and the Poro. The Committee noted that such stereotypes contribute to the increase in child and/or forced marriage, the abduction of girls and polygamy, and hence to the disadvantaged and unequal status of women in society. The Committee was particularly concerned that the secret tribal societies continue to perpetrate harmful practices, including female genital



mutilation, through their initiation rites, and that practices such as trial by ordeal for women and girls accused of witchcraft, as well as ritual murders, are rife.

The Committee reiterated its concern that, notwithstanding the State party's efforts to combat female genital mutilation, this harmful practice continued to be carried out on a large scale by traditional and community leaders and zoes, in particular among tribal societies such as the Sande. The Committee was also concerned at reports of abduction and forcible subjection to female genital mutilation of individuals who are not members of the Sande secret society. The Committee recommended that the Government engaged traditional leaders and the Sande and Poro secret societies with a view to their abandoning all harmful practices, including female genital mutilation; to criminalize female genital mutilation in the Children's Law, and to introduce sanctions commensurate with the crime to ensure that the practice is prohibited in all circumstances and will be eradicated, among other measures.

Likewise, the Committee on the Rights of the Child, in its review of Liberia (CRC/C/LBR/CO/2-4) in 2012, also expressed its concern that there was no explicit criminalization of female genital mutilation in the State party and that the practice was widely carried out in many communities, especially in rural areas. The Committee urged the Government to criminalize female genital mutilation and develop a comprehensive strategy with clear goals and targets to eradicate this practice; to sensitize traditional leaders and provide traditional practitioners and community leaders, such as the zoes, with alternative livelihoods.

The Human Rights and Protection Section (HRPS) of the United Nations Mission in Liberia (UNMIL) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) issued in 2015 the joint report: "An Assessment of Human Rights Issues Emanating from Traditional Practices in Liberia". The report documents the negative impact on human rights of some traditional and cultural practices in Liberia, including female genital mutilation, forced initiation into secret societies, accusations of witchcraft, trials by ordeal and ritualistic killing. The report showed that such violations disproportionately affect women, children, elderly people, destitute people and those with disabilities. It was also noted that "Criminal offenses perpetrated through harmful traditional practices often go unpunished due to their perceived cultural dimensions". The report stressed the negative consequences of female genital mutilation, which is generally performed without anaesthesia, on the health and physical integrity of these women and girls. "In addition to the extreme pain... the lack of medically sterilized equipment and facilities increases the likelihood of infection and lasting physical damage, and may even lead to death," says the report. Girls' education is also disrupted as they are often removed from formal schooling to attend "bush school" and undergo female genital mutilation.

The Working Group on discrimination against women and girls in its report Women's and girls' sexual and reproductive health rights in crisis (A/HRC/47/38) stated that during the COVID-19 pandemic, delivery of a broad range of essential sexual and reproductive health services and goods has been suspended or postponed, including support services for women and girls subjected to female genital mutilation. The Working Group expressed concerns about the widespread impunity for violations of the sexual and reproductive health rights of women and girls. The Working Group emphasized that accountability is needed at multiple levels and may take various forms,

including administrative, social, political and legal. The Working Group recommended to adopt and enforce clear and coherent legal and policy frameworks to guide the provision of services, in accordance with human rights obligations, and simultaneously address social norms and discriminatory stereotypes that obstruct implementation, including by establishing clear channels for reparations and accountability; legally recognize and implement a broad set of reparations for violations of sexual and reproductive health rights, including through structural measures, such as guarantees of non-repetition; and fully implement the recommendations of the international human rights mechanisms and the legal decisions of regional and national bodies and courts that recognize the sexual and reproductive health rights of women and girls. In its report on health and safety (A/HRC/32/44), the Working Group recommended take and implement strong and efficient measures to prevent female genital mutilation and other harmful practices.

In addition, we would like to draw your attention to article 9 of the International Covenant on Civil and Political Rights, which Liberia ratified on 22 September 2004. Article 9(1) provides that everyone has the right to liberty and security of person, and no one shall be subjected to arbitrary arrest or detention, or be deprived of his or her liberty except on such grounds and in accordance with such procedure as are established by law. Similarly, article 37(b) of the Convention on the Rights of the Child prohibits the unlawful or arbitrary deprivation of liberty of children and provides that the arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.

In its General Comment °35, the Human Rights Committee stated that enforced disappearances violate numerous substantive and procedural provisions of the Covenant and constitute a particularly aggravated form of arbitrary detention.<sup>3</sup> It also noted that extreme forms of arbitrary detention that are themselves life-threatening violate the rights to personal liberty and personal security as well as the right to protection of life, in particular enforced disappearances.<sup>4</sup> The Working Group on arbitrary detention further observed that state parties to the Covenant have a positive obligation to protect everyone in their territory or under their jurisdiction from violations of the right to personal liberty by private parties.<sup>5</sup> Similarly, the Human Rights Committee stressed that governments have the duty to take appropriate measures to protect the right to liberty of person against deprivation by third parties.<sup>6</sup> Finally, the Human Rights Committee emphasized that governments have the responsibility to protect individuals against abduction or detention by individual criminals or irregular groups as well as lawful organizations.<sup>7</sup>

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<sup>3</sup> CCPR/C/GC/35, par. 17.

<sup>4</sup> CCPR/C/GC/35, par. 55.

<sup>5</sup> A/HRC/45/16/Add 2, par. 82.

<sup>6</sup> CCPR/C/GC/35, par. 7.

<sup>7</sup> CCPR/C/GC/35, par. 7.