

# SIERRA LEONE

## Civil Society Report on the Implementation of the ICCPR (Replies to the List of Issues CCPR/C/SLE/Q/1)

### Coalition of NGOs coordinated by:

- Centre for Accountability and Rule of Law (CARL)
- Prison Watch Sierra Leone (PWSL)

Freetown, 14 February 2014

With the support of the Centre for Civil and Political Rights

**COMMENTS FROM  
CIVIL SOCIETY ORGANISATIONS IN SIERRA LEONE  
ON THE LIST OF ISSUES**



**REVIEW OF THE INITIAL REPORT OF SIERRA LEONE  
(CCPR/C/SLE/1)  
110<sup>th</sup> session of the Human Rights Committee  
Geneva – March 2014**

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## I. Introduction

This report encapsulates the views, comments and recommendations of fifteen civil society organizations: Prison Watch Sierra Leone – (PWSL), Centre for Accountability and Rule of Law – (CARL), Coalition for Justice and Accountability (COJA), Center for the Coordination of Youth Activities (CCYA), Campaign for Good Governance (CGG) Network Movement for Democracy and Human Rights (NMDHR), Western Area Human Rights Committee (WAHRC), Defence for Children - Sierra Leone (DCI-SL), Amnesty International – Sierra Leone, Society for Democratic Initiative – Sierra Leone (SDI-SL), AdvocAid, Dignity Association and Trade Union Confederation - Sierra Leone (TCU-SL), which met at a workshop organized by Centre for Accountability and the Rule of Law and Prison Watch Sierra Leone, with support from Centre for Civil and Political Rights (CCPR-Centre), on 12 December 2013 in Freetown, Sierra Leone. The workshop discussed key issues pertaining to the implementation of the International Covenant on Civil and Political Rights (ICCPR) in Sierra Leone, as part of the review process of the country's maiden report to the Human Rights Committee, scheduled at its 110<sup>th</sup> session (10-28 March 2014) in Geneva. This report is further informed by a follow-up session with a core group of participants, which streamlined the primary information sourced from the workshop, which essentially put in place the framework of the report.

The aforementioned participatory approach was further enhanced by the use of mix research methods, which include interviews with individuals, review of local newspapers and reports, all of which helped immensely to enrich the report.

The end product is the report presented below, which has been quite useful in collating the views of civil society in Sierra Leone on the current state and status of civil and political rights in their country, while drawing from past and present experiences, no doubt enriched by facts gleaned from reports and interviews alike.

A special recognition should be made to Abu Bakarr Sherrif, independent consultant, who was in charge of drafting and coordinating the report at a national level.

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## II. Constitutional and legal framework within which the Covenant is implemented (art. 2)

**Issue 1:** Please clarify the status of the Covenant within the domestic legal system. Please indicate when Parliament is planning to enact legislation specifically incorporating the Covenant into domestic law and provide information on measures taken to raise awareness about the Covenant and the Optional Protocol among public officials and State agents, in particular through human rights training of the judiciary and law enforcement officials. Please also indicate what procedures are in place for the implementation of the Committee's Views under the Optional Protocol.

### Comments from civil society:

Sierra Leone operates a dualistic system wherein the state's accession to any international legal instrument has to be ratified by Parliament, and subsequently domesticated by an enactment of parliament. In that light, the Covenant has neither been domesticated nor being enforceable in our national courts. Thus, no evidence exists to suggest that the Covenant is invoked in our national courts, although Chapter III of the Constitution of Sierra Leone 1991 draws inspiration from the Covenant.

There is little or no effort by the State to raise awareness among public officials, not least judicial and law enforcement officials, on the Covenant. However, a few senior state officials might be au fait with some aspects of the Covenant, largely as a result of knowledge gained at national and international conferences organized by human rights organizations. Also, the setting up of a coordinating office, which collated and produced the maiden report by Sierra Leone in July 2012, could have as well accorded officials with invaluable insight about the Covenant.

Civil Society Organizations are not aware of any procedure that has been initiated by the state to implement the Committee's view under the Optional Protocol.

### Recommendations:

The State Party should:

- Without delay enact the implementing legislation on the Covenant
- Ensure public officials have adequate education on the Covenant by organizing training seminars, among other activities.
- Establish a special implementation unit within the Ministry of Foreign Affairs and International Cooperation.

**Issue 2:** Please indicate the measures taken to provide the Human Rights Commission of Sierra Leone (HRCSL) with adequate financial and human resources for its effective functioning and to ensure that its decisions/recommendations are fully implemented by State authorities. What measures have been taken to strengthen the Ombudsman’s office, including by providing it with adequate human resources and extending its activities beyond radio discussions, and to raise awareness about its existence and mandate, especially in rural areas?

**Comments from civil society:**

The State has the primary responsibility to provide funds for the Human Rights Commission. However, the Commission, in their annual reports has cited funding gaps as chief among their many other challenges. Consequently, the Commission heavily relies on secondary funding from donors, including UN agencies and independent donor organisations. The Commission also grapples with serious human and logistical constraints, which impede their work. They include, but not limited to, a dearth of human resources to adequately serve the Commission at regional and district offices, and the absence of basic gadgets to carry out its work in human rights monitoring and reporting.

The Commission has since its inception inquired into various incidences of human rights violations and proffered recommendations, albeit few recommendations have been adequately addressed by the state.

**The Bumbuna case**

During an official inquiry by the Human Rights Commission into the cause of violence and subsequent death and injuries in Bumbuna, between 16<sup>th</sup> and 18<sup>th</sup> April 2012, the inquiry found that the police overreacted to the protest action by African Minerals (SL) Ltd (AML) workers and used disproportionate force, including live ammunition, resulting in the death of one Musu Conteh, a young lady who worked for AML. Also, several people sustained injuries, including eight (8) who had gunshot injuries. Scores of people were reportedly beaten and manhandled by the police.

The inquiry found no evidence of death of three persons whose bodies were dumped into a nearby river. However, the report proved, on balance of probabilities, that police subjected women in Bumbuna to unwarranted sexual and gender based violence (SGBV) in the form of verbal, physical and psychological abuse. Also, many people were subjected to arbitrary arrest and detention, while others were victims of inhuman, cruel and degrading treatment by way of beatings, kicking and molestations. To sum, the incident was blamed on “the high-handed response of the police” and the “unprofessional” way in which they flouted their Rules of Engagement: “Guidance for Opening Fire for Armed Police Officers of the

Sierra Leone Police (Green Card 'A')".

The Commission raised many recommendations including providing “symbolic remedies” to victims of the incident, a review and amendment of section 16 of the Constitution of Sierra Leone, which grants blanket immunity to security officers for deaths in the course of effecting arrests, among others. The Commission’s recommendations on this case have not been implemented by the government.

Another key recommendation that has not been heeded by government is the setting up an Independent Police Complaints Board and a thorough consideration in respect of disbanding the Operations Security Division of the police, as recommended by the Truth and Reconciliation Commission (TRC), among others.

Other recommendations by either the Human Rights Commission or Commissions of Enquiry that government has failed to pay full heed to adequately are the payment of benefits to ex-soldiers demobilized from the army due to health reasons. Some of the ex-service men have been paid, but many more are dissatisfied either because of delays in payment or the alleged unfair calculations of their benefits. The TRC, among other institutions, recommended regular and sustained interaction among political parties. The Political Parties Registration Commission (PPRC) has failed to provide such a platform on a consistent basis, which has in part contributed to the outbreak of violent political clashes between supporters of the ruling All Peoples Congress Party and the opposition Sierra Leone Peoples Party. However, President Koroma met in January 2014 with leaders of ten registered political parties, in fulfilment of recommendations of a UN brokered peace with the opposition in 2009.

The above notwithstanding, the Commission is generally regarded as independent in their operations, but the fact that the President appoints and renews the appointment of commissioners creates an appearance of lack of independence. This is reinforced by the fact that there are no objective criteria by which the President renews or withdraws the mandate of commissioners.

The Office of the Ombudsman is headed by a retired judge who had previously served as Speaker of Parliament. The office has opened offices in four provincial headquarters – Kenema, Bo and Makeni. It, however, lacks presence in the entire twelve district headquarter towns across the country. The reason for the lack of expansion is blamed on low budgetary allocation. Many people have expressed dissatisfaction about the Office’s ability to resolve complaints fairly and in a speedy manner. On occasions, state institutions refuse or fail to act on recommendations by the Office of the Ombudsman.

## **Recommendations:**

The State Party should:

- Provide adequate funding to the Human Rights Commission
- Endeavour to implement key recommendations contained in reports by the Human Rights Commission and indeed other Commissions of Enquiry set up by government, including the Shears-Moses Commission of Enquiry and Kevin Lewis Presidential Committee.
- Enhance the human capacity and independence of the Human Rights Commission by, among other things, making the appointment of Commissioners more transparent.
- Enhance the capacity of the Office of the Ombudsman

**Issue 3:** Please indicate whether any progress has been made with the law reform process, including the review of the human rights provisions of the Constitution, and provide information on the challenges encountered, as well as the measures taken to address them.

## **Comments from civil society:**

The Law Reform Commission was established under the Law Reform Commission Decree 1994 as amended in 1996, with a mandate to review the laws of Sierra Leone, both statutory and others, with a view to their reform, development, consolidation or codification. The Commission is also given a mandate to take other initiatives and propose enactment of new laws in appropriate circumstances. The aim is to simplify and modernise the law for the benefit of the people of Sierra Leone.

The State has also set up a Constitutional Review Committee (CRC) comprising eighty (80) members drawn from all facets of society. The Committee is chaired by the Ombudsman, Hon. Justice Edmond Cowan, a retired judge of the Superior Courts of Judicature and former Speaker of Parliament.

The Committee is expected to complete its work within two years, in 2015. The outcome of the broad-based consultations which the Committee is expected to undertake would form the basis of proposed review of the 1991 Constitution.

The Committee, which was launched by President Ernest Koroma on 30 July 2013, is however faced with serious funding constraints. According to its Executive Secretary, the Committee needs USD\$4.1million to carry out its mandate. The Government of Sierra Leone, which is to provide USD\$1.5 million of the estimated budget has only made available Le280 million (approx. USD\$60,000) while the 2014 budget allocated only Le500 million (approx. USD\$115,000) to the Committee. In all, the government has only committed a total



of USD\$500,000 to the Committee for the 2014 financial year, leaving a deficit of USD\$1 million. International development partners, including the United Nations, the UK Department for International Development (DFID) and the European Union, have all pledged financial support and technical support to the process. DFID has provided one million British Pounds Sterling, which is being administered by the UNDP. A secretariat has been set up to facilitate the day-to-day activities of the Committee, while the UNDP has hired a consultant to lend technical support to the process.

From the outset, some people are of the opinion that the Committee has a bloated size (80) and that the Law Reform Committee should have led the process of public consultations on a new constitution.

The head of the Law Reform Commission, Justice Salamatu Koroma, at a consultative meeting on the review process, hosted by Campaign for Good Governance in December 2013, questioned the wisdom in setting up a Committee of such size when the Law Reform Commission exists for such purpose. In addition, a Constitutional Review Committee was set up in 2006, which submitted its report to the government in 2008. It seems like the current process is essentially about reinventing the wheel, although the government says the 2008 report is part of the working documents of this Committee. The Law Reform Commission has generally done a good job of working with the Law Reform Commission to draft and present to parliament for enactment some progressive human rights laws, including the four gender laws, the Disability Act, among others. Its activities are also restrained by funding gaps.

### **Recommendations:**

The State Party should:

- Ensure the Law Reform Commission plays a significant role in the constitutional review process
- Provide adequate resources and an unfettered mandate to the Review Committee to perform its mandate.

<p><b>Issue 4:</b> Please indicate whether the Sierra Leone Reparations Programme established in 2008 continues to provide reparations to war victims and, if not, clarify the main constraints and measures taken to overcome them.</p>
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### **Comments from civil society:**

The Truth and Reconciliation Commission recommended the establishment of a War Victim's Trust Fund in its final report in 2004. The Fund was established in 2010 with an initial funding of Le220 million (approx. USD\$50,000) from local financial institutions and

individuals. The government of Sierra Leone has reportedly contributed USD\$360,000 to the Fund, while the various other donations have been made by the United Nations Peace Building Fund, United Nations Trust Fund, United Nations Multi Partner Trust Fund, collectively amounting to approximately USD\$7.7 million. The Fund is being administered by the National Commission on Social Action (NaCSA).

According to NaCSA, the Fund will serve as a pool of funds to finance the reparation programmes. Various categories of beneficiaries - amputees, other war wounded, sexually violated women, child victims, war widows, and dependants of victims with fifty percent reduction in earning capacity – were registered and validated before the fund was made available to them.

The Office of the President, United Nations Integrated Peace Building Office in Sierra Leone (UNIPSIL), Civil Society, Inter Religious Council, Ministry of Finance and Economic Development, Parliament, and Victims Association used to provide oversight functions over the Fund. At some point, civil society oversight was weakened by the failure of NaCSA to invite relevant organisations to monitor their processes.

According to NaCSA, the contributions have enabled them to “pay interim cash grant to 33,863 registered war victims, provide rehabilitation grants to 1,300 war victims, emergency medical assistance to fifty one victims, for the purpose of surgical operation, livelihood grants to amputees, train women victims of sexual violence, free physical health care, psychosocial counselling, educational support for school going children, symbolic reparation activities for community healing in forty of the country’s 149 chiefdoms, and shelters for the most vulnerable groups. Those with physical disorders were also given skills training and cash payment”.

However, the programme is at present bedevilled by funding constraints, while civil society sources indicate that as much as 25,000 victims may have missed out on registration and subsequent qualification for the scheme. Thus, many war victims are still to benefit from the Fund and those who were initially selected as beneficiaries need additional educational, medical, psychological and economic support. The State has repeatedly failed to integrate the social services/benefits recommended by the TRC report such as education, health care, transportation for the most affected victims of the conflict into mainstream public service delivery mechanisms. The State’s commitment to the scheme is generally described as indifferent by many war victims interviewed.

### **Recommendations:**

The State Party should:

- Provide adequate funds to the reparation programme. This can be achieved through purposive budgetary allocation to the programme
- Mainstream social and economic services for war victims in Ministries, Departments and Agencies
- Provide support to and complement the effort of Civil Society for increased advocacy for war victims

### **III. Non-discrimination, equality between men and women, and political participation (arts. 2, 3, 24, 25 and 26)**

**Issue 5:** Please indicate whether the State party has undertaken any comprehensive review of its domestic legislation and Constitution with a view to identifying discriminatory legal provisions, including those discriminating against women, and to amend or repeal them; please indicate, in particular, the measures taken to repeal section 27 (4) (d) of the Constitution. Does the State party plan to adopt comprehensive legislation prohibiting discrimination and containing a comprehensive list of grounds for discrimination, including discrimination based on sexual orientation and gender identity? Are legislative amendments planned to de-criminalize sexual relations between consenting adults of the same sex?

#### **Comments from civil society:**

No legislative amendment on discrimination against women has been approved or initiated by the State to date. It is hoped that the ongoing Constitutional Review Process will amend the discriminatory clause.

The above notwithstanding, any glimmer of hope that sexual relations between consenting adults of same sex will be de-criminalized was to all intent and purposes extinguished last year when the State made its position clear to the Human Rights Committee during the Universal Periodic Review by rejecting outright the Council's recommendation to repeal sexual orientation laws. To date, there is no evidence to suggest that the State intends to review its position on the issue.

#### **Recommendations:**

The State Party should:

- Ensure that representatives of minority groups, including women's and sexual minorities, are provided space and that the views they enunciate are included in the final draft document to be prepared by the Constitutional Review Committee
- Demonstrate its unqualified commitment to repeal discriminatory legislation relating to gender identity and sexual orientation by, among other measures, encouraging the Attorney-General and Minister of Justice to make a submission

before the Constitutional Review Committee specifically calling for a repeal of the discriminatory provisions of the Constitution.

**Issue 6:** Please indicate the measures taken to combat discrimination against women, including the steps taken to enhance the participation and representation of women in economic, political and public life, including in decision-making positions. Please report on measures taken to repeal discriminatory provisions against persons of non-“African Negro descent” and women in the acquisition and transmission of nationality, and ensure that foundlings are granted citizenship. Please also outline the measures taken to modify or eliminate harmful cultural practices and customs, eradicate patriarchal attitudes and deep-rooted stereotypes regarding the roles, responsibilities and identity of women and men in the family and society in general.

**Comments from civil society:**

Women and human rights organizations have provided a strong advocacy platform on the rights of women and have called for an end to discriminatory laws and ingrained cultural practices that are not conducive to the socio-political and economic wellbeing of the State and citizenry.

The State, in its report to the Committee, affirmed its commitment to gender equality and empowerment by formulating plans and policies with a view to providing more space and voice for women in all spheres of life.

Accordingly, a National Gender Strategic Plan was launched in June 2010, followed by a National Action Plan on United Nations Security Council Resolutions 1325 and 1520, plus a National Gender Mainstreaming Policy and National Policy on the Advancement of Women. Also, Pillar VIII of the new national agenda – ‘Agenda for Prosperity’ – prioritizes gender mainstreaming.

The above plans and policies have recorded little or no successes in terms of broad overall goals of gender empowerment, while the ‘Agenda for Prosperity’, whose Pillar 8 focuses on gender, will be evaluated for the first time in 2018 to ascertain advances made in the area of gender empowerment. In spite of strong efforts by civil rights activists in ahead of the 2012 elections for a Gender Equality law, weak State commitment to the process scuppered the dream of the vast majority of women in this country.

It is worth noting, though, that a Gender Advisor has been appointed in the Office of the President to spearhead the process of harmonizing the plans and policies and to foster better synergy between and among actors.

Women's representation and participation in decision-making remains infinitesimal. For instance, of the 124 Members of Parliament (MPs), there are only 15 women. In addition, there are only two (2) women ministers and a few deputy ministers. The same is true of appointments to diplomatic positions and government departments and agencies.

The State is yet to take any direct or constructive measures to repeal discriminatory provisions against persons of non-"African Negro descent" and women in the acquisition and transmission of nationality. It is, however, envisaged that the aforementioned issues will form the gamut of issues the Constitutional Review Committee will deal with. It is worth pointing out that the Deputy Minister of Internal Affairs, during a radio interview in 2013 on Radio Democracy regarding the statelessness of some people residing in the country, said the citizenship laws were so formulated to protect native Sierra Leoneans from being dominated by people from other countries (such as Lebanese) should they be given the right of citizenship. Whether his position is a reflection of the policy of the government is a matter for the future.

The State has not promulgated any law criminalizing harmful traditional practices, including Female Genital Mutilation, while the position of Paramount Chief continues to be the exclusive domain of men in most parts of the country, particularly in the Northern Province where women are prohibited from vying for the position. Thus, patriarchal attitudes and behaviours remain deeply-rooted, especially in rural areas which are more conservative. Although the Child Rights Act proscribes harmful or cruel practices against children, it does not specifically outlaw female genital mutilation, which continues to provide cover for practitioners of FGM.

In recent years, CSOs have campaigned to abolish discriminatory customary practices regarding representation and leadership against women, but serious challenges persist even at the community level. Also, although the society is deeply patriarchal, sustained efforts by international non-governmental agencies and their local counterparts have helped to raise awareness on gender equality and non-discrimination against persons with disabilities.

### **Recommendations:**

The State Party should:

- Allocate specific quotas for female representation (affirmative action) in the revised constitution, followed by an implementing Act or legislation (Gender Equality Act) that provides quotas for elective and appointive positions in all arms of government
- Prioritize gender awareness, equal and equitable opportunities in all facets of life in society, including political, social and economic spheres

- Proscribe the harmful practice of Female Genital Mutilation and punish persons engaged in same

**Issue 7:** Please report on the implementation of the National Gender Strategic Plan launched on 3 June 2010 by the President and the results achieved. Please also indicate whether the Gender Equality Act has been adopted and, if so, provide information on the activity of the Gender Commission and outline any of its achievements.

**Comments from civil society:**

A National Gender Strategic Plan was enunciated by the government in June 2010, but it was poorly implemented as most of the timelines set therein were not met. Thus, implementation was blighted by poor coordination and inadequate staffing. This has prompted calls from women’s groups for a comprehensive review.

To date, the Gender Equality Bill has not been passed into law; hence no Gender Commission has been established. The issue of gender comes under the purview of the Ministry of Gender and Children’s Affairs and it remains unclear what synergy, if any, exists between the Ministry and the new Gender Advisor in the Office of the President.

However, the current development blueprint of government, which is the third poverty reduction strategy paper in the country’s post-conflict transformation, dubbed the ‘Agenda for Prosperity’ lays much emphasis on gender mainstreaming and empowerment by dedicating Pillar VIII to issues of gender. It remains to be seen though, based on past experiences, if the desired goal of the pillar will be achieved.

**Recommendations:**

The State Party should:

- Provide adequate funding to support the National Gender Strategic Plan and other policies aimed at mainstreaming gender and empowering women in all facets of decision-making in the country.
- Demonstrate its willingness and commitment to fully implement Pillar VIII of the ‘Agenda for Prosperity’ as well as ensure that gender is mainstreamed in all Pillars
- Review and table in Parliament for enactment the Gender Equality Act

**Issue 8:** Please indicate the measures taken to enforce in practice the prohibition against early marriages, especially in rural areas, and to prosecute those responsible.

### **Comments from civil society:**

The state has prohibited early marriage in both the Child Rights Act (CRA) of 2007 and the Registration of Customary Marriage (RCM) Act of 2007. However, there are contradictions in these laws, such as while the CRA criminalizes early marriage (below 18 years), the RCM Act provides that a girl below the age of 18 years can marry with the consent of her parents.

Punitive measures against early marriages are prescribed by law but are seldom implemented. Unfortunately data on cases reported to the police or prosecuted by the courts are unavailable. A key reason is because the practice is prevalent in rural areas, where it goes unreported as a result of societal norms or fear of reprisals. It is worth mentioning, though, that the police have on occasions aborted planned 'early marriages' particularly in the big cities. In January 2013, for instance, the Family Support Unit (FSU) of the Sierra Leone Police (SLP) intervened to cancel a scheduled marriage between a 14 year-old girl and a man probably old enough to be her father. The aborted wedding was scheduled to have been held at the Gadaffi Mosque at Rokupr, Freetown. The girl's parents had reportedly sanctioned the marriage.

CSOs who advocate against early marriage face numerous challenges, which undermine successful litigation and subsequent punishment of perpetrators. They include:

- Compromise or out of court settlement by the families
- Social, political and economic inequalities between families of perpetrators and victims
- Ignorance of the law

### **Recommendations:**

The State Party should:

- Harmonize statutory provisions relating to early marriage
- Capacitate and provide adequate resources to the Family Support Unit, a specialized unit within the Sierra Leone Police which handles sexual and gender-based violence, to efficiently investigate and prosecute cases of early marriage
- Provide an enabling environment for an improvement in access to justice, particularly in rural communities where early marriage is predominant
- Partner with and provide adequate support to civil society groups to sensitize and raise awareness on early marriage

**Issue 9:** Please report on the implementation in practice of the Persons with Disability Act enacted in March 2011. Please also provide information on steps taken to combat and prevent societal stigma and discrimination against persons living with or affected by HIV/AIDS.

### **Comments from civil society:**

Sierra Leone enacted the Persons with Disability Act in March 2011. The Act calls for an establishment of Persons with Disability Commission. The Commission has been created and is now fully constituted following the appointment of commissioners by the President and their ratification by Parliament. The Commission has started operation at their new office in Freetown, and partial operational offices in the provincial cities of Kenema, Bo and Makeni, but it is yet to open offices in all the twelve districts in the country.

However, the activities of the Commission are greatly hampered by acute funding gaps, coupled with the fact that the Commission is a semi-autonomous body of the Ministry of Social Welfare, Gender and Children's Affairs. According to chairman of the Commission, Frederick J.M. Kamara, donations and support for specific short-term projects from international non-governmental organizations such as Sight Savers, Handicap International, Leonard Cheshire and World Vision, has kept them up and running.

The Government of Sierra Leone created a HIV/Aids secretariat in 2004. At present, the secretariat leads efforts to distributing free anti-retroviral drugs to persons living with HIV. The secretariat also plays lead role in raising awareness about the pandemic and defeating stigma and stereotypes against victims.

Accordingly, the state has also enacted anti-stigma and discrimination laws to protect persons infected by HIV/Aids. The State has also created a National HIV/Aids Council, which is chaired by the President.

However, the ineffective implementation of the laws still renders victims of HIV/Aids susceptible to stigmatization and discrimination. For instance, the Republic of Sierra Leone Armed Forces operates an overt policy, which discriminates against persons living with HIV/AIDS by precluding them from recruitment or continuing to serve in the force.

### **Recommendations:**

The State Party should:

- Provide adequate funding to the HIV/AIDS secretariat, which should by extension equitably provide social and economic support, including palliative care to persons living with the virus
- Demonstrate its commitment to eradicate stigma and discrimination against victims of the pandemic in spheres of public life, including the security sector.



- Effectively implement/enforce laws proscribing stigma and discrimination by punishing individuals who embark on such and ensure institutions employ zero tolerance to any such practice
- Provide the financial leverage to the Disability Commission, to enable it to be fully functional across the country

#### **IV. Violence against women and children, including domestic violence (arts. 3, 7, 23, 24 and 26)**

**Issue 10:** Please report on measures taken to address impunity, to prevent and combat all forms of gender-based violence, including domestic violence, rape and other forms of sexual violence. Please specify whether spousal rape is explicitly defined as a crime under the Criminal Code. Please also provide information on: (a) the number of complaints received; (b) investigations carried out; (c) the types of penalties imposed; (d) remedies provided to victims; and (e) the number of safe shelters and any other resources and services in place to assist victims of domestic violence.

#### **Comments from civil society:**

The State has enacted the Domestic Violence Act of 2009 to protect both men and women against all forms of gender-based violence. The State has also established the Family Support Unit which is a specialized unit of police investigators and social workers from the Ministry of Social Welfare, Gender and Children’s Affairs with powers to investigate and prosecute all offences of sexual and gender based violence codified in the Act.

The State has also passed into law the Sexual Offences Act of 2012 criminalizing non-consensual sex between persons, including spouses. The Act harmonized the age of the victim to 18 years (previous law, the Prevention of Cruelty against Children Act, CAP 31 of the Laws of Sierra Leone, states 13 or 14 as the case may be). Also, Section 19 of the Act introduces sexual penetration, which hitherto was charged as Unlawful Canal Knowledge, while also increasing the organs or orifices which can qualify as sexual penetration – mouth, anus, plus vaginal. The Act further provides that any object used for penetration satisfies the act of sexual penetration and it is now gender neutral, technically including sexual acts between same sex. Also, for persons below the age of 18 years, consent is immaterial, while married (spousal rape) is not a defence. In addition, the Act ensures confidentiality between victims and police/prosecutors and urges that the identity of victims be protected.

The past two years recorded high number of complaints of sexual and gender-based violence throughout the country. We could not access data for 2013 from the Family Support Unit in Freetown because officials were reluctant to share them, notwithstanding a letter stating the reason for the request. Figures obtained at the Rainbow Centre tell a grim

picture of the number of sexual assault/rape case. According to those figures, a total of one thousand two hundred and eighty-three (1,283) cases were reported at the Centre in 2013, with Freetown recording the highest number, seven hundred and ninety-five (795), followed by Kenema, two hundred and ninety-nine (299) and Kono, one hundred and eighty-nine (189).

It is salutary to note that figures obtained by the Centre represent only three out of the fourteen geopolitical districts as the centre operates only in two districts including Freetown, the capital. Therefore, it is only logical to infer that the figures could more than treble if data was obtained for the remaining twelve districts.

Another data obtained from the Catholic charity Don Bosco, states that, they received five hundred and twenty-one (521) cases of Sexual and Gender-Based Violence, involving girls. An official at the charity said they operate a girls shelter in Freetown which currently houses fifteen (15) inmates, all girls below eighteen (18). He said they do not have specific shelter for adult victims of SGBV, but they do accommodate adult victims when absolutely necessary. He cited the case of a young female student who was allegedly raped and assaulted by the sacked deputy Minister of Education, Science and Technology, as an example. The lady in question was reportedly raped in September 2013 by the deputy Minister at a private house in Freetown. The victim reported the incident to the police, who arrested and detained the accused. The government subsequently relieved him of his post while the incident was being investigated and prosecuted. A preliminary investigation was instituted in the magistrates' court in Freetown, before the matter was committed to court late last year, after the presiding magistrate found that the accused has a prima facie case to answer in respect of the alleged rape and assault of the young university girl. The matter though is still pending in the High Court. Sadly, before proceedings could commence before the High Court, the victim was apparently bribed with a scholarship offer to leave the shores of the country. At the moment, the case is all but dead. This is a blatant example of State collusion in shielding alleged perpetrators of sexual and gender-based violence.

Punishment or sentence for all perpetrators of rape is a maximum imprisonment of fifteen years, albeit this could be lowered to not less than five years due to mitigating circumstances. The court may also order reasonable compensation to be paid to the victim (s. 36(3)(1) of the Sexual Offences Act, 2012). However, the Act does not make provision for safe housing for victims during and after trial. The Domestic Violence Act, however, provides that the State should provide safe houses across the country to shelter victims of sexual and gender-based violence as well as witnesses who fear for their safety and security. Unfortunately, almost seven years after the law was promulgated, there is no functioning Safe Home in the country. This was why it was a private charity that provided shelter to the alleged victim of the former deputy Education Minister while she was testifying.

The current realities are that many a family will compromise SGBV cases, especially wife battering, while societal stigma and victimization could also have a negative effect on reporting and prosecuting offences committed under the Act.

Thus, few cases are prosecuted in court, or when they are, they take an agonizingly slow pace before the final verdict, while many are settled out of court, due to compromise between parents/victims and their alleged perpetrators, or collusion by State officials in some cases. It is worth mentioning, though, that the number of prosecutions has slightly increased lately, although it pales in comparison to the ever-increasing number of alleged violations.

Accordingly, a data obtained from the Law Officers Department in Freetown reveal that in 2013, only twelve (12) convictions were made for SGBV cases. An additional one person was cautioned and discharged, while four (4) individuals were discharged. No reason was given as to why they were discharged. Also, five (5) others were acquitted and discharged.

Data could not be obtained from the entire country due to the reluctance of officials to provide them; in one frustrating instance, officials at both the Family Support Unit in Freetown and the Social Welfare Ministry failed to avail data on SGBV cases. The latter even asked that an official letter be written to request for data in their possession, but failed to provide it even though a letter was submitted.

### **Recommendations:**

The State Party should:

- Demonstrate its willingness and ability to provide special assistance and care for victims for domestic and sexual violence
- Undertake to provide regular training and experience sharing, as well as provide appropriate equipment to the Family Support Unit in a bid to enhance their investigative and prosecutorial capacities
- Set up safe houses in all 14 geopolitical districts for victims of sexual and domestic violence
- Generate data on and make available to the public (a) the number of complaints received; (b) investigations carried out; (c) the types of penalties imposed; (d) remedies provided to victims; and (e) the number of safe shelters and any other resources and services in place to assist victims of domestic violence.
- Demonstrate more commitment to fostering accountability for perpetrators of SGBV by not only enhancing the capacity of investigators, but by increasing the number of Magistrates and Judges in the country's 15 Judicial Districts.

**Issue 11:** Please respond to reports that large numbers of children are victims of sexual violence or abuse and indicate the measures taken to combat this phenomenon. Please provide information on: (a) the number of such cases recorded; (b) investigations carried out; (c) sanctions imposed; (d) remedies provided to victims.

**Comments from civil society:**

There is high number of complaints about sexual abuse of children throughout the country. The figures obtained from the Rainbow Centre are predominantly children. The same is true of those provided by Don Bosco and the Law Officers Department. (See comment on issue 10 above).

The State has established a specialized department within the police – the Family Support Unit – to investigate reported cases of sexual and domestic violence and to provide care and protection to victims. The Unit is also responsible for investigations into sexual abuses against children. However, the Unit lacks forensic experts while weak capacity grossly undermines their efficiency. Notwithstanding unbearable delays in litigation, perpetrators of sexual offences against children are more often than not sentenced to maximum terms, although victims are seldom compensated for physical, economic or psychological challenges they may have to contend with during and after trial; a primary reason why many families would rather compromise with rich and influential perpetrators of child abuse.

**Recommendations:**

The State Party should:

- Enhance the capacity of the Family Support Unit, not least in forensic investigation
- Amend the law with a view to ensuring that the court, in addition to retribution, prioritizes victim assistance and compensation as an integral object of the criminal prosecution of sexual abuses against children

**V. Right to life and prohibition of torture and cruel, inhuman or degrading treatment or punishment (arts. 6, 7, 19 and 21)**

**Issue 12:** In light of the de facto moratorium on executions that has been in place since 2008 and the State party's commitment to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty, please indicate the steps that are being taken to abolish the death penalty both in law and in practice.

### **Comments from civil society:**

The protection of right to life is enshrined in the Constitution of Sierra Leone, 1991, pursuant to Chapter III, section 16(1). However, subsection 2 contains a number of provisos where the right to life could be denied, albeit with reasonable justifications. Accordingly, death resulting from carrying out a lawful arrest or to prevent the escape of a person lawfully detained; for the purpose of suppressing a riot, insurrection and mutiny, are not considered as a denial of the right to life. Unsurprisingly, the police have been quick to justify their actions whenever they use excessive force to quell riots or even peaceful demonstrations by students. A case in point is the killing of a school pupil in Freetown in December 2013, after police were called to intervene in a clash between the Ansarul Islamic Secondary School and petty traders at the Guard Street market, east of Freetown. Also, a United States ex-Marine of Sierra Leonean extraction, Abdul Karim Kamara, was killed by police in May 2013, while on vacation in the country. His only crime was for being in possession of a pistol, which he had declared when entering the country three months earlier.

With regard the prohibition of the death penalty, an official moratorium was announced in 2008, which to all intent and purposes connotes a temporary ban on the use of capital punishment. Accordingly, the life sentences of thirteen (13) death row inmates have been reviewed and committed to life imprisonment.

Death penalty was last executed in Sierra Leone in 1998, which saw the execution by firing squad of twenty-four (24) military officials (which includes Major Kula Samba (female), Col James Max Kanga, Col Samuel Francis Yariemah Koroma, Brig Hassan Karim Conteh, Col P.F Foday, Cpl Tamba Gborie, Sgt Alfred Abu "Zagalo" Sankoh, Squadron Leader Victor L King, Lt Jim Kelly Jalloh, Captain Idrissa Keita Khemolai, Cpt Simbo Sankoh, Col John Amadu Sonica Conteh, Lt. Commander Samuel Kandu-Boy Gilbert, Lt Commander Abdul Aziz Dumbuya, Capt Abu Bakar Kamara, Capt Albert Jonny Moore, Major Bayoh "Bios" Conteh, Major Augustine Fannah Kamara, Major Abdul Masakama Koroma, Lt. Col David Boisy Palmer, Col. Daniel Kobina Anderson, Lt. Marouf Sesay, Capt Josiah Boisy Pratt, Col Abdul Karim Sesay) upon conviction for treason by a Court Martial. Also, the government has demonstrated tremendous commitment to putting a halt to executions, although it has not taken the final decisive step to abolish the death penalty.

As recent as January 2014, one Sorie Bangura was sentenced to death in the High Court of Port Loko by Justice John Bosco Allieu, upon conviction for the death of a man who died as a result of a bite wound inflicted by the convict during a fight. With the exception of Sorie Bangura, all death row inmates have been committed to life imprisonment. Even though the blanket moratorium on the death penalty and the none execution since 1988 appears to be

a positive step in the right direction, yet the existence of the death penalty in our statute still holds potential threat.

During an international conference hosted in Freetown in January 2014, Foreign Minister, Dr. Samura Kamara said: “The abolition of the death penalty is desired by every civilized nation, but what determines the status is the domestic environment and that abolition, whilst crucial for peace and stability in some situations, may perhaps undermine national security in others.”

The above statement, which is attributed to a senior minister in the current regime, sends an ominous message that Sierra Leone may not be willing to take that final step to abolish the death penalty.

### **Recommendations:**

The State Party should:

- Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights
- Abolish immediately the death penalty from the penal code
- Commute the death sentence of Sorie Bangura

**Issue 13:** Please provide information on the measures taken to investigate, to bring to justice those responsible and to provide adequate remedies, including compensation, to victims or their relatives for: (a) the alleged arbitrary deprivation of life and serious injuries during the violent demonstrations in Bumbuna, Tonkolili District and Koidu City, Kono District, when police officers reportedly made use of tear gas and fired live ammunition at protesters; (b) the alleged arbitrary killings of motorcycle riders by police officers in the Western Area, allegedly without any genuine cause; (c) the alleged arbitrary deprivation of life and serious injuries during the clash between the All People’s Congress (APC) and Sierra Leone People’s Party (SLPP) supporters in September 2010, when police used tear gas and live ammunition to disperse the crowd; (d) the assault of four journalists in September 2011 by plain-clothes members of the Presidential Guard, when one of them was beaten unconscious. Please elaborate on whether human rights law norms, including the principles on the use of force and firearms, are a standard component of curricula for law enforcement officials.

### **Comments from civil society:**

Commissions of Enquiry were set up and empanelled to investigate the cause of violence in the alleged incidences of arbitrary deprivation of life and serious injuries during violent demonstrations in Bumbuna, Tonkolili District, and Koidu City, Kono District, respectively,

and the political disturbances between elements of the All People's Congress (APC) and Sierra Leone People's Party (SLPP) in September 2011. The various Commissions of Enquiry, including the Shears-Moses Report, which looked into political violence from 2007-2010, and the Kelvin Lewis Report, which had a mandate to investigate the root causes of political disturbances in Bo and Kono, were submitted to government. Also, an independent report by the Human Rights Commission on the Bumbuna disturbances was presented to government (see comment on issue 2 above).

It is significant to note that the government, while acknowledging the reports, has been reticent in implementing recommendations, save few. Thus, recommendations calling for the dismissal of errant police officers and political allies have either been dismissed or not complied with. For instance, Musa Tarawallie, who was identified in the 2009 Shears-Moses Report for his role in political violence whilst serving as Minister of State, South, has since been elevated to Minister of Lands, Country Planning and the Environment, in flagrant disregard for a recommendation that he should not hold any political office for a period of five years. A presidential guard who was also implicated in the same report for beating of opposition supporters, Idrissa 'Leather Boot' Kamara, is still retained. Neither have the two personnel of the Operational Support Division who were held responsible for the alleged unlawful killings in Bo been sacked or prosecuted.

With regards the police killings in the Western Area, internal police investigations were commissioned. The outcome of the internal police investigation is still unavailable although the alleged perpetrator has been charged to court and is currently standing trial.

On the issue of alleged arbitrary deprivation of life and serious injuries during clashes between supporters of the All People's Congress (APC) and Sierra Leone People's Party (SLPP) in September 2011, when police used tear gas and live ammunition to disperse the crowd, the Kelvin Lewis Commission of Enquiry was set up. The report on that Commission was presented to Government and a Government white paper published. The implementation of most, if not all of the recommendations, has been largely disregarded. They include, but not limited to, a speedy and conclusive judicial process for all suspects identified in the investigation; that further investigations be carried out with regards the alleged presence and activities of Musa Tarawallie, Minister of Internal Affairs (now Lands Minister) on the 8th and 9<sup>th</sup> September 2011.

On the matter of the alleged assault of four journalists in September 2011 by plain-clothes members of the Presidential Guards, when one journalist was beaten unconsciously, the outcome of the investigations is still inconclusive because of lack of cooperation by the police. The victim, Fajah Barrie, revealed that the police hierarchy failed to identify the officer who did the act, which effectively weakened an action brought by the Sierra Leone Association of Journalists on his behalf.

Even though the police are trained in the use of force and firearms, CSOs have expressed grave concerns over the increase in the spate of alleged killings and loss of life as a result of police intervention and brutality. For instance:

- October 2013: elements from the paramilitary wing of the police, known as Operations Security Division, clashed with school pupils of the Ansarul Islamic Secondary School on Guard Street, east of Freetown, resulting to death of a pupil of the school. The father of the deceased was reportedly arrested and detained by the police and was allegedly tortured, after the family pressed the force for answers. Although senior police officers initially denied that live ammunition was used, they later accepted responsibility for the death and paid compensation to the family. The officer who allegedly shot the boy was subsequently arrested and arraigned in court.
- November 2013: local media reported that clashes between the police and petty traders on Sani Abacha Street left one female trader unconscious.
- November 2013: in Mile 91, Tonkolili district, northern Sierra Leone, police clashes with school children left many seriously injured.
- 3<sup>rd</sup> December 2013, police arrested and detained a driver at Lumley Police, who was later pronounced dead while in police custody. The ensuing skirmishes with drivers reportedly left one police officer dead and another seriously wounded.
- December 2013: in Malen Chiefdom, Pujehun district, police intervened in a dispute between local landowners and a foreign company – SOCFIN – and arrested and detained six persons, including a former lawmaker. Others sustained serious injuries while scores of houses were vandalized and property looted.

### **Recommendations:**

The State Party should:

- Take measures to ensure police accountability and compliance with the rule of law and human rights provisions.
- Develop a comprehensive professional policy guideline for police officers, particularly in the use of fire arms.
- Ensure police officers are held accountable to the public for their actions and be prosecuted under both command and individual responsibility for their capability.
- Review and update Police Training School Manual by incorporating human rights and professional standards in the use of force.



**Issue 14:** Please report on measures taken to combat ritual murder and impunity for such acts, including on measures to address obstacles to effective investigation and prosecution of perpetrators.

**Comments from civil society:**

Reports of alleged ritual murders are not prevalent in the country. However, they are reported in local newspapers whenever such stories break, although there is no available data on the number of prosecutions for ritual murder in recent times. The practice though gets a relatively high coverage during periods of electioneering, albeit many are deemed to be ruse inspired by political vendetta. Perpetrators of ritual murder are punished either capital punishment or prolonged jail terms when investigated and prosecuted.

**Recommendations:**

The State Party should:

- Maintain zero tolerance on the issue of ritual murder
- Ensure that there is a compensation mechanism for families of victims of ritual murder

**Issue 15:** Please elaborate on the measures taken to address the high under-five and maternal mortality rates and the results achieved. Please also provide information on the status of the draft law legalizing abortion under certain conditions.

**Comments from civil society:**

According to the World Health Organization Country Cooperation Strategy, in their May 2008 Child and Maternal Morbidity and Mortality Report, Sierra Leone had the highest under-five mortality rate in the world, with almost one out of four dying before reaching the age of five, with the primary causes being malaria, diarrhoea and pneumonia. Neonatal mortality accounted for 20% of all under five mortality, while malnutrition played an important part in under five mortality. Sierra Leone is still ranked among the highest rates of maternal mortality in the world. The main causes are obstructed labour, haemorrhage, anaemia in pregnancy.

But there has been significant improvement since 2008. The Government of Sierra Leone in April 2010 introduced the free healthcare policy for children under five, pregnant women and lactating mothers. This policy has recorded some successes, such as the construction of hospitals, health centres and peripheral health units in the nook and cranny of the country, and the supply and distribution of free drugs to pregnant women, lactating mothers and

children below five. According to the Sierra Leone Demographic and Health Survey 2013, child mortality shows a downward trend, with 92 deaths recorded per 1000 births. The Report also shows that 97% of women receive antenatal care from a skilled provider – doctor, nurse, midwife or a maternal and child health aide – during pregnancy in the last five years

However, gaps remain in terms of effective and efficient implementation, especially in rural areas where monitoring mechanisms are poor. The scheme has also been undermined by the provision of insufficient, cheap or low quality drugs to hospitals and peripheral health units, shortage of trained medical personnel, and the theft of free drugs to those hospital and peripheral health units, according to media and independent reports. The situation is more acute in rural areas.

The law criminalizing abortion is still in force. An international non-governmental organization, *ipas*, has been lobbying lawmakers in a bid to repeal and amend the law. To date, no steps have been taken to repeal the law on abortion. The mood in government and among lawmakers is such that the issue is not regarded as urgent or indeed prudent to debate and/repeal.

#### **Recommendations:**

The State Party should:

- Increase budgetary allocation to address inequitable distribution of service delivery, medical supplies, personnel and other resources.
- Increase affordability and accessibility to health centre and medical services through a doctor driven scheme i.e. taking the hospital to the door steps to the poor rural people, particularly women and children.
- Enhance professional capacity of medical personnel and encourage specialization especially in the area of paediatrics and gynaecology.
- Initiate the process of reforming the law on abortion.

**Issue 16:** Please indicate the steps taken to define and criminalize the offence of torture in accordance with international standards. Please elaborate on concrete measures taken, and procedures and institutions established, to prevent torture and cruel, inhuman or degrading treatment or punishment and ensure that such allegations, including from the civil war period, are effectively investigated, prosecuted and victims have access to effective legal recourse and to adequate remedies. Please indicate whether the Independent Police Complaints Board has been established and provide information on its independence, composition and mandate. If applicable, please provide statistical data on the number of complaints of torture and ill-treatment received and investigations and prosecutions initiated.

### **Comments from civil society:**

The Constitution of Sierra Leone 1991, in section 20(1) provides protection against torture and inhuman treatment: *“No person shall be subject to any form of torture or any punishment or other treatment which is inhuman or degrading.”* However, section 20(2) says: *“Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question authorises the infliction of any kind of punishment which was lawful immediately before the entry into force of this Constitution.”*

The establishment of the Human Rights Commission signals an important step in the promotion and protection of human rights, not least torture and all forms of inhuman or degrading punishments. However, no steps have been taken by government to criminalize torture in the Penal Code.

Section 28(5a) of the Constitution guarantees an indigent citizen of Sierra Leone seeking redress some form of financial aid for the purpose of securing the services of a legal practitioner. In practice, most if not all persons who seek redress in court, fund their litigation or seek support from non-governmental organizations, such as Centre for Accountability and Rule of Law, Timap for Justice, Society for Democratic Initiatives, etc.

The Lome Peace Accord granted blanket amnesty for war crimes or crimes against humanity that may have been committed before July 1998. However, the establishment of the Special Court in 2002 presented an opportunity to address issues of impunity against egregious crimes committed post 1998. While the move was laudable, the limitation imposed in terms of who and from which period to prosecute, in effect, fosters impunity for scores of middle level commanders whose archived testimonies indicate that they committed some of the worst crimes against humanity. Be that as it may, the State or individuals within could still initiate criminal action against such individuals.

A recent case in point is the filing of a private criminal indictment against Ibrahim Baldeh Bah, a Senegalese, former Revolutionary United Front operative, who is serving a United Nations travel ban, by Centre for Accountability and Rule of Law (CARL) and Civitas Maxima, in August 2013. Sadly, Mr. Bah was controversially expelled from the country by a presidential order before he could appear in court to answer to criminal charges, including torture and false imprisonment.

Independent Police Complaints Board is yet to be established by government despite calls from the opposition and civil society. However, Local Police Partnership Boards have been established throughout the country. The Board is a creation of the Community Relations

Department, which primary modus operandi is to foster good relations between the police and the civil populace by building public confidence and trust in the former. The Board has a composition of civilians and police officers.

Meanwhile, no data is available on the number of prosecutions, if any, into cases of torture and ill-treatment of individuals.

### **Recommendations:**

The State Party should:

- Include torture and all forms of degrading or inhuman treatment in its Criminal Code, in accordance with international standards.
- Establish an Independent Police Complaints Boards across the country, directly answerable to the citizenry rather than the political executive (At present the Vice President is head of the Police Council).

**Issue 17:** Please indicate whether any steps are being taken to enact legislation explicitly prohibiting the practice of female genital mutilation/circumcision (FGM/C), to prosecute and punish offenders and to raise awareness among the population about the harmful effects.

### **Comments from civil society:**

The passage of the Child Rights Act of 2007 prohibits harmful or cruel traditional practices against children, although there is no legislation that explicitly prohibits female genital mutilation of girls below the age of 18 years. A draft bill outlawing the practice was withdrawn in 2007 at the nick of time and has since not been reintroduced.

The government is yet to undertake any steps to ban the practice of female genital mutilation/circumcision in the country, and there seems to be a tacit approval of the act among the political elite, many of whom regard the topic as very sensitive in a country where traditional practices are prevalent, and 60% of women who vote have been circumcised, according to FGM campaigner Olayinka Koso-Thomas. Thus, it is not unusual to see *soweis* (female initiators and respected heads of the female Bondo secret society) parade young female initiates in the streets of the country, including Freetown, before and after their initiation in the *Bondo* society.

We note the emergence of certain women's and human rights groups who openly campaign against the practice in the country, albeit some have encountered real or perceived threats to their personal wellbeing. They include, Advocacy Movement Network (AMNet), Amnesty International Sierra Leone, Amazonian Initiative Movement (AIM) etc. Also, private

campaigner, Olayinka Koso-Thomas, whose book - "Circumcision of Women: A Strategy for Eradication of Female Genital Mutilation in Sierra Leone", was banned in 1987, has been campaigning against the practice for close to three decades.

### **Recommendations:**

The State Party should:

- Without delay enact law prohibiting the practice of Female Genital Mutilation/Circumcision in any shape or form.
- Provide protection and support to groups engaged in the campaign to ban the practice, especially in rural communities.

**Issue 18:** Please outline the measures taken to ensure that the law explicitly prohibits corporal punishment in all settings, including the home.

### **Comments from civil society:**

Inasmuch as the enactment of Child Rights Acts of 2007 explicitly prohibits corporal punishment, yet the practice still exists in the statute books of the Prison Rules and Ordinance of 1960/61, while the act is still being practiced in many schools and homes across Sierra Leone.

Part VIII 61(1) of the Prison Rules and Ordinance of 1960/61 states: *"Where corporal punishment is awarded the number of strokes shall be limited to a maximum of ten strokes in the case of persons of or under the apparent age of seventeen years and all other cases to eighteen, with such type of cane as may be prescribed."*

Part VI 77 (3) of the Prison Rules of 1961 states that: *"Corporal punishment shall be inflicted on the buttocks of the offender, in the case of adults with a cane which shall not be more than half an inch in diameter and in the case of juveniles shall be a light cane"*

### **Recommendations:**

The State Party should:

- Take immediate steps to repeal all provisions of corporal punishment in our statute books
- Criminalise corporal punishment in all settings

## **VI. Elimination of slavery and servitude (art. 8)**

**Issue 19:** Please provide information on the measures taken to combat trafficking in women, men and children for purposes of sexual exploitation, forced labour and domestic servitude, inter alia the steps taken to identify and investigate such cases, prosecute and sanction perpetrators and ensure victims' access to effective remedies, including compensation and rehabilitation, and provide relevant statistics. Please also elaborate on any counter-trafficking measures, including training programmes for authorities implementing the measures against trafficking, and awareness-raising programmes.

### **Comments from civil society:**

Sierra Leone enacted the Anti-Human Trafficking Act in 2005, which punishes perpetrators convicted on human trafficking to a monetary fine of up to Le50 million (approx. USD\$11,500) or a jail term not exceeding ten years. The state has also established a unit within the Office of National Security to coordinate the monitoring of human trafficking. Anti Human Trafficking Units, comprising the police and immigration, are based at border posts to monitor human trafficking.

Several trainings have been conducted for officers involved in investigating human trafficking. In December 2013, the Kofi Annan Peacekeeping Training Centre trained government and civil society actors from the sub-region in human trafficking and counter terrorism. Similar trainings have been conducted in-country.

However, more needs to be done to expand outreach and advocacy on anti-human trafficking, and to build the capacity of actors and institutions that work on the issue. The State needs to focus a lot more on internal trafficking of children given the increasing number of child hawkers on the streets of Freetown.

### **Recommendations:**

The State Party should:

- Put in place effective and efficient mechanisms aimed at integrating border management and security, and to enhance cross-border cooperation.
- Provide adequate funds for anti-human trafficking agencies or organizations and build the capacity of actors.

## **VII. Refugees and asylum seekers (art. 13)**

**Issue 20:** Please provide information on the progress made in revising the Refugees Protection Act 2007 with a view to ensuring unhindered access to, and transparency of, the refugee status determination procedure.

### **Comments from civil society:**

Following the enactment of the Refugees Protection Act 2007, a secretariat has been established at the Ministry of Foreign Affairs and International Cooperation. The secretariat is now fully functional, while a multi-sectoral Appeals Committee, chaired by a judge of a Superior Court of the Judicature, has been empanelled. The Committee seats to determine the status of Liberian Refugees in respect of application for relocation to a third country. The UN Commission for Refugees is represented in the Committee, as well as the Office of the Attorney-General and Minister Justice, which has an observer status.

However, there are few flaws in the Act, such as the National Commission on Social Action, the implementing agency, which has first instance to refuse refugee status to applicants, also seats on the Appeals Committee; the Appeals Committee having no designated chairman, what obtains now is that any member, in particular the judge who is a member of the Committee, is chosen to chair meetings; and no clear distinction between 'cancellation' and 'cessation' of refugee status. There is no indication yet that an amendment will be made to the Act.

### **Recommendations:**

The State Party should:

- Institute a comprehensive review of the Act and amend lacunae found therein accordingly

## **VIII. Right to liberty and security of person, treatment of persons deprived of their liberty, fair trial and independence of the judiciary (arts. 7, 9, 10, 14, 15 and 24)**

**Issue 21:** Please indicate the measures taken to prevent and address cases of arbitrary deprivation of liberty, to ensure that such cases are duly recorded and that effective remedies, including adequate compensation, are available in practice to victims.

### **Comments from civil society:**

The Constitution of Sierra Leone 1991, protects against arbitrary arrests and detention (s.17), while s. 23 makes provision for secure protection of law. It is however not uncommon

for persons to be detained in police cells, sometimes beyond the stipulated seventy-two hours for less serious offences, before they are charged to court or released on bail. The official policy is that bail can be obtained gratis from the police, but suspects or their relatives are often made to bribe substantial amount to police officers and sometimes Court officials to secure their release. The judiciary has also begun imposing some ridiculously stiff bail conditions. Also, although the Constitution, pursuant to s 17(4) provides that a person unlawfully arrested or detained shall be entitled to compensation, the reality is that most detainees upon being released simply abandon all claims of compensation due them either as a result of ignorance or because of the agonising slow pace of litigation in the courts. In 2013, for instance, some journalists were detained without being arraigned beyond the constitutionally stipulated period of 72 hours, thus amounting to illegal detention. When they were ultimately released on some stiff bail conditions, no compensation was given to them. The Amnesty International Report 2012 on Sierra Leone chronicles a number of illegal incarcerations, including one person who was detained for 17 days without being arraigned before a court. No compensation was awarded.

### **Recommendations:**

The State Party should:

- Provide more education to the police force in the area of powers of arrest
- Enforce constitutional guarantees against arbitrary arrest and detention
- Investigate and prosecute police corruption
- Provide support to individuals unlawfully detained to seek redress, including adequate compensation for being unlawfully detained

**Issue 22:** Please indicate the measures taken to address lengthy pretrial detention and to ensure segregation of pretrial detainees from convicted detainees. Is there any legal framework protecting those held in pretrial detention? Please comment on reports of excessive use of pretrial detention for petty offences as well as on reports that courts have discretionary power over the granting of bail, individuals often being asked to pay bribes at police stations or court before bail can be granted. Please provide information on non-custodial alternative measures to pretrial detention and their application.

### **Comments from civil society:**

Some appreciable steps have been taken to address lengthy pretrial detention by establishing new Magistrates' courts at Pademba Road and Ross Road in Freetown, and in some parts of the provinces. In the wake of dearth of sitting magistrates and judges, circuit courts are in operations to cope with the challenge. However, more efforts are needed.



In a bid to ensure general separation of inmates, the prisons service, with support from donor partners constructed an exclusive female prison in Kenema, while female prisoners are now being housed at the holding cells for indictees of the Special Court for Sierra Leone, at New England in Freetown. Both developments indicate best practice.

However, the prison facility in Kono has no physical separation between male and female prisoners. Consequently, during the day male and female inmates could be seen interacting with each other.

At the maximum security prison on Pademba Road in Freetown, even though there are clearly delineated sections for detainees, yet convicted and remand prisoners are all housed in the same cells due to overcrowding. The prison currently hosts more than 1,000 inmates, although it was built for 324 inmates.

On the issue of excessive use of pretrial detention for petty offences, prison detention records reveal that persons convicted for minor crimes such as loitering and affray are detained together with those convicted for serious offences and held in the maximum prison.

The courts exercise wide discretionary powers to grant bail. It is common practice, though not sanctioned by law, for magistrates and judges, to refuse bail for several sittings, often based on no legal reason. Reports from some inmates, though unconfirmed, indicate that they are refused bail as a result of their inability to 'buy' their bails. In some other instances, even though bail is granted, the conditions set are very rigid that detainees may be unable to fulfill them, while unbridled corruption by officials at the court registry further renders the process cumbersome.

Prison records accessed by Prison Watch Sierra Leone indicate that many inmates have been in detention awaiting trial for five (5) years, while the case files of others are yet to be assigned to trial judges.

A particular case worth mentioning is that of 14 military officers arrested since August 2013, and have been held incommunicado and without trial, for an alleged botched mutiny. To date, no charges have been proffered against them, yet the State has failed to constitute a Court Martial to prosecute them, more than six months after their arrest in Teko Barracks, in Makeni, home of President Ernest Bai Koroma.

### **Recommendations:**

The State Party should:

- Implement the Kampala Declaration and the Robben Island Guidelines

- Ensure that access to justice is affordable and accessible
- Promote the use of alternative measures to pre-trial detention and take effective measures to address lengthy pre-trial detention

**Issue 23:** Please report on the measures taken to address the harsh conditions of detention, including overcrowding, in prisons, jails and police holding cells, inadequate food, water and sanitation facilities, and medical care, as well as lack of adequate recreational and educational facilities. Please respond to allegations that harsh disciplinary measures are employed against prisoners. To what extent is the State party using alternative sanctions to detention in an effort to reduce prison population? Has a system been established for regular and independent monitoring of places of detention? What practical steps have been taken to guarantee the right of inmates to submit complaints and to ensure that complainants are not subject to reprisals? Does the State party plan to review its prison rules and ordinance of 1960 and 1961?

**Comments from civil society:**

Some positive measures have been taken to address overcrowding in prisons in Sierra Leone. In Kenema and Mattru Jong, in the Eastern and Southern province respectively, new prisons have been constructed; in Tonkolili, in the Northern Province, the Mafanta prison has been refurbished and exclusively reserved for convicted inmates, in order to reduce overcrowding. The removal of female inmates from the maximum security prison at Pademba Road, once shared with male inmates, to the vacant former Special Court prison facilities; and the construction of juvenile holding centres at the Central Police Station and Aberdeen Police Station respectively, in Freetown, are further positive steps in prisons reform.

The donation of satellite television dish and antenna to the maximum security prison and the female detention facility at New England Ville, in Freetown, by Prison Watch Sierra Leone; the construction of a Library at the maximum security prison in Freetown by AdvocAid; and other interventions by various NGOs and CSOs have helped enhance recreational facility at both prisons.

However, there still remain acute challenges. Prisons conditions fall far short of international standards. Lack of recreational and educational facilities, save at the maximum prison in Freetown, the excessive use of detention, with particular reference to Pademba Road prison where inmates are kept under lock from 12 p.m. to 9 a.m., at the time of writing this report, are archetypal of prison life.

The use of sanitary buckets kept in the same cells where inmates sleep is a prevalent practice in many prisons.

The law provides that judges and independent bodies should visit prisons and detention centres, but this is rather the exception than the norm. Civil society organizations, including Prison Watch Sierra Leone, Timap for Justice, Advocaid are granted regular monitoring visits to all prisons across the country, while Prison Watch Sierra Leone has monitoring staff attached to all functional prisons in the country. However, the Human Rights Commission was denied access to the main prison in Freetown despite obtaining official clearance in October 2013.

The Prison Rules and Ordinance provides for provisions governing rights of inmates to submit complaints, but the processes and procedures in ensuring complaints are highly cumbersome and very unlikely. A Correctional Bill of 2010 was tabled in Parliament, but was withdrawn for drafting errors.

### **Recommendations:**

The State Party should:

- Ensure strict compliance to the UN Minimum Standards rules and other relevant international standards.
- Adopt community service approach as alternative sanctions to excessive detention.

**Issue 24:** Please provide information on the implementation in practice of the Justice Sector Reform Strategy 2008-2010 and the results achieved. With reference to the information provided in the State party's report (CCPR/C/SLE/1, para. 83), please clarify the instances when the burden of proof is shifted from the prosecution to the accused and indicate how this is compliant with the presumption of innocence principle.

### **Comments from civil society:**

Government Reform Strategy of 2008 – 2010 prioritizes six core targets. By 2010, the aims include

1. To have crime reduced
2. To have improved satisfaction levels with local chiefs.
3. To have speeded up the disposal of criminal cases.
4. To have reduce the proportion of juveniles who have handled inappropriately in the formal justice system
5. To have speeded up the disposal of civil cases.
6. To improve confidence in human rights and accountability

The issue of speeding up the disposal of criminal cases is imperative, due to the fact that cases as old 2004 are still waiting trial with accused persons kept in overcrowded remand cells.

Given the lack of sitting magistrates, there has been a slow adjudication of both criminal and civil matters in courts.

The Anti-Corruption Act of 2008 (as amended) includes an offence of “Un explained wealth”, which essentially shifts the burden of proof from the prosecution to the defence. This certainly undermines the principle of presumption of innocence.

### **Recommendations:**

The State Party should:

- Speedily bring to trial all backlog cases since 2004.
- Separate the office of the Attorney General and the Minister of Justice.
- Recruit more Magistrates and Judges to preside over cases in more Judicial districts of the country.

**Issue 25:** Please provide information on measures taken to strengthen the capacity of the judicial system, combat corruption within the judiciary, ensure access to justice for all and address the lengthy delays in the administration of justice, the lack of resources, insufficient personnel and poor staff training, as well as the increasing backlog of cases. Please provide statistics on the number of judges, magistrates, prosecuting attorneys and lawyers (including State counsels) and the number of cases pending examination in courts of different levels. Please also report on measures taken to ensure access to the formal justice system in rural areas and to ensure that local courts abide by the principles of independence and impartiality and observe due process guarantees.

### **Comments from civil society:**

The appointment of a consultant Master and Registrar nearly eight years ago was a step to ensuring access to justice for all. However, the judiciary is still saddled with serious issues of judicial corruption. The court clerks have monetized the issue of bail. Most lawyers prefer private practice to being employed as state counsel, and they charge exorbitant fees. The high rate of adjournments is symptomatic of the less than satisfactory administration of justice, which also manifests itself by way of the mismanagement and misplacement of case files.

To ensure access to formal justice system in the rural areas, the Local Court system has been co-opted into the formal justice system and is now officially part of the Judiciary, pursuant

to the Local Courts Act of 2011. Efforts are being made to recruit officers who should serve in the Local Court Commission, with a mandate to administer justice at the local level, employing local customary law and procedures. They include Local Court chairmen, Local Court Clerks, Bailiffs, etc.

A National Judicial Training Institute was established in April 2010 to provide follow-up training for justice sector staff and paralegals, with the aim of enhancing service delivery, improving access to justice, and promoting good governance and the rule of law. It remains to be seen though what impact such has had, if any, on the justice sector in Sierra Leone.

There are still issues relating to paucity of judicial officers, weak judicial accountability, perceived interference of political and private interests in the administration of justice, and an absence of a regular case management system. Conditions of service for judicial officers are weak, while training opportunities and logistics support are seldom provided. The Attorney-General and Ministry of Justice (which is part of the executive arm of government) still presents the budget on behalf of the judiciary, thus making the judiciary is even more tied to the apron string of the executive arm of government.

#### **Recommendations:**

The State Party should:

- Increase budgetary allocations to the Judiciary to recruit more magistrates and Judges
- Train judicial service personnel in records management
- Provide and support more opportunities for professional and career trainings for magistrates and Judges
- Investigate and sanction corruption in the judiciary.
- Enhance judicial independence by ensuring that the judiciary enjoys financial independence.

**Issue 26:** Please explain how domestic courts interpret the definition of fair hearing “within a reasonable time” and the compatibility of such interpretation with the Covenant. Please also indicate whether adequate remedies are provided in practice for delays in proceedings. Please report on concrete measures taken to ensure fair trial guarantees to all, including providing a right to appeal, access to interpreters and legal representation. Please provide information on the implementation in practice of the Legal Aid Act 2012 and the availability of legal services to vulnerable and disadvantaged persons, especially those living in the provinces and rural areas.

### **Comments from civil society:**

No specific definition is given to the interpretation of fair hearing “within a reasonable time.” However some magistrates or judges strive to conclude hearings as soon as practically possible. A posteriori, the shortest possible time for matters to be adjudicated is one year, not least preliminary investigations at magistrates’ courts. Suffice to say that even the Supreme Court has on a couple of times delayed to hand down judgments in matters as serious as constitutional litigations, in breach of the Constitution, which stipulates that it should do so not later than three months (s.120(16) of 1991 constitution). The same applies to courts below the hierarchy. There exists no record of compensation to litigants in instances where the court delays in proceedings.

There have been no reports of violations of the right to appeal, however, there are limited number of interpreters in the courtrooms. It is so bad that litigants are sometimes required to pay or provide their own interpreters. On occasions, police prosecutors have also doubled as interpreters. The Legal Aid Act, which was passed in 2012, has not been implemented at all. Sadly, no budgetary allocation was made for the implementation of the law in the 2014 Budget. , Accused persons are generally unable to retain the services of private counsel, and are forced to represent themselves, notwithstanding the fact that they have no knowledge of the law. In terms capital offences, where the Constitution requires the state to provide accused persons with legal representation, most private lawyers are not enthusiastic to represent accused persons because of the paltry amount of money that the State provides to lawyers. For this reason, it is either they are not represented at all (and are made to spend an inordinate amount of time in detention), or the lawyers demonstrate less commitment to the cases. The reason is also because of the absence of an Office of the Public Defender. As a result, many accused persons are languishing in detention, being victims of a personal lack to obtain the services of a lawyer and government’s inability to find them one. The situation is even acute in the provinces.

### **Recommendations:**

The State Party should:

- Work toward establishing an Office of Public Defender to defend persons unable to afford the services of private legal practitioners, especially those accused of capital offences
- In the interim, provide reasonable adequate fees to private legal practitioners, to enable them represent persons in detention without any charge for the accused

**Issue 27:** Please report on measures taken to improve the situation of juvenile offenders and to ensure that (a) only persons who are 18 years or above are treated, for the purposes of criminal law, as adults; (b) juvenile offenders are segregated from adult offenders; (c) detention is used as a last resort and only for as short a time as possible. Please elaborate on any available alternative sanctions to imprisonment of juvenile offenders and their application in practice, and also indicate whether the State party envisages prohibiting the imposition of life imprisonment on juveniles.

**Comments from civil society:**

Three Juvenile Homes have been established in Bo and Freetown, while social workers are present in all 14 districts. The approval of the age assessment guidelines by the Chief Justice has been followed-up by trainings conducted for personnel of the Family Support Unit by CSOs like Prison Watch Sierra Leone.

However, the juvenile homes are insufficient as there are only three such homes in fifteen judicial districts. Even though the age assessment guidelines have been approved, this poses serious challenges as it has not been well popularized and FSU has limited awareness on its existence. The gaps in the age assessment guidelines have also been unfairly exploited by either police prosecutors or parents of juveniles who come in conflict with the law. Children are remanded with adults in almost all prisons across the country.

**Recommendations:**

The State Party should:

- Address the underlying causes of crime instead of being tough on crime
- Ratify the United Nations Convention on the Right of Children in whole without reservations
- Comply with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)

**Issue 28:** Please report on measures taken to ensure the reintegration of child soldiers into society.

**Comments from civil society:**

According to a UNICEF report in 2004, 98% of the 8466 children conscripted by various factions in the civil conflict were demobilized and reunited with one or both parents, older siblings, or relatives. However, many are reported to have migrated to other areas, rather than reintegrate locally, apparently inspired by livelihood opportunities, and the desire to escape stigma and discrimination. Many girls who fought for or were abducted by various

warring factions got little assistance from the Disarmament, Demobilization and Reintegration (DDR) process, and found returning home difficult.

The Lome peace process established a precedent regarding child soldiers by specifying that child combatants would be given particular attention and care, separated from adults in a DDR process. Children were reunified with their family and had a choice between access to education or skills training, but unlike adult combatants were not eligible for cash payments. Interim centres were established to cater to the needs of child soldiers, including psychological, before they were reunified with their families and reintegrated back into society. Overall, more boys, instead of girls, were catered for.

Post DDR, the establishment of National Commission for Social Action by an Act of Parliament in 2001, was a significant milestone in the reintegration of child soldiers. Apart from efforts to disarm the boys and separate them from adult males, no long time measures targeting their education, reintegration into society and providing psychological support was effectively pursued. It is no gainsaying that today, many are school dropouts and lack basic skills. Others are mainly employed in the informal sector, with commercial motorbike riding, known locally as 'Okada' being their surest means to survival. Many are often in conflict with the law.

#### **Recommendations:**

The State Party should:

- Adequately respond to residual issues involving former child soldiers, especially those having to do with livelihood alternatives.

#### **IX. Freedom of expression (art. 19)**

**Issue 29:** Please indicate whether the State party intends to repeal the seditious libel provisions contained in the 1965 Public Order Act which limit the full enjoyment of the rights of freedom of expression and information and which are widely used to intimidate journalists and human rights defenders. Please also indicate whether the Freedom of Information Act has been adopted.

#### **Comments from civil society:**

The Government of Sierra Leone in November 2013 passed into law the Access to Information Act, otherwise known as the Freedom of Information law. While this development has been welcomed by civil society and rights groups, the government has shown dogged reluctance to repeal repressive provisions of the 1965 Public Order Act which pertain to seditious libel and a gag on freedom of expression and the press. The 1965 Public



Order Act provides that persons convicted for printing, publishing, selling or distributing any publication deemed seditious can be fined and handed prison terms of up to seven years.

In late 2012, the government relied on the outdated provisions in the dreaded Act to arrest and detain two journalists - Jonathan Leigh and Bai Bai Sesay of the Independent Observer newspaper - for almost twenty days, and was repeatedly denied bail by both the police and a Freetown Magistrate, after being charged for defaming the President. Their trial is still ongoing at the High Court.

Also, in early January 2014, the presenter of the popular talk show, Monologue, which is broadcast on weekends across the country, David Tam-Mbayo, was arrested and briefly detained at the Criminal Investigations Department in Freetown, for investigating a story that is linked to the presidency, and being in possession of a sensitive document. He has since denied being in possession of any such document. He is also alleged to have insinuated in a text message to Minister of Transport and Aviation, Leonard Balugun Koroma, a powerful ally of President Ernest Koroma, that certain individuals linked with the ruling All Peoples Party are plotting an arson attack on his Citizen radio station. He has since been granted bail.

Just before this report was finalized, a local broadcaster, Theophilus Gbenda, was detained at the Criminal Investigations Department for hours; he was due to appear in court, reportedly charged with defamatory libel against the Vice President, Samuel Sam Sumana, on 13 February. The Publisher of the independent daily, The Voice, Ibrahim Labor Fofana, was also detained in January on criminal libel charges. He was released on bail.

### **Recommendations:**

The State Party should:

- Accede to local and international calls and without delay repeal sections of the 1965 Public Order Act, which deals with seditious libel.
- Decriminalize seditious libel and promote freedom of expression and the press, as critical elements of democracy and the rule of law
- Drop all charges of seditious libel against journalists

### **X. Dissemination of information relating to the Covenant (art. 2)**

**Issue 30:** Please provide information on the steps taken to disseminate information on the Covenant and its First Optional Protocol, the submission of the first periodic report of the State party, and its forthcoming examination by the Committee. Please also provide more information on the involvement of civil society, non-governmental organizations (NGOs), and the Human Rights Commission of Sierra Leone in the preparatory process of the report.

**Comments from civil society:**

There is no evidence to suggest that the government held consultations or involved CSOs in the preparation of the initial report to the Human Rights Committee. The NGOs subscribing this report were not called to participate in the State report.

Also, there is no information as to whether government embarked on the dissemination of information on the Covenant, its First Optional Protocol, the submission of the first periodic report of the State party, and its forthcoming examination by the Committee.

**Recommendations:**

The State Party should:

- Demonstrate willingness through practical efforts to disseminate information on the covenant and international human rights related issues
- Demonstrate the political will to include CSOs and the media in the preparation and dissemination of subsequent reports to United Nations human rights mechanisms