

Human Rights Commission of Sierra Leone
Submission to the 1st Report to Universal Periodic Review Mechanism
Established by the UN Human Rights Council Resolution 5/1
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1. Introduction

The Human Rights Commission of Sierra Leone presents its first report to the Universal Periodic Review Mechanism, in response to paragraph 15 (c) of the Human Rights Council Resolution 5/1. It is worth noting that Sierra Leone went through a brutal civil war during the years 1991–2002. One of the primary findings from the Truth and Reconciliation Commission (TRC) set up to look into the causes of the war, highlights gross human rights violations as fundamental reasons for the country's political upheaval. As a result, the provisions in the Lome Peace Agreement signed between the government of Sierra Leone and the Revolutionary United Front (RUF) in 1999 and also recommendations from the TRC in 2004 led to the establishment of the Human Rights Commission by Act. No. 9 of 2004 to protect and promote human rights. The HRCSL was also established in line with the Paris Principles

This report therefore reflects key issues and challenges confronting a country which has been plagued by human rights violations and abuse, and steps taken by the government in addressing specific human rights issues which includes; fair hearing, security of persons (armed robbery), death penalty, right to health, right to education, violence against women, discrimination and participation of women in politics, harmful traditional practice, early marriage, juvenile justice, prisons and the court system.

2. Preparation for the UPR - In pursuance to paragraph 15 (c) of the Universal Periodic Review report writing process, the HRCSL organized dialogue sessions involving Civil Society Organizations and representatives from the government. This process provided the opportunity for nationwide grassroots participation in the process. Technical assistance was provided by the HRCSL by helping the government to kick start the “State” report writing process.

3. International Obligations - Sierra Leone has signed and ratified the following treaties;

- 3.1 International Convention on the Elimination of all Forms of Racial Discrimination 1967
- 3.2 International Covenant on Economic, Social and Cultural Rights 1996 (ICESCR)
- 3.3 International Covenant on Civil and Political Rights and its optional protocol in 1996
- 3.4 Convention on the Elimination of all forms of Discrimination Against Women 1988
- 3.5 Convention Against Torture (CAT) 2001
- 3.6 Convention on the Rights of the Child (CRC) 1990 and its optional protocol in 2002
- 3.7 Convention the sale of children, child prostitution and child pornography 2001 and
- 3.8 Convention on Rights of Persons with Disability (CRPD) in 2010.

The following instruments are still pending ratification: Optional Protocols to CEDAW, CAT and CRPD.

4. Domesticating International Human Rights Instruments- Government domesticated CEDAW in 2007 resulting in the passage of the “Three Gender Acts”,¹ the Child Rights Act 2007 and the Anti Human Trafficking Act 2005. Pending in the country’s domestication strides is the “Persons with Disability Bill” drafted since 2004. The HRCSL urges the enactment of this bill to give rise to equality and non – discrimination to persons with disability.

Human Rights Concerns

5. Fair Hearing - Section 23 (1) of the national Constitution guarantees the right to a fair hearing within a reasonable time. There has however been no authoritative interpretation by the courts in Sierra Leone of “fair hearing.” The court system suffers from limited number of legal personnel, giving rise to delay in hearing cases. Although the training and allocation of Magistrates to serve rural communities was a welcomes one, the HRCSL continues to raise concerns that cases in the regions still continue to pile up as the magistrates are not resident thus denying citizens access to the timely hearing of cases. The HRCSL calls on the government to facilitate the promotion of residential Magistrates in the districts to facilitate the hearing of cases for rural people.

6. Local Courts - The Local courts which provides dispute resolution to about 70% of citizens in the rural areas operates along side the formal court system. Although these courts provide legal service to community people, some of the customary laws conflict with human rights principles. Over the years, the HRCSL recorded several cases where Local Courts personnel have exceeded their mandate through arbitrary arrest and levying of punishments which the HRCSL considers inhuman and degrading. Such punishments include; “depriving debtors of their freedom of movement by locking them in goat pens or chaining them to trees.” Women continue to bear the excesses of the Local Courts whose rights to a fair hearing continues to be controversial. The HRCSL therefore calls on the government to put measures in place aimed at regulating the activities of these courts.

7. Death Penalty - The death penalty still remains in our law books for offences of treason, murder and aggravated robbery despite the recommendations of the Constitutional Review Committee and the TRC in 2004 for its abolition. As recent as October 2009, 3 persons including a soldier were sentenced making a total of 15 people presently in death row. Last executions were carried out in 1998. The HRCSL notes that the President did not grant any “Presidential Pardon” during the year despite several appeals for him to do so. The Commission further urges the government for its adherence to the moratorium on executions and implement without delay the recommendations for the abolition of the death penalty by the TRC.

8. Security of Persons (Armed Robbery) - Cases of armed robbery escalated over the last three years resulting in the killing of innocent citizen in home attacks. HRCSL considers this as a serious threat to the enjoyment of the right to life and security of persons. Wide spread suspicion on Police involvement was substantiated in November 2009, when a senior officer of the SLP appeared in court among 15 other civilian suspects. Angry youths also at Lungi, Northern Sierra Leone attacked the police post on alleged police involvement in community armed robbery. Police response on the said issue left one person dead and two seriously injured through the use of force. The investigation committee set up to look in this matter died a natural death. The HRCSL still calls on the government

¹ See Annex for details

to spur up the investigation committee set up to look into the Lungi matter and further calls on the government to beef up its security to ensure the safety of the life of its citizens.

9. Right to Health - The government should be commended for making health care available to its people. The country's dismal performance in maternal and child mortality rates facilitated the launching of the "Free Health Care" (FHC) policy in 2010 targeting pregnant women, lactating mothers and children under five years. HRCSL through its monitoring visits has observed that the FHC policy has promoted the increase in accessing health service by mothers. However, although the free health care programme exists, the HRCSL is still concerned about the unavailability of basic equipments and medical personnel to facilitate the provision of this service in both the capital city and rural areas. Peripheral health units are in most cases found to be abandoned by nurses thus making it difficult for women to enjoy this right.

HIV/AIDS prevalence in Sierra Leone still stands at 1.5% since 2005 to date. The National Aids Secretariat (NAS) noted that in 2009, 5% (i.e. 5,600) of a total of 48,000 people affected with the AIDS virus are children. Government response in addressing HIV/AIDS issues led to the formation of the National Aids Council (NAC) and Secretariat in 2002. HRCSL however notes the wavy manner in which HIV/AIDS sensitization is carried out and therefore urges government to engage other stake holders in continuous and extensive sensitization programmes to avoid relapse into old habits and therefore reverting back to an increase in the infection rates.

10. Right to Education - Since 1995 the system of education being practiced is the 6-3-3-4, defined as six years of free compulsory primary schooling and three years of junior secondary school, three years of senior secondary schooling and four years of university studies. In 2004, Parliament enacted the Education Act which guarantees the right to free basic education for only the first 6 years of schooling, and extended to only girls up to junior secondary school level. The HRCSL is however greatly concerned about the poor state of education in the country, as manifested by the poor performance of pupils at public examinations. The HRCSL calls on the government to take drastic steps in implementing the recommendations put forward by the Commission of Enquiry set up in 2009, to look into the poor status of education in the country and the dismal performance of pupils at public examinations.

11. Violence Against Women - Until the passage of the new Domestic Violence Act 2007 the formal legal protection afforded to women for physical or sexual violence stemmed from the outdated Offences against the Persons Act 1861. Despite the enactment of this Act, the HRCSL notes the high rates of violence against women as manifested by several complaints recorded by the HRCSL. The HRCSL notes that violence against women is inhuman and degrading, and therefore urges the government to take more hostile and aggressive steps in dealing with perpetrators of gender base violence.

12. Discrimination and Participation of Women in Politics - Despite tremendous efforts made by women's groups for the inclusion of women in politics and other strategic positions, little has it reflected as recommended by the Truth and Reconciliation Commission (TRC) in 2004 and as required by Article 7 of CEDAW². The HRCSL notes the lack of progress made by the government in the allocation of decision making positions to women and the continuous discrimination against women in politics. The number of women in cabinet fell, from 3 to 1 whiles deputy ministers and female judges remained the same.

The Chieftaincy Act 2009 purported to give women's rights has been seriously contested denying women from enjoying this right. One such example was the case of Madame Elizabeth Simbiwa Sorgbor Torto of Nimiyama Chieftdom in the Kono District, who became the 1st women to file a

² States that state parties should ensure women's rights on equal terms with men in political participation and take appropriate measure is eliminate discrimination against women in the political and public life.

complaint on gender discrimination to the HRCSL in 2009 and to challenge her discrimination to contest paramount chieftaincy election as noted by Section 8 (1)(a) of the Chieftaincy Act 2009 in the courts. Her case was thrown out by the high courts on two occasions, and her application for an injunction to delay the elections while her case was being heard was not heeded to. The defeat of Madam Torto's application in the high courts was swiftly followed by the election a new paramount chief in her chiefdom. Ridicule and harassment of her supporters and intimidations and threats by members of the "Poro Society" rained on Madame Torto while she tried to return back to her chiefdom. Her return to her chiefdom brought serious pandemonium amongst the people in her chiefdom, which forced Madam Torto and her entourage to return back to Freetown. Female human rights groups' members were attacked and vehicles damaged in the presence of the Sierra Leone Police convoy. The HRCSL sees this as a threat to the advancement of women's rights in politics and calls on the government to take adequate steps in the pursuance of women's rights.

13. Harmful Traditional Practices - In spite of the provisions in the Child Rights Act (CRC) 2007, against harmful traditional practice on children, the practice of female genital cutting (FGM) is still prevalent in Sierra Leone and the government has failed to take action that demonstrates the political will to address the phenomenon which violates the right to liberty and security of persons. The HRCSL received and investigated several complaints on the forceful kidnap of boys and girls for initiation into the Poro³ and Bondo⁴ society. Traditional, political and family interventions continue to pose a challenge in address FGM issues. The clause to prohibit FGM in the 2007 Child Rights Act was deleted giving rise to continuity of the practice. The persistence of harmful traditional practices is of particular concern to the Human Rights Commission, considering the fact that FGM is not explicitly prohibited by law. The government is therefore urged to criminalize the practice.

14. Early Marriage - Section 46(1) of the CRC criminalizes early marriage for persons below the age of 18 years. This practice is still prevalent particularly in especially in the rural areas. Two such cases of girls aged between 13 and 15 years were brought to the attention of the HRCSL in 2009, and such arrangements were immediately halted By HRCSL and the FSU personnel. The HRCSL continues to condemn all marriages involving persons under 18 years and urgent calls on the government to take more stringent actions on perpetrators of such acts.

Administration of Justice (Prison and Police)

15. Prisons – The HRCSL continued its monitoring mandates of all prisons and police nationwide. Over crowding is a major problem especially for the Central Maximum Prisons at Pademba Road designed for 350 inmates, but accommodates over 1,300 inmates. The HRCSL notes that lack of adequate water supply, poor hygienic conditions, inadequate food, poor medical facilities, lack of transportation for prisoners to attend court sessions especially in the provincial areas, continue to pose a challenge in the administration of justice in the all detentions centers. One major reason put forward for overcrowding in Prisons was the delay in the trial of cases. The HRCSL is also concerned about the denial of other rights such as education, health while juveniles are been deprived of their liberty in Remand Homes and Approved School and calls on the government to improve on the condition on juveniles in detention.

16. Sierra Leone Police - The Sierra Leone Police made several strides to improve the investigation and prosecution of cases over the last 3 years. Not with standing the above, the HRCSL noted several cases of police highhanded ness. For instance in 2009, the poor handling of the opposition - Sierra Leone's People's Party office, gave rise to criticisms of the police for not handing the incident that caused so much damage and destruction on the life of innocent civilians. Serious allegations were made that women were beaten and sexually assaulted at the party's office in the presence of the police, who it was further alleged formed also part of the attackers of the opposition party office. All allegations made were subsequently rebutted the

³ Men's Society

⁴ Women's Society

Commission of Enquiry set up to look into the alleged cases of rape for which the police were alleged to have been involved.

17. Achievements

1. Domestication of some international treaties
2. Reintroduction of the Local System of Government in 2004 – giving rise to the decentralization of functions throughout the country

18. Key National Priorities

The Government's key national priorities take a multi – facet approach, which includes;

1. Enhancing National Electricity
2. Improving the roads infrastructural Network
3. Promoting food security through agricultural expansion and
4. Enhancing human development of all spectrums

19. Key Human Rights Challenges

1. Ensuring the effective implementation of the 30% quota – demanding the inclusion of women in political and other strategic positions as recommended by the TRC. Women still continue to suffer discrimination especially when vying for political positions.
2. Improvement on access to justice for all Sierra Leoneans. Low conviction rates particularly for victims of sexual violence are still appalling. Overcrowding in prisons especially at Pademba Road Maximum Prisons also pose a major challenge
3. Unavailability of resident magistrates in certain districts, still pose a threat to timely hearing of cases.

20. Conclusion and Recommendations - The HRCSL notes that some progress has been made over the last years by past and present governments to promote the enjoyment of, and build a culture of human rights in the country. This submission has, however, highlighted key challenges which remains obstacles to the full realization of human rights.