INCHR-LIB/BBC/ACP-808/20

May 1, 2020

Your Excellency:

I have the pleasure to extend my Compliments and to wish you well in these trying times in our history as a nation.

Excellency, I want to draw your attention to the State of Emergency imposed by the Government of Liberia due to the global health crisis, as a result of the COVID-19. As we all know the decision of the Government of Liberia is consistent with Chapter IX, Articles 85-88 of our 1986 Constitution and international human rights treaties to which Liberia is a State Party.

Liberia ratified the International Covenant on Civil and Political Rights (ICCPR) in 2004 and subsequently deposited its ratification instruments in the office of the Secretary General of the United Nations. The treaty provides that where there is an emergency which threatens life of the nation and the existence of which is officially proclaimed, the state parties may take measures derogating from its obligation strictly require by the exigencies. With this provision, Liberia decision is in harmony with its obligation.

However, the existence of the state of emergency, also requires that the Government of Liberia furnish other State Parties to the Covenant through the intermediary of the Secretary-General of the United Nations in respect to the reason for suspending rights under the covenant and those specific rights they have derogated to accommodate the emergency as well as on the date on which the derogation terminates.

Your Excellency, the Commission is of the opinion that the request of the President of Liberia to the Legislature regarding the State of emergency did not state specific rights that are derogated, and neither did the ‘Resolution of the Legislature’ confirm and or state the rights that are affected by the state of emergency.

In view thereof, the Commission, in compliant with its statutory mandate as stated in Article IV of its 2005 Act, urges that your Excellency act accordance with the Covenant requirement by furnishing the office of the Secretary General of the United Nations through the Liberia’s Permanent Mission to the UN in New York copies of both the president’s request to the Legislature and the resolution of the Legislature where the rights derogated as a result of the state of emergency ought to explicitly be stated.

For easier reference, your Excellency, I have attached articles of the Covenant (with the rights), which in the wisdom of the Commission are affected by the state of emergency to serve as a guide.
Please find attached for your consideration

STATE OF EMERGENCY (SOE)

Part I. Legal Framework

a. Domestic legal basis for the SOE

The 1986 Constitution specifically Article 86 (a) provides for the suspension of certain rights during a state of emergency. It reads as follows:

'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.'

Additionally, article 86(b) provides a situation that necessitates the imposition of SOE. It reads:

'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.'

Besides, Section 14.2 the Public Health Law of Liberia states that 'whenever any part of the Republic appears to be threatened by, any formidable epidemic, endemic or communicable disease, the Minister shall declare such part an infected area and shall make rules...' These rules are the current health Protocols.

b. International human rights framework

International Covenant on Civil and Political Rights-ICCPR

Rights affected/restricted for public health protection:

a. The right to manifest or practice one’s religion (ICCPR Article 18(3)

b. Freedom of movement (ICCPR Article 12(3)

c. Freedom of association (ICCPR Article 22(2)

d. Right to privacy (ICCPR Article 17)

I. Non-Derogable Articles of the ICCPR

Article 4 of the ICCPR states 'no derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision'
Your Excellency, the Commission makes itself available for any information or further advice that you may request.

Respectfully yours,

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Vice/Acting Chairperson, INCHR-Liberia

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