

Sierra Leone

NGO Comments on the State Party Report (CCPR/C/SLE/1) Prior to the List of Issues

Centre for Accountability and Rule of Law

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With the support of the Centre for Civil and Political Rights

Comments on the information provided in the State Party Report of Sierra Leone

As a general point, it should be noted that the State party frequently refers to the Constitution as the relevant source of the protection of human rights. However, the Constitution is defective in many respects relating to the protection of human rights. Some update would be helpful in terms of progress relating to reforms

Article 1

Information provided by the State party (State party report paras. 21-27):

Several institutions have been established in furtherance of the protection of these rights, including the National Electoral Commission and the Political Parties Registration Commission (PPRC) and the Public Service Commission.

The Mines and Minerals Act No 12 of 2009 and the National Minerals Act 2011 provide for better management of the country's mineral resources. These new Acts backed with the cadastre system established with the support of the UNDP has brought credibility to both the licensing process and the license itself. The GOSL sector policy is to ensure that the people receive optimal benefits from the mineral wealth and to facilitate economic and social development.

The improved governance of natural resources and the environment is a key feature of government stability and relevance. GOSL is mindful of the effects of unsustainable exploitation and management of the country's natural resources.

Comments from the NGOs:

Additional efforts are required to make the institutions mentioned truly independent of the government. The mode of appointing the Commissioners needs to be reviewed to include wider participation from the public and political parties

Exploitation and effective utilization of resources from Sierra Leone's natural and mineral resources is critical to Sierra Leone's long term development and security aspirations. At the moment, mining laws are flagrantly compromised, while proceeds are grossly under accounted for. In terms of accountability and transparency, there is much room for improvement as evidenced by the country's suspension from the EITI scheme. Land deals are done without participation from affected persons to the extent that whole communities are deprived of farm lands, which are handed over to large mining and agricultural firms. This remains one of the gravest human rights issues in the country

Article 2

Information provided by the State party (State party report paras. 28-30):

Section 15 of the Constitution of Sierra Leone affirms those fundamental rights and freedoms as postulated in the ICCPR with no discrimination or distinction based on race, tribe, place of origin,

political opinion, color, creed or sex, but subject to the respect of the rights and freedoms of others and for the public interest.

Act No. 9 of 2004 established the Human Rights Commission of Sierra Leone with a mandate to promote and protect human rights by policing and investigating violations and ensuring that there is redress in the case of a/any violation/s.

Comments from the NGOs:

The rights of lesbians, gays and bi-sexual and transgender people are still not recognized by law in this country.

There have been serious violations of citizens' right to life with impunity, principally by security forces acting on behalf of mining companies. Specifically, security forces in 2012 killed striking workers/innocent civilians in Bumbuna (Northern Sierra Leone) and Kono District (Eastern Sierra Leone). To date, there have been no indictments or arrests for those alleged unlawful killings. In the Western Area also, police officers killed motorcycle riders without any genuine cause. Again, there has only been one indictment, even though the accused has been released on bail. In essence, there has hardly been accountability for extra-judicial killings by security forces in the last couple of years.

The Human Rights Commission certainly has the capacity to monitor the States compliance with human rights obligations, but its recommendations are not always enforced by the government in a timely manner. The case of the ex-service men is an example: After the Bumbuna shooting, the Commission made a number of recommendations which have still not been fully implemented. If this attitude continues, it would weaken the image and position of the Commission.

Article 3

Information provided by the State party (State party report paras. 31-37):

In article 15 of the Constitution protection of fundamental human rights is afforded regardless of sex; however, the same cannot be said for the rest of the Constitution i.e. section 27 (4) (d). Statutes have been enacted to rescue this blatant discrimination against women in the form of three gender acts:

- *Registration of Customary Marriage and Divorce Act 2007*
- *The Devolution of Estate Act 2007*
- *Domestic Violence Act 2007*

In addition to these, the Sexual Offences Bill has gone through Cabinet and will be tabled before Parliament in the shortest possible time and the Matrimonial Clauses Bill awaits submission to Cabinet. There are also several policies aimed at further empowering women.

Comments from the NGOs:

While the promulgation of the laws listed is commendable, there are serious gaps relating to enforcement. In terms of combating discrimination and sexual and gender-based crimes (SGBV). For example, access to justice for victims of SGBV is still a major challenge. There are few Magistrates Courts' across the country, while the capacity of the Sierra Leone Police to investigate and prosecute such cases is very limited.

In 2011 the President made a public commitment to supporting a bill for a 30% female representation in parliament. Once a draft was prepared his commitment waned, perhaps because members of our male-dominated society were not enthusiastic about it.

Article 6

Information provided by the State party (State party report paras. 45-52):

During the 11 years civil war, the security forces/warring factions alike exhibited a total disregard for human life and dignity which resulted in the deaths of thousands of civilians. The disappearance of individuals during this time and even in peace time has been seen as a failure to protect the right to life; although the police have some cases of missing persons, they say all such cases are serious as it often times leads to loss of life which they are bent on preventing.

Comments from the NGOs:

There have been several extra-judicial killings by security forces even after the war, including the events of December 2007 and January 2013 (Koidu), am. See also the comments made in relation to article 2.

Article 8

Information provided by the State party (State party report paras. 60-64):

The constitution in section 19(1) affords protection from slavery and forced labour.

The Child Rights Act No.7 of 2007 lists the conditions/criterion and standards under which children can work and complies with the ILO Convention on the Worst Forms of Child Labour and the Convention on the Rights of the Child.

There is an Industrial Court established under the Judiciary which is available for any worker to take complaints against their employers and the Constitution of Sierra Leone in Section 146 mandated Parliament to establish the Office of the Ombudsman which was done by Act no 2 of 1997.

Comments from the NGOs:

Child labour is still rampant in the country, including work as street hawkers, miners, and domestic labourers.

The average wage of workers is extremely low, which has been described by some as “criminal” as the only way people can make ends meet is by thieving.

The Industrial court needs to be decentralized. The Committee might wish to ask the State how many cases which originate in the provinces are brought.

Article 9

Information provided by the State party (State party report paras. 65-69):

There are occurrences of arbitrary arrest, especially by the police for very minor offences. The laws of the land make provision for compensation but this is hardly done and even when done is inadequate.

Reporting on deprivation of liberty is difficult to do as cases of arbitrary deprivation are seldom recorded. There are several cases of persons being locked up contrary to the provisions set out in section 18 however, upon research it was discovered that many times there were mitigating factors present rather than a deliberate violation. The primary factor amongst these is a slow justice system.

Comments from the NGOs:

The sentencing guidelines need to be reformed. Far too many people are sent to jail for petty offences which do not merit imprisonment. Although legal, this practice somewhat overstretchers the limits of the law. Additionally, the conditions of prisons and detention facilities need to be improved.

Far too many people are being held (and reported) beyond the constitutionally stipulated times of 72 hours and 10 days, respectively. In some jurisdictions, a single Magistrate covers three judicial Districts, thereby making it impossible to arraign detainees within 72 hours or 10 days (for serious economic and environmental crimes). There are many cases of illegal detention, and hundreds of forgotten detainees.

I can't seem to remember the last time anyone filed a suit seeking compensation for illegal detention, much less receiving that compensation.

Article 10

Information provided by the State party (State party report paras. 70-73):

Prisoners can still seek protection under the law (especially with regards to fair hearing, ex post facto law, double jeopardy), has freedom of conscience, expression, and protection from discrimination and is entitled to the same protection as others under section 28 except if his rights go against the guidelines of a public emergency situation.

An accused person under the Constitution can rely on section 17 and 23 for the protection of his rights. The Criminal Procedure Act of 1965 details the protocol of arrest which mimics the Constitution.

Comments from the NGOs:

There are only two remand homes and one Approved School in the entire country. For this reason, alleged juvenile offenders have had to either share detention facilities with adults (in places without juvenile detentions facilities) or have been kept at police posts awaiting their initial appearance.

Reform of prisoners is alien to this jurisdiction. The only purpose of imprisonment in this country is to punish. That's all. This is why the rate of recidivism is reportedly high.

Article 14

Information provided by the State party (State party report paras.81-93):

Article 14 of the Covenant is implemented by section 23 (1, 2, 3) of the Constitution which provides for fair trial within a reasonable time by an independent and impartial court established by law and must be public. In the case of a criminal trial the rules applicable in the enforcement of this right is the Criminal Procedure Act 1965

The Constitution recognizes the existence of other courts established by law such as the local courts and the court martial. The existence of all these courts provides individuals the opportunity to not only have cases heard, but that such hearings should be done by independent and impartial tribunals. One major challenge that Sierra Leone is faced with however is the proliferation of "Courts" under the purview of Paramount Chiefs and other Chiefs. These Chiefs are known to adjudicate on matters that fall outside their jurisdiction and do not always take human rights standards into consideration when doing so. The Local Courts presided over by Court Chairmen have also been accused of giving unfair judgements. The 2011 Local Courts Act addresses a number of the issues previously raised against the operations of Local Courts whilst reforms are underway with Paramount Chiefs and other traditional rulers in terms of their mediation and dispute resolution processes.

The Constitution protects Judges from removal from office except if the reason for such removal is incompetence or gross misconduct. As such, judges have a secure tenure.

The constitution, makes provision for an individual to be entitled to legal aid. There was a Pilot National Legal Aid Scheme (PNLA) in Freetown piloted by the JSDP with support from DFID. Although this pilot came to an end in May 2012, one of its key successes was the passage into law of the Legal Aid Act 2012. There are also other organisations which provide legal aid and paralegal services such as Legal Assistance through Women Yearning for Equality, Rights and Social Justice

(LAWYERS), Timap for Justice and the Open Society Justice Initiative. Legal aid and paralegal services done by these organisations do extend to the provinces but this is not sufficient to cater for the needs of the large impoverished number of potential clients. One of the provisions in the Legal Aid Act 2012 is that there should be a paralegal representative in every Chiefdom.

Comments from the NGOs:

Paramount Chiefs usurp the powers of Local Courts, particularly in the adjudication of land disputes

There are still questions about the manner in which the previous Chief Justice was dismissed/replaced by this administration. It was simply unconstitutional.

A cardinal element in the presumption of innocence is the accused's right to bail. Unfortunately, bail is still at the discretion of the court. There are several instances where this discretion has been abused allegedly for politically-motivated reasons. Of course, the independence of the judiciary is constantly questioned in this country.

At the moment, there are serious gaps in the implementation of the Legal Aid Act, particularly relating to access to interpreters, legal representation and all that. This has implications for the right to be informed of the nature and cause of the charge in a language that the individual understands. These problems are exacerbated by the poverty and illiteracy levels in the country.

Overcrowding in detention facilities as well as the unhygienic conditions run contrary to the right to have adequate time and facilities for the preparation of defence and to communicate with counsel.

Prolonged pre-trial detention is a major challenge in this country. Part of the reason for the overcrowded prisons is because of unreasonably lengthy trial periods. In short, there are still serious challenges relating to fair trial rights of accused persons.

Article 19

Information provided by the State party (State party report paras. 101-103):

The Constitution provides for freedom of association in section 25, and the Government generally respects this in practice. The key element in the enjoyment of these rights is consent and a respect of the responsibility attached with exercising the same.

The Government has also tabled a Freedom of Information Bill in Parliament and it is hoped that this Bill is enacted before the end of this current Parliaments life time.

Comments from the NGOs:

The obnoxious provisions in the Public Order Act of 1978 that criminalize libel still represents a serious impediment to citizens' right to free speech.

The Inspector General of Police has repeatedly refused applications for permits by various groups intending to demonstrate for/against specific public interest issues.

Citizens' right to know has been undermined by clear lack of support from the government for a Freedom of Information law.

Article 21

Information provided by the State party (State party report paras. 104-107):

This right is guaranteed by section 26 of the Constitution of Sierra Leone which provides that it can be restricted where it is reasonably required in the interest of public safety and public order, public morality, the provision for the maintenance of supplies and services essential to the life of the community or for the purpose of protecting the rights and freedoms of other persons. The Public Order Act of 1965 also makes provision for the restriction of assembly in certain cases in line with the claw back clauses in the constitution.

All rganizations and associations need permission to hold public meetings. Restrictions on holding such meetings can only be placed in the interest of public safety and directions to prevent this will be given by the police. In Sierra Leone, if a demonstration or procession for example is to be held, permission will have to be sought from the police for clearance, directions and protection.

Very recently, another violent demonstration broke out in the Tonkolili District. Indigenes of the land who were not satisfied with the conditions under which the African Minerals (a mining company operating in the area) operated held a demonstrated. For this matter, investigations are currently ongoing.

Comments from the NGOs:

The investigation into the demonstration in the Tonkolili District has been going on for over a year, and no progress has been reported, raising doubts about whether there is in fact any investigation happening.

It is strange that for nearly four years now students across the universities of Sierra Leone have been barred from forming associations or groups of their choosing. Although a case can be made that the students' groups sometimes get violent, it hardly justifies why a seeming permanent ban has been imposed on their activities. After all, armed police officers have committed a number of extra-judicial killings, but they still carry firearms