

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Concluding observations of the Committee against Torture
(Extracts for follow-up of CAT/C/SLE/CO/1)

SIERRA LEONE

(...)

C. Principal subjects of concern and recommendations

(...)

Absolute prohibition of torture

10. The Committee notes with concern that section 20 of the Constitution does not absolutely prohibit torture under any and all circumstances, since paragraph 2 of the same section authorizes the infliction of any kind of punishment that was lawful before the entry into force of the Constitution. Neither does section 29 of the Constitution, regulating a state of public emergency, explicitly indicate either that the prohibition of torture is non-derogable (art. 2).

The State party should repeal paragraph 2 of section 20, and make the necessary amendments to section 29, of the Constitution during its current Constitutional review process to legislate for the absolute prohibition of torture, explicitly providing that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture. The State party should also explicitly indicate in its national legislation that the statute of limitations shall not apply for the offence of torture.

Fundamental legal safeguards

11. While noting that section 17, paragraph 2, of the Constitution provides that detainees have the right to access a lawyer from the outset of their deprivation of liberty, the Committee is concerned that this safeguard cannot be effectively implemented, since most detainees cannot afford a lawyer, and the National Legal Aid Board created in the Legal Aid Act, 2012 is yet to commence its work. The Committee is further concerned that, under section 17, paragraph 3, of the Constitution, detainees can be held for as long as 10 days in police custody before being brought before a judge in the case of a capital offence, and are reportedly held for longer periods than those prescribed in the Constitution. Moreover, detainees do not have a legal right to an independent medical examination as soon as they are admitted to a place of detention, nor, in the case of foreigners, to communicate with

the consular authorities. The Committee is further concerned at the fact that the registration of detainees is not regulated and registers are poorly kept (art. 2).

The State party should:

(a) **Ensure that detainees enjoy, de jure and de facto, all legal safeguards from the moment when they are deprived of their liberty, particularly the rights to be examined by an independent doctor; to notify a relative and, in the case of foreigners, consular authorities; to be brought promptly before a judge; and to have prompt access to a lawyer and, if necessary, to legal aid;**

(b) **Take effective steps without delay to ensure that the National Legal Aid Board, created in the Legal Aid Act, 2012, commences its work as soon as possible and, with the Sierra Leone Bar Association, is provided with sufficient resources to provide legal aid to all persons in need;**

(c) **Adopt effective legislative, administrative, judicial and other measures to regulate the registration of all detainees in the country, which should indicate the type of detention, the crime and period of detention or imprisonment, the date and time of deprivation of liberty and of being taken into detention, the place where they are being held, and their age and sex;**

(d) **Make the necessary amendments to its laws to abolish the provision under which people may be held in police custody for a 10-day period or 72 hours, depending on the offence, and introduce in its place a maximum 48-hour period.**

(...)

Excessive use of force, including lethal force

13. The Committee is highly concerned about allegations of excessive use of force, including lethal force, by police and security forces, especially when apprehending suspects and quelling demonstrations, and about the broad threshold for the use of lethal force in section 16, paragraph 2, of the Constitution. In particular, the Committee is concerned that the alleged excessive use of force by the police in Bumbuna, Tonkolili, in April 2012 led only to a confidential Coroner's inquest (arts. 2, 12 and 16).

The State party should take immediate and effective action to investigate promptly, effectively and impartially all allegations of excessive use of force, especially lethal force, by members of law enforcement agencies and to bring those responsible for such acts to justice and provide the victims with redress. The State party should also ensure that confidential Coroner's inquests are complementary and not a substitute for criminal prosecutions and court proceedings.

The Committee urges the State party to make the necessary amendments in section 16 of the Constitution and the police rules of procedure to ensure that lethal use of firearms by law enforcement officials can only be employed as a measure of last resort and if strictly unavoidable for the purpose of protecting life, in accordance with the Convention, the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990). The State party should provide regular training to law enforcement personnel in order to ensure that officials comply with the above rules and are aware of the liabilities they incur if they make unnecessary or excessive use of force.

(...)

Pretrial detention

24. The Committee welcomes the ongoing reform of the Criminal Procedure Act, aimed at accelerating trials and enabling the imposition of alternative methods of serving sentences. The Committee remains concerned, however, at the fact that pretrial detainees reportedly account for more than half of the prison population. The Committee notes with concern the excessive resort to imprisonment for minor offences and the current restrictive use of alternative measures of detention, due in part to the lack of sureties. The Committee also takes note of information indicating that, although the remand warrant cannot legally exceed eight days, it is normally not renewed, due to the lack of magistrates, or not respected. The Committee observes, with concern, that these aspects have a direct impact on the serious overcrowding of prisons (arts. 2, 11, 12 and 16).

The State party should:

- (a) Ensure that the Criminal Procedure Act 2014 is promptly adopted, incorporating these recommendations, and is given force of law;**
- (b) Review the provisions on alternative measures of detention in order to remove the obstacles to their effective application;**
- (c) Reduce the length and the number of pretrial detentions and ensure that pretrial detainees receive a fair and prompt trial;**
- (d) Increase the use of non-custodial measures and community service orders, especially for minor offences, and sensitize the relevant judicial personnel to the use of such measures, in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules).**

(...)

Prompt, thorough and impartial investigations

28. While welcoming the recent establishment of the Independent Police Complaints Board, the Committee notes with concern that the disciplinary bodies within the Army and prison system are still hierarchically connected to the officials

being investigated, as acknowledged in the State report (CAT/C/SLE/1, para. 74). The Committee also considers that the function of the Attorney General as a Minister of Justice could compromise its institutional independence. The Committee is also concerned as to the independence and effectiveness of the criminal investigations into allegations of torture or ill-treatment committed by public officials, since at magistrate courts crimes are prosecuted by police prosecutors, and any private citizen may also carry out a prosecution, which can be taken over or terminated at the discretion of the Attorney General. The Committee is further concerned that the State party was unable to provide disaggregated data on complaints, investigations, prosecutions and convictions in cases of torture and ill-treatment (arts. 2, 11, 12, 13 and 16).

The State party should:

(...)

(b) Take appropriate measures to ensure that a prompt, thorough and impartial criminal investigation is opened *ex officio* by a State counsel where there are reasons to believe that an act of torture or ill-treatment has been committed, bring the suspects to trial and, if found guilty, sentence them to penalties that take into account the grave nature of their acts;

(...)

35. The Committee requests the State party to provide, by 23 May 2015, follow-up information in response to the Committee's recommendations related to (a) ensuring or strengthening legal safeguards for persons in detention; (b) conducting prompt, impartial and effective investigations into cases of the involvement of members of law enforcement agencies in unlawful killings; and (c) prosecuting suspects and sanctioning perpetrators of torture or ill-treatment, as specified in paragraphs 11, 13 and 28 (b) of the present concluding observations. In addition, the Committee requests follow-up information on the regulation of the absolute prohibition of torture in the Constitution and the use of alternative measures of detention, as contained in paragraphs 10 and 24 of the present concluding observations.

(...)
